State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Robert J. Peters, Jr.,	)	**Case No. 199716**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On October 11, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Robert J. Peters, Jr. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Robert J. Peters, Jr., ("Peters") is a Missouri resident with a residential address of 550 Humes Lane, Florissant, Missouri 63031.

2. On December 11, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Peters' Application for Motor Vehicle Extended Service Contract Producer License (the "Current Application").

3. Previously, on December 19, 2011, and on April 9, 2012, the Department had received two prior applications from Peters for Motor Vehicle Extended Service Contract Producer License (collectively, the "Prior Applications").

4. The Director refused the Prior Applications in an Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License issued on September 17, 2012 (the "2012 Refusal") because Peters had been convicted of the Class D Felony of Criminal Non-Support, because he had failed to comply with an administrative or court order imposing a child support obligation, and because he failed to disclose two Class A Misdemeanor convictions for Passing a Bad Check.

5. The Findings of Fact and Conclusions of Law contained in the 2012 Refusal, a copy of which is attached hereto as Exhibit 1, are hereby incorporated into this Order as if fully set out herein.

6. The "Applicant's Certification and Attestation" section of the Current Application, states, in relevant part:

1. 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.

7. Peters signed the Current Application in the "Applicant's Certification and Attestation" section.

8. Background Question No. 1 of the Current Application asks the following:

   Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

   "Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.

   "Had a judgement withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt is made, but imposition or execution of the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence—sometimes called an "SIS" or "SES").

   If you answer yes, you must attach to this application:
   a) a written statement explaining the circumstances of each incident,
   b) a copy of the charging document, and
   c) a copy of the official document which demonstrates the resolution of the charges or any final judgement[.]

9. Peters marked "No" to Question No. 1 and failed to otherwise disclose any criminal history in the Current Application.

10. Contrary to Peters' "No" answer to Question No. 1, on November 21, 2005, Peters pleaded guilty in the St. Charles County Circuit Court to two counts of the Class D Felony of Criminal Non-Support, in violation of § 568.040. The court suspended the imposition of sentence on each count and granted Peters five years' probation. On November 13, 2006, the court revoked Peters' probation and sentenced Peters to three years' incarceration in the Missouri Department of Corrections.[1]

[1] *State of Missouri v. Robert Peters, Jr.*, St. Charles Co. Cir. Ct., No. 04CR129539-01.

11. Peters' conviction in *State v. Peters*, Case No. 04CR129539-01, was based on Peters' failure to comply with an Administrative Order of Modification, Case No. 629596, entered in St. Louis County, Missouri.

12. Background Question No. 4 of the Current Application asked the following:

> Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

13. Peters marked "No" to Question No. 4.

14. Contrary to Peters' "No" answer to Question No. 4, the Consumer Affairs Division's investigation revealed information indicating that Peters owed delinquent tax obligations to the Missouri Department of Revenue in the amounts of $ 628.84 for tax year 2006 and $ 209.45 for tax year 2009.

15. Investigation further revealed that on April 9, 2012, the Missouri Director of Revenue filed in the St. Louis County Circuit Court a Certificate of Tax Lien – Individual Income Tax, certifying that Peters owed $ 608.32 in delinquent taxes from 2006, interest and penalties, which, upon filing, became the judgment of the court under § 143.902. The judgment remains unsatisfied.[2]

16. On December 24, 2012, Consumer Affairs Division investigator Dennis Fitzpatrick mailed an inquiry letter to Peters requesting an explanation of Peters' "No" answer to Background Question No. 4 in light of Peters' tax delinquencies.

17. Fitzpatrick mailed the December 24, 2012 letter by first class mail, to Peters' address of record, with sufficient postage attached.

18. The December 24, 2012 letter was not returned as undeliverable.

19. Peters never responded to the December 24, 2012 letter and has not demonstrated any justification for his failure to respond.

20. On January 18, 2013, Consumer Affairs Division investigator Dennis Fitzpatrick mailed a second inquiry letter to Peters, again requesting an explanation of Peters' "No" answer to Background Question No. 4.

21. Fitzpatrick mailed the January 18, 2013 letter by first class mail, to Peters' address of record, with sufficient postage attached.

22. The January 18, 2013 letter was not returned as undeliverable.

23. Peters never responded to the January 18, 2013 letter and has not demonstrated any justification for his failure to respond.

