



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
SAMUEL A. WHITE,) Case No. 14-0715554C
)
Applicant.)

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

On July 28, 2014, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Samuel A. White. 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. Samuel A. White (“White”) is a Missouri resident with a current residential address of 926 Mallory Drive, St. Charles, Missouri 63303. White’s address of record with the Department of Insurance, Financial Institutions and Professional Registration (“Department”) is 701 Linda Lane, Apartment A, Wentzville, MO 63385.
2. The Department issued White a motor vehicle extended service contract (“MVESC”) producer license (#8088237) on January 1, 2012. That license expired on January 1, 2014.
3. In May 2014, the Department received White’s “Application for Motor Vehicle Extended Service Contract Producer License Renewal” (“Application”).¹
4. White signed the “Applicant’s Certification and Attestation” section of the Application, which states, in relevant part, as follows:

I hereby certify, under penalty of perjury, that all of the information submitted

¹ Because White’s license expired on January 1, 2014, he had no license to renew. See § 385.207.6, RSMo Supp. 2013. That said, the Department’s licensing section treated White’s Application as a request for a license (versus a request for renewal) and did not require White to submit any new or additional paperwork.

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.

5. Background Question No. 4 of the Application asks, in relevant part:

Have you failed to pay state or federal income tax, which has not been previously reported to this insurance department?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax, which has not been previously reported to this insurance department?

6. White marked "No" to Background Question No. 4 and did not disclose any outstanding tax obligations in response.
7. Contrary to White's "No" answer, the Division's investigation revealed that, in fact, White had outstanding tax obligations to the State of Missouri for tax years 2007 and 2011.
8. The Lincoln County Circuit Court entered judgment against White upon the Missouri Department of Revenue's certification of individual income tax, interest and additions to the tax, totaling \$7,121.63. *Department of Revenue v. Samuel A. White*, Lincoln Co. Cir. Ct., Case No. 13L6-MC00314. The judgment remains unsatisfied.
9. On May 23, 2014, Andrew Engler, Special Investigator with the Division, sent an inquiry letter to White via first class mail, postage prepaid, at the address he provided on his Application, 926 Mallory Drive, St. Charles, Missouri 63303. In it, Engler indicated that the Division's investigation revealed that the Missouri Department of Revenue had filed a tax lien against White. Engler asked White to provide the current status of the lien and evidence of either a repayment agreement or a letter of compliance. Engler requested a response on or before June 12, 2014.
10. The United States Postal Service did not return Engler's May 23, 2014 inquiry letter to the Division as undeliverable.
11. White did not respond to Engler's May 23, 2014 letter and he did not demonstrate reasonable justification for delay.
12. Again on June 13, 2014, Engler sent another inquiry letter to White via first class mail, postage prepaid, at White's Mallory Drive address. In it, Engler reiterated that the Division's investigation revealed that the Missouri Department of Revenue had

filed a tax lien against White. Engler again asked White to provide the current status of the lien and evidence of either a repayment agreement or a letter of compliance. Engler requested a response on or before July 3, 2014.

13. The United States Postal Service did not return Engler's June 13, 2014 inquiry letter to the Division as undeliverable.
14. White did not respond to Engler's June 13, 2014 letter and he did not demonstrate reasonable justification for delay.

CONCLUSIONS OF LAW

15. Section 385.209.1, RSMo Supp. 2013,² provides:

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:

* * *

- (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;

* * *

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

16. Title 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, provides:

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

² All further statutory references are to RSMo Supp. 2013 unless otherwise indicated.

of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

17. 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 licenses, but to protect the public.
18. The Director may refuse to issue an MVESC producer license to White under § 385.209.1(2) because White violated a rule of the director, specifically, 20 CSR 100-4.100(2)(A). White failed to adequately and timely respond (indeed, he did not respond at all) to two written inquiries from the Division, mailed on May 23, and June 13, 2014. Further, White failed to demonstrate reasonable justification for any delay.
19. Each such failure to respond to a Division inquiry or demonstrate reasonable justification for delay constitutes a separate and sufficient ground to refuse to issue White an MVESC producer license under § 385.209.1(2).
20. The Director may refuse to issue an MVESC producer license to White under § 385.209.1(3) because White attempted to obtain a license through material misrepresentation or fraud. In his Application, White answered "No" in response to Background Question No. 4 regarding failure to pay any state or federal income tax. But the Division's investigation revealed a tax judgment against White in Lincoln County, Missouri, from June 7, 2013. *Department of Revenue v. Samuel A. White*, Lincoln Co. Cir. Ct., Case No. 13L6-MC00314. White failed to disclose this tax debt and his failure to pay it on his Application; inferably, he did so in an attempt to get his license without any Department scrutiny regarding his personal tax situation.
21. The Director may refuse to issue an MVESC producer license to White under § 385.209.1(13) because White failed to comply with any administrative or court order directing payment of state income tax, specifically, the \$7,121.63 tax judgment in *Department of Revenue v. Samuel A. White*, Lincoln Co. Cir. Ct., Case No. 13L6-MC00314.
22. Each violation of a provision in § 385.209.1 constitutes a separate and sufficient ground for the Director to refuse to issue White an MVESC producer license.
23. The above-described instances are grounds upon which the Director may refuse to issue White an MVESC producer license. White failed to disclose his outstanding tax debt on his Application and he failed to pay his tax obligations. When the Division twice inquired in writing about White's tax situation, White failed to respond or to demonstrate reasonable justification for any delay.

24. The Director has considered White's history and all of the circumstances surrounding White's Application. Granting White an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue White an MVESC producer license.
25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the MVESC producer license application of **Samuel A. White** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 6TH DAY OF AUGUST ~~JULY~~, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

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

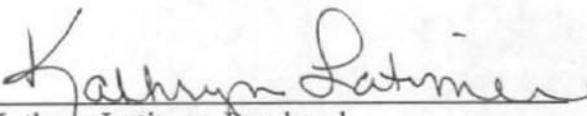
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 7th day of August, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Samuel A. White
926 Mallory Drive
St. Charles, Missouri 63303

Tracking No. 1Z0R15W84299122563


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