State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
RAPHAEL JOSEPH STOVALL,	)	**Case No. 150122039C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 27, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the issuance of a motor vehicle extended service contract producer license to Raphael Joseph Stovall. 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. Raphael Joseph Stovall ("Stovall") is a Missouri resident with a residential address of record of 136 Jost Manor Drive, Florissant, Missouri 63034.

2. On or about October 15, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Stovall's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. The "Applicant's Certification and Attestation" section of the 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.

4. Stovall signed the Application in the "Applicant's Certification and Attestation" section under oath and before a notary public.

5. Background Question No. 1 of the Application asks the following:

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?

"Crime" includes a misdemeanor, felony, or a military offense. You may exclude any of the following if they are/were misdemeanor traffic citations or misdemeanors: driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude misdemeanor juvenile convictions.

"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, having entered an Alford Plea, or having been given probation, a suspended sentence, or a fine.

"Had a judgment withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt was 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").

Unless excluded by the language above, you must disclose convictions that have been expunged.

If you answer yes, you must attach to this application:

a) a written statement explaining the circumstances of each incident,
b) a certified copy of the charging document, and
c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Stovall answered "YES" to Background Question No. 1 on his Application.

7. Stovall attached a letter disclosing two (2) felony convictions and the relevant court documents to his Application:

   a. On January 11, 2010, Stovall pled guilty to Possession of a Controlled Substance with Intent to Distribute, a Class B Felony in violation of § 195.211.[1] The court sentenced Stovall to five (5) years' incarceration, suspended execution of the sentence, and sentenced Stovall to one hundred twenty (120) days' shock incarceration and five (5) years' supervised probation. *State v. Raphael J. Stovall*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07322-01.

[1] All references to criminal statutes correspond to the version of the Revised Statutes of Missouri under which each judgment was rendered.

b. On February 2, 2010, Stovall pled guilty to Delivery of a Controlled Substance, a Class C Felony in violation of § 195.211. The court sentenced Stovall to five (5) years' incarceration, suspended execution of the sentence, and sentenced Stovall to five (5) years' supervised probation. *State v. Raphael J. Stovall*, Adair Co. Cir. Ct., Case No. 08AR-CR00745.

8. Stovall's letter also stated, in part, "I have listed all charges and convictions that qualify for explanation under the application guidelines with 100% honesty and accuracy."

9. During its investigation, the Consumer Affairs Division ("Division") of the Department discovered the following misdemeanor convictions that Stovall failed to disclose on his Application:

   a. On April 25, 2007, Stovall pled guilty to Domestic Assault – 3rd Degree, a Class A Misdemeanor in violation of § 565.074, and Property Damage 2nd Degree, a Class B Misdemeanor in violation of § 569.120. The court sentenced Stovall to ninety (90) days' incarceration on each count, suspended execution of the sentence, and sentenced Stovall to two (2) years' unsupervised probation with each sentence to run concurrent. *State v. Raphael J. Stovall*, Adair Co. Assoc. Cir. Ct., Case No. 06H4-CR01107.

   b. On December 20, 2007, Stovall pled guilty to Possession of Up to 35 Grams Marijuana, a Class A Misdemeanor in violation of § 195.202. The court sentenced Stovall to pay court costs and a $200.00 fine. *State v. Raphael J. Stovall*, Adair Co. Assoc. Cir. Ct., Case No. 07H4-CR00554.

   c. On March 10, 2014, Stovall pled guilty to Possession of Up to 35 Grams Marijuana, a Class A Misdemeanor in violation of § 195.202. The court sentenced Stovall to one (1) year's incarceration, suspended the execution of the sentence, and placed Stovall on unsupervised probation for one (1) year. *State v. Raphael Joseph Stovall*, City of St. Louis Assoc. Cir. Ct., Case No. 1322-CR05576.

10. It is inferable, and hereby found as fact, that Stovall failed to disclose his four (4) misdemeanor convictions in response to Background Question No. 1 on his Application to misrepresent to the Director that he had no other convictions and to improve the likelihood that the Director would issue him a motor vehicle extended service contract ("MVESC") producer license. Background Question No. 1 plainly asks, "Have you ever been convicted of a crime" and states that a "'[c]rime' includes a misdemeanor … ." Despite stating that he had "listed all charges and convictions that qualify for explanation under the application guidelines with 100% honesty and accuracy," Stovall either materially misrepresented or fraudulently omitted four (4) convictions that qualify for disclosure under the Application instructions. Stovall's explanation for his failure to disclose is not credible.

CONCLUSIONS OF LAW

11. Section 385.209.1 RSMo,[2] provides, in 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:
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> * * *
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]
>
> * * *
>
> (5) Been convicted of any felony[.]

12. 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 MVESC producer license but to protect the public.

13. The Director may refuse to issue a MVESC producer license to Stovall pursuant to § 385.209.1(3) because Stovall attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose his four (4) misdemeanor convictions on his Application:

    a. Domestic Assault – 3rd Degree, a Class A Misdemeanor. *State v. Raphael J. Stovall*, Adair Co. Assoc. Cir. Ct., Case No. 06H4-CR01107.

    b. Property Damage 2nd Degree, a Class B Misdemeanor. *Id.*

    c. Possession of Up to 35 Grams Marijuana, a Class A Misdemeanor. *State v. Raphael J. Stovall*, Adair Co. Assoc. Cir. Ct., Case No. 07H4-CR00554.

    d. Possession of Up to 35 Grams Marijuana, a Class A Misdemeanor. *State v. Raphael Joseph Stovall,* City of St. Louis Assoc. Cir. Ct., Case No. 1322-CR05576.

14. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient ground for refusal pursuant to § 385.209.1(3).

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

15. The Director may refuse to issue a MVESC producer license to Stovall pursuant to § 385.209.1(5) because Stovall has been convicted of two (2) felonies:

    a. Possession of a Controlled Substance with Intent to Distribute, a Class B Felony. *State v. Raphael J. Stovall*, St. Louis Co. Cir. Ct., Case No. 08SL-CR07322-01.

    b. Delivery of a Controlled Substance, a Class C Felony. *State v. Raphael J. Stovall*, Adair Co. Cir. Ct., Case No. 08AR-CR00745.

16. Each felony conviction is a separate and sufficient ground for refusal pursuant to § 385.209.1(5).

17. The Director has considered Stovall's history and all of the circumstances surrounding Stovall's Application. Issuing Stovall a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Stovall.

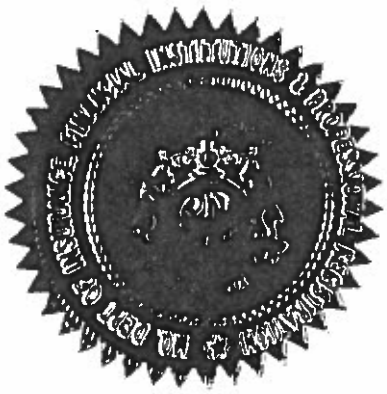
18. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Motor Vehicle Extended Service Contract Producer License application of **Raphael Joseph Stovall** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 27 DAY OF April 2015.



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 28 day of April 2015 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Raphael Joseph Stovall
136 Jost Manor Drive
Florissant, Missouri 63034

Tracking No.: 1Z0R15W84296074586

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