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[2] *Department of Revenue v. Robert J. Peters*, St. Louis Co. Cir. Ct., No. 12SL-MC07886.

24. It is inferable, and is hereby found as fact, that Peters failed to disclose his criminal history and his tax delinquencies in his Current Application in order to misrepresent to the Director that he had no criminal history or tax delinquencies, and, accordingly, in order to improve the chances that the Director would approve his Current Application and issue him an MVESC producer license.

CONCLUSIONS OF LAW

25. Section 385.209, RSMo, 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:
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> * * *
>
> (2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director;
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> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
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> * * *
>
> (5) Been convicted of any felony;
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> * * *
>
> (12) Failed to comply with an administrative or court order imposing a child support obligation; [or]
>
> (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

26. Regulation 20 CSR 100-4.100(2) states:

> (2) Except as required under subsection (2)(B)—
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> > (A) 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.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

27. 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.

28. The Director may refuse to issue Peters an MVESC producer license under § 385.209.1(3) because Peters attempted to obtain a license through material misrepresentation or fraud when in his Current Application he failed to disclose his Class D Felony conviction for Criminal Non-Support. Peters did so in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his Current Application and issue him an MVESC producer license.

29. The Director also may refuse to issue Peters an MVESC producer license under § 385.209.1(3) because Peters attempted to obtain a license through material misrepresentation or fraud when in his Current Application he falsely answered Question No. 4 "No," in order to misrepresent to the Director that he had not been notified of any delinquent tax obligation, and, accordingly, in order to improve the chances that the Director would approve his Current Application and issue him an MVESC producer license.

30. The Director also may refuse to issue Peters an MVESC producer license under § 385.209.1(5) because Peters has been convicted of two felonies:

    a. *State of Missouri v. Robert Peters, Jr.*, St. Charles Co. Cir. Ct., No. 04CR129539-01 (two (2) counts of Criminal Non-Support, each a Class D Felony in violation of § 568.040).

31. The Director also may refuse to issue Peters an MVESC producer license under § 385.209.1(12) because Peters has failed to comply with an administrative or court order imposing a child support obligation. Peters' conviction in *State v. Peters*, Case No. 04CR129539-01, was based on Peters' failure to comply with an Administrative Order of Modification, Case No. 629596, entered in St. Louis County, Missouri.

32. The Director also may refuse to issue Peters an MVESC producer license under § 385.209.1(13) because Peters failed to comply with a court order directing payment of state income tax. The Certificate of Tax Lien – Individual Income Tax, filed by the Director of Revenue on April 9, 2012, which became the judgment of the court, remains unsatisfied.

33. The Director also may refuse to issue Peters an MVESC producer license under § 385.209.1(2) because Peters violated a rule of the Director, in that he failed to respond to two written inquiries from the Consumer Affairs Division—on December 24, 2012, and January 18, 2013—without demonstrating reasonable justification for either of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.

34. Peters failed to disclose, and thereby misrepresented, material facts on his Current Application: namely, his conviction of the Class D Felony of Criminal Non-Support and his income tax delinquency. Peters' child support non-compliance and his failure to comply with an administrative or court order directing payment of state income tax are further separate grounds upon which to refuse to issue Peters a MVESC producer license. Peters has been convicted of two felony counts of Criminal Non-Support, and each conviction is a ground for refusal to issue Peters an MVESC producer license. Finally, Peters failed to respond to two written inquiries from the Consumer Affairs Division.

35. Peters' failure to disclose his criminal history and child support non-compliance in his Current Application is particularly troubling because the Director had already refused Peters a license in the 2012 Refusal in part for making material misrepresentations to the Director in an attempt to obtain an MVESC producer license. Peters' repeated material misrepresentations to the Director, the state regulator from whom he seeks a license, demonstrate a lack of respect of the Director and signal a real risk to the public the Director is charged with protecting.

36. The Director has considered Peters' history and all of the circumstances surrounding his Current Application. Granting Peters a motor vehicle service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Peters' motor vehicle extended service contract producer license.

37. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the December 11, 2012 motor vehicle extended service contract producer license application of **Robert J. Peters, Jr.,** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 21ST **DAY OF** OCTOBER **, 2013.**

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 23rd day of October, 2013 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

Robert J. Peters, Jr.
550 Humes Lane
Florissant, MO 63031

Certified No. 7009 3410 0001 9255 0288

Meleigha Caudel

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