State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Michael L. Reid,	)	**Case No. 12-0606432C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On July 31, 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 Michael L. Reid. 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. Michael L. Reid ("Reid") is a Missouri resident with a residential address of 9826A Greenery Ln., Olivette, Missouri 63132.

2. On December 13, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Reid's 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. Reid signed the Application in the "Applicant's Certification and Attestation" section.

5. Background Question No. 1 of the 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 excluded 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 and 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[.]

6. Reid marked "Yes" to Question No. 1 and disclosed that on July 30, 2004, Reid pleaded guilty to the Class C Felony of Felonious Restraint and the Class C Felony of Domestic Assault in the 2nd Degree. The court sentenced Reid to seven years in the custody of the Missouri Department of Corrections on the each count, with the second count to run concurrently with the first count. The court suspended the execution of sentence, and placed Reid on supervised probation for five years. It also required Reid to "1) complete the RAVEN program; 2) have no contact with [the victim]; 3) perform 100 hours of community service; 4) undergo a psych. evaluation and perform any treatment as directed by the probation officer; 5) serve 60 days shock time in the county jail." Reid completed his probation on July 29, 2009. *State of Missouri v. Micheal L. Reid*, St. Louis County Circuit Court, Case No. 2104CR-02142-01.

7. Background Question No. 4 of the Application asks 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?

8. Reid marked "No" to Question No. 4.

9. Reid failed to disclose the following orders directing the payment of state income tax:

a. On March 29, 2010, the Missouri Department of Revenue filed a Certificate of Tax Lien – Individual Income Tax, against Reid certifying that an assessment of tax, interest, additions to tax, penalties, and fees were made and had become final.

The total amount assessed against Reid was $3,359.64. The filing of the Certificate of Lien with the circuit court has the force and effect of a default judgment. *See* § 143.902, RSMo. *Department of Revenue v. Michael L. Reid*, St. Louis County Circuit Court, Case No. 10SL-MC03010; and

b. On November 1, 2010, a Certificate of Tax Lien was filed against Reid certifying that an assessment of tax, interest, additions to tax, penalties, and fees were made and had become final. The total amount assessed against Reid was $9,811.62. The filing of the Certificate of Lien with the circuit court has the force and effect of a default judgment. *See* § 143.902, RSMo. *Department of Revenue v. Michael L. Reid*, St. Louis County Circuit Court, Case No. 10SL-MC11795.

CONCLUSIONS OF LAW

10. Section 385.209 RSMo (Supp. 2011) 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;

* * *

(5) Been convicted of any felony;

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

11. 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.

CAUSE FOR ORDER TO REFUSE A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

12. Reid may be refused a motor vehicle extended service contract ("MVESC") producer license pursuant to § 385.209.1(3) for attempting to obtain a license through material misrepresentation or fraud. By signing the Application, Reid certified that all of the

information submitted was true and complete. However, Reid provided false information or omitted pertinent or material information. Each of the following instances of material misrepresentation or fraud by Reid on his Application is a separate and sufficient ground for the Director to exercise his discretion to refuse the license:

a. Reid failed to disclose that a Certificate of Tax Lien was filed against him on March 29, 2010, certifying that an assessment of tax, interest, additions to tax, penalties, and fees totaling $3,359.64 were made and had become final. *Department of Revenue v. Michael L. Reid*, St. Louis County Circuit Court, Case No. 10SL-MC03010; and

b. Reid failed to disclose that a Certificate of Tax Lien was filed against him on November 1, 2010, certifying that an assessment of tax, interest, additions to tax, penalties, and fees totaling $9,811.62 were made and had become final. *Department of Revenue v. Michael L. Reid*, St. Louis County Circuit Court, Case No. 10SL-MC11795.

13. Reid's false or omitted information is material because such information would affect the Director's decision to issue a license. Reid is trying to conceal the information in an attempt to induce the Director to rely on Reid's Application to issue a MVESC producer license.

14. Reid may be refused a MVESC producer license pursuant to § 385.209.1(5) because he has been convicted of multiple felonies. On May 30, 2004, Reid pleaded guilty to and was convicted of the Class C Felony of Felonious Restraint and the Class C felony of Domestic Assault in the 2nd Degree. *State of Missouri v. Micheal L. Reid*, St. Louis County Circuit Court, Case No. 2104CR-02142-01.

15. Reid may be refused a MVESC producer license pursuant to § 385.209.1(13) because the following two judgments have been entered against him asserting the failure to pay state income taxes:

    a. Certificate of Tax Lien filed on March 29, 2010, certifying that an assessment of tax, interest, additions to tax, penalties, and fees totaling $3,359.64 were made and had become final. *Department of Revenue v. Michael L. Reid*, St. Louis County Circuit Court, Case No. 10SL-MC03010; and

    b. Certificate of Tax Lien filed on March 29, 2010, certifying that an assessment of tax, interest, additions to tax, penalties, and fees totaling $9,811.62 were made and had become final. *Department of Revenue v. Michael L. Reid*, St. Louis County Circuit Court, Case No. 10SL-MC11795.

16. Reid failed to disclose or misrepresented material facts on his Application that would impact his request for licensure; namely, two state income tax liens. Reid has also been convicted of two felonies. Granting Reid a MVESC producer license would not be in the interest of the public. For all of the reasons given in this Petition, the Director should

consider Reid's history and all of the circumstances surrounding Reid's Application and exercise his discretion to refuse Reid's motor vehicle extended service contract producer license.

17. The order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license application of **Michael L. Reid,** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 3RD **DAY OF** AUGUST, **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 7th day of August, 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:

Michael L. Reid
9826A Greenery Ln.
Olivette, Missouri 63132

Certified No. 7009 3410 0001 8931 3469

Kathryn Randolph

Kathryn Randolph
Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.randolph@insurance.mo.gov