



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ROBERT ABRAHAM PADZORIA,

Applicant.

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Case No. 140610497C

ORDER REFUSING TO RENEW A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On August 7, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the motor vehicle extended service contract producer license of Robert Abraham Padzoria. 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. Robert Abraham Padzoria ("Padzoria") is a Missouri resident with a residential address of record of 1002 Donner Pass, Unit A, Saint Peters, Missouri 63376.
2. On December 19, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Padzoria's Application for Motor Vehicle Extended Service Contract Producer License ("Initial Application").
3. The Applicant's Certification and Attestation section of the Initial Application, which Padzoria accepted by his signature notarized December 8, 2011, provides, in relevant part:

I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

4. Padzoria provided "XXX-69-XXXX"¹ in the Social Security Number section of the Initial Application.

5. Padzoria answered "No" to Background Information Question 33.1 of the Initial Application which 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?

6. Padzoria answered "No" to Background Information Question 33.5 of the Initial Application which asks, in relevant part:

Are you currently a party to, or ever been found liable in, any lawsuit, arbitration or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?

7. Padzoria answered "No" to Background Information Question 33.7 of the Initial Application which asks, in relevant part:

Do you have a child support obligation in arrearage?

8. Relying on Padzoria's sworn representations in the Initial Application, on January 1, 2012, the Department issued Padzoria a motor vehicle extended service contract ("MVESC") producer license (license number 8087786). It expired January 1, 2014.

9. On February 28, 2014, the Department received Padzoria's Application for Motor Vehicle Extended Service Contract Producer License Renewal ("Renewal Application").

10. The Applicant's Certification and Attestation section of the Renewal Application, which Padzoria accepted by his signature notarized January 31, 2014, provides, in relevant part:

I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

11. Padzoria provided "XXX-69-XXXX"² in the Social Security Number section of the Renewal Application. This is the same Social Security Number Padzoria provided on his Initial Application.

¹ The first three and last four digits have been redacted.

² The first three and last four digits have been redacted.

12. Padzoria answered "No" to Background Information Question 36.1 of the Renewal Application which asks, in relevant part:

Have you ever been convicted of a crime, had a judgment withheld or deferred, received a suspended imposition of sentence ("SIS") or suspended execution of sentence ("SES"), or are you currently charged with committing a crime, which has not been previously reported to this insurance department?

13. Padzoria answered "No" to Background Information Question 36.5 of the Renewal Application which asks, in relevant part:

Are you currently a party to, or ever been found liable in, any lawsuit, arbitration or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty, which has not been previously reported to this insurance department?

14. Padzoria answered "No" to Background Information Question 36.7 of the Renewal Application which asks, in relevant part:

Do you currently have or have you had a child support obligation, which has not been previously reported to this insurance department?

15. Contrary to Padzoria's sworn representations in the Initial Application and Renewal Application, the Department's investigation revealed that Padzoria's actual Social Security Number is XXX-96-XXXX.³

16. Contrary to Padzoria's sworn representations in the Initial Application and Renewal Application, the Department's investigation revealed the following convictions:

- a. On October 31, 1997, Padzoria pled guilty to Fraudulent Use of a Credit or Debit Device, a Class D Felony, in violation of § 570.130, RSMo. The court sentenced Padzoria to five years of incarceration, but suspended execution of the sentence and ordered Padzoria to complete five years of supervised probation. On February 23, 2001, the court revoked Padzoria's probation and sentenced him to five years of incarceration. *State v. Robert A. Padzoria*, St. Louis Co. Cir. Ct., Case No. 2197R-00391-01.
- b. On September 15, 1998, Padzoria pled guilty to two counts of Forgery, both Class C Felonies, both in violation of § 570.090, RSMo. The court sentenced Padzoria to five years of incarceration on each count, but suspended execution of both sentences and ordered Padzoria to complete five years of supervised probation. On February 23, 2001, the court revoked Padzoria's probation and

³ The first three and last four digits have been redacted.

sentenced him to five years of incarceration on each count, to be served concurrently with the term of incarceration in Case No. 2197R-00391-01. *State v. Robert A. Padzoria*, St. Louis Co. Cir. Ct., Case No. 2198R-00625.

