State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Jason J. Norton,	)	**Case No. 12-0521414C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 26, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Jason J. Norton. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Jason J. Norton ("Norton") is a Missouri resident with a residential address of 9641 Halls Ferry Rd., Jennings, Missouri 63136.

2. On or about April 16, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Norton's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. Background Question No. 1 of the Application asks, in relevant part: "Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?"

4. Norton marked "Yes" to Question No. 1, and in a letter attached to his Application stated, in part:

> The stealing charge that I caught in 2008 was me making a huge mistake. I was working for the United States Postal Service as a mail carrier and they issued every driver with a visa gas card to put gas in the LLV, the work truck I was driving. On 2 or 3 occasions I forgot to check the visa card back in the office after my shift. So they started monitoring me and came up with sometimes where I used the card for gas, but it was for my work truck not personal use. So they had me arrested and charged with

stealing government property.

5. On or about February 11, 2009, Norton pleaded guilty to the Class C Felony of Stealing in violation of § 570.030. Norton received a suspended imposition of sentence, and the court placed him on probation for a period of five years. *State v. Jason Jerome Norton*, St. Charles Co. Cir. Ct., No. 0811-CR04279-01.

6. During its investigation, including a subpoena conference on August 23, 2012 in which Norton testified under oath, the Consumer Affairs Division obtained the following facts:

   a. Norton, as a United States Postal Worker, was authorized to use a United States Postal Service Voyager credit card ("gas credit card") to purchase gasoline for his work vehicle.
   b. Norton was only authorized to use the gas credit card to purchase gasoline for his work vehicle.
   c. Contrary to his letter stating he used the gas credit card on "2 or 3 occasions," Norton admitted at the subpoena conference to fraudulently using the gas credit card fifteen times to purchase gasoline for his personal vehicle.
   d. Norton charged $734.54 in gasoline to the gas credit card between April 29, 2008 and July 14, 2008 to purchase gasoline for his personal vehicle.
   e. Norton stated in his letter that he only used the gas credit card for his work truck, but in the subpoena conference admitted that he used the gas credit card for personal use.

      Q: … Everything in your written statement indicates that you only used it [the gas credit card] for your work truck. Why didn't you tell us that you used it [the gas credit card] for personal use?

      A: I didn't want it to look bad on myself plain and simple.
   f. Norton admitted that he told Special Investigator Julie Hesser during several conversations that he did not use the gas credit card for personal use.

      Q: … And there were several times that I talked to you and that you indicated to me that you did not use it [the gas credit card] for personal use.

      A: Correct.
   g. Norton testified that he started using the gas credit card of the United States Postal Service because he "… wasn't making enough money [.]"

CONCLUSIONS OF LAW

7. Section 385.209 provides, in part:

> 1. The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or

licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud;

(4) Misappropriated or converted any moneys or properties received in the course of doing business;

* * *

(6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere[.]

8. "Misrepresentation is 'a falsehood or untruth made with the intent of deceit rather than inadvertent mistake.' It requires the intent that others rely on the misrepresentation." *Idella Phillips v. Director of Dep't of Ins., Fin. Insts. and Prof'l Reg.*, No. 12-1052 DI (Mo. Admin. Hrg. Comm'n Nov. 7, 2012).

9. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants, but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), the purpose of § 385.209 is not to punish applicants for a motor vehicle extended service contract producer license, but to protect the public.

10. "A plea of guilty is an admission as to the facts alleged in the information." *Wallace v. State*, 308 S.W.3d 283, 286-87 (Mo. App. S.D. 2010) (internal citation omitted).

11. Norton may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud in that he materially misrepresented the facts of the use of the gas credit card in his letter attached to his Application.

12. Norton may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(4) because he misappropriated or converted money or properties received in the course of doing business, in that he misappropriated or converted the gas credit card of his employer, the United States Postal Service, which was received in the course of doing business, by putting gasoline in his personal vehicle fifteen times without his employer's authorization or consent to do so. *State v. Jason Jerome Norton*, St. Charles Co. Cir. Ct., No. 0811-CR04279-01.

13. Norton may be refused a motor vehicle extended service contract producer license

pursuant to § 385.209.1(6) because he used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business, in that he used the gas credit card of his employer, the United States Postal Service, which he acquired in the course of business, to put gasoline in his personal vehicle fifteen times, which was a dishonest practice because his employer had not authorized him to do so. *State v. Jason Jerome Norton*, St. Charles Co. Cir. Ct., No. 0811-CR04279-01.

14. Granting Norton a motor vehicle extended service contract producer license would not be in the interest of the public. Norton stole from his employer and then lied both on his Application and to the investigator about his actions. For all of the reasons given in this Order, the Director has considered Norton's history and all of the circumstances surrounding Norton's Application and exercises his discretion to refuse Norton's motor vehicle extended service contract producer license.

15. The Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Jason J. Norton** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 6TH **DAY OF** DECEMBER**, 2012.**

JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2012 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

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