State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
SAMANTHA L. DIGRISPINO,	)	**Case No. 150213094C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On June 25, 2015, 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 Samantha L. Digrispino. 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. Samantha L. Digrispino ("Digrispino") is a Missouri resident with a residential address of record of 423 Quentin Dr., St. Charles, Missouri, 63301.

2. On or about November 18, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Digrispino's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. The "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. Digrispino accepted the "Attestation" by signing the Application under oath 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 in 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 copy of the charging document, and
c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Digrispino answered "No" to Background Question No. 1.

7. Contrary to Digrispino's "No" answer to Background Question No. 1, the Division's investigation revealed that on April 27, 2005, Digrispino pled guilty to the Class A Misdemeanor of Possession of a Controlled Substance (possession of under 35 grams of marijuana), in violation of § 195.202, and the Class A Misdemeanor of Possession of Drug Paraphernalia with Intent to Use, in violation of § 195.233. The court suspended imposition of sentence, placed Digrispino on two (2) years' supervised probation, and ordered Digrispino to pay a fine and/or court costs of $114.50. *State of Missouri v. Samantha Louise Digrispino,* Pike Co. Cir. Ct., Case No. 04P3-CR00341.

8. It is inferable, and hereby found as fact, that Digrispino falsely answered "No" to Background Question No. 1 and failed to disclose her guilty pleas to the Class A Misdemeanor of Possession of a Controlled