- c. On March 2, 2001, Padzoria pled guilty to Failure to Return Rented Personal Property, a Class C Felony, in violation of § 578.150, RSMo. The court sentenced Padzoria to seven years of incarceration. *State v. Robert A. Padzoria*, St. Charles Co. Cir. Ct., Case No. 11R010000036-01.
 - d. On March 2, 2001, Padzoria pled guilty to Burglary in the Second Degree, a Class C Felony, in violation of § 569.170, RSMo., and to Stealing, a Class C Felony, in violation of § 570.030, RSMo. The court sentenced Padzoria to seven years of incarceration, to be served concurrently with the term of incarceration in Case No. 11R010000036-01. *State v. Robert A. Padzoria*, St. Charles Co. Cir. Ct., Case No. 01CR124630-01.
17. Contrary to Padzoria's sworn representations in his Initial Application and Renewal Application, the Department's investigation revealed that Padzoria is the subject of a child support order in the amount of \$116.00 per month effective March 15, 2010, with respect to minor C.A.P.⁴ *Robert Abraham Padzoria et al. v. Lindsey Neubauer*, St. Charles Co. Cir. Ct., Case No. 0911-FC02414.
 18. The Department has obtained payment records from the Missouri Automated Child Support System indicating that as of August 7, 2014, Padzoria has not made a single payment under the child support order referenced in the preceding paragraph and is in arrears of approximately \$6,148.00.
 19. After reviewing Padzoria's Renewal Application, Special Investigator Andrew P. Engler ("Special Investigator Engler"), Consumer Affairs Division ("Division") of the Department, mailed an inquiry letter by first class mail to Padzoria dated March 3, 2014 ("inquiry letter"). The inquiry letter requested additional documents and information about Padzoria's convictions. The inquiry letter further requested a response by March 23, 2014, and warned that "[f]ailure to respond could result in a refusal to issue [Padzoria's] MVESC license."
 20. The inquiry letter was mailed to the address Padzoria partially provided on the Renewal Application and which Special Investigator Engler confirmed with Padzoria by telephone, which is the same address specified in paragraph 1. The United States Postal Service did not return the inquiry letter to the Division as undeliverable.
 21. Padzoria failed to provide an adequate response to the inquiry letter by March 23, 2014.

⁴ The minor's full name has been redacted.

22. Special Investigator Engler mailed a follow-up inquiry letter by first class mail to Padzoria dated April 7, 2014 ("follow-up letter"). The follow-up letter contained substantially the same information as the inquiry letter, but additionally made reference to the inquiry letter and the response time specified therein. The follow-up letter requested a reply by April 27, 2014 and warned that "[f]ailure to respond could result in a refusal to issue [Padzoria's] MVEESC license."
23. The follow-up letter was mailed to the address Padzoria partially provided on the Renewal Application and which Special Investigator Engler confirmed with Padzoria by telephone, which is the same address specified in paragraph 1. The United States Postal Service did not return the follow-up letter to the Division as undeliverable.
24. Padzoria failed to provide a response to the follow-up letter by April 27, 2014.

CONCLUSIONS OF LAW

25. Section 385.209.1⁵ provides, in relevant part:

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:

(1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;

(2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director;

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

* * *

(5) Been convicted of any felony; [or]

* * *

(12) Failed to comply with an administrative or court order imposing a child support obligation[.]

⁵ All statutory references are to RSMo. (2000) as updated by RSMo. (Supp. 2013) unless otherwise noted.

26. Title 20 CSR 100-4.100(2)(A) provides, in relevant part:

Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

27. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000) (internal citation omitted).
28. 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 MVESC producer licensure, but to protect the public.
29. The Director may refuse to renew Padzoria's MVESC producer license under § 385.209.1(1) because Padzoria's Initial Application was untrue, misleading, and incomplete in material respects. It was untrue and misleading because Padzoria provided an incorrect Social Security Number. It was also untrue and misleading because Padzoria responded "No" to Background Information Questions 33.1, 33.5, and 33.7 despite having been convicted several times, including for fraud and misrepresentation, and having a child support arrearage. Further, the Initial Application was incomplete because Padzoria did not attach or include the documents and information requested of applicants with circumstances referenced by Background Information Questions 33.1, 33.5, and 33.7.
30. The Director may refuse to renew Padzoria's MVESC producer license under § 385.209.1(2) because Padzoria failed to respond adequately to the inquiry letter and follow-up letter from the Division and failed to provide reasonable justification for the delays, thereby twice violating 20 CSR 100-4.100(2)(A), a Department regulation.
31. Each instance in which Padzoria failed to respond adequately to the inquiry letter or follow-up letter is a violation of 20 CSR 100-4.100(2)(A), and each violation of a Department regulation constitutes a separate and sufficient cause for refusal under § 385.209.1(2).
32. The Director may refuse to renew Padzoria's MVESC producer license under § 385.209.1(3) because Padzoria obtained a MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Background Information Questions 33.1, 33.5, and 33.7, provided an incorrect Social Security Number, and failed to disclose his convictions and child support arrearage on the Initial Application in order

to misrepresent to the Director that he had no criminal history or child support arrearage.

33. The Director may refuse to renew Padzoria's MVESC producer license under § 385.209.1(3) because Padzoria attempted to obtain a MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Background Information Questions 36.1, 36.5, and 36.7, provided an incorrect Social Security Number, and failed to disclose his criminal convictions and child support obligation on the Renewal Application in order to misrepresent to the Director that he had no criminal history or child support obligation and, accordingly, in order to improve his chances that the Director would approve his Renewal Application and renew his MVESC producer license.
34. Each instance in which Padzoria provided an incorrect Social Security Number or falsely answered "No" to a Background Information Question of the Initial Application or Renewal Application constitutes a separate and sufficient cause for refusal under § 385.209.1(3).
35. The Director may refuse to renew Padzoria's MVESC producer license under § 385.209.1(5) because Padzoria has been convicted of six felonies:
 - a. Fraudulent Use of a Credit or Debit Device, a Class C Felony, in violation of § 570.030. *State v. Robert A. Padzoria*, St. Louis Co. Cir. Ct., Case No. 2197R-00391-01.
 - b. Forgery, a Class C Felony, in violation of § 570.090. *State v. Robert A. Padzaria*, St. Louis Co. Cir. Ct., Case No. 2198R-00625.
 - c. Forgery, a Class C Felony, in violation of § 570.090. *Id.*
 - d. Failure to Return Rented Personal Property, a Class C Felony, in violation of § 578.150. *State v. Robert A. Padzoria*, St. Charles Co. Cir. Ct., Case No. 11R010000036-01.
 - e. Burglary in the Second Degree, a Class C Felony, in violation of § 569.170. *State v. Robert A. Padzoria*, St. Charles Co. Cir. Ct., Case No. 01CR124630-01.
 - f. Stealing, a Class C Felony, in violation of § 570.030. *Id.*
36. Each of Padzoria's felony convictions constitutes a separate and sufficient cause for refusal under § 385.209.1(5).
37. The Director may refuse to renew Padzoria's MVESC producer license under § 385.209.1(12) because Padzoria has failed to comply with a court order imposing a child support obligation with respect to minor C.A.P. *Robert Abraham Padzoria et al. v. Lindsey Neubauer*, St. Charles Co. Cir. Ct., Case No. 0911-FC02414.

38. The Director has considered Padzoria's history and all of the circumstances surrounding Padzoria's Renewal Application, including the infirmities of his Initial Application. Renewing Padzoria's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Padzoria's MVESC producer license.
39. This order is in the public interest.

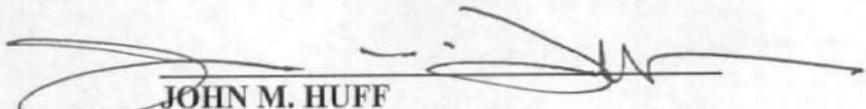
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license renewal application of **Robert Abraham Padzoria** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 13th DAY OF AUGUST, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

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

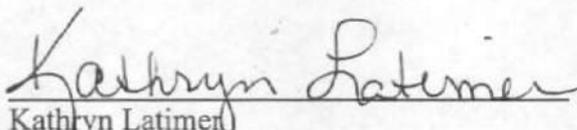
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 14th day of August, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Robert Abraham Padzoria
1002 Donner Pass, Unit A
Saint Peters, Missouri 63376

Tracking No. 1Z0R15W84294855558


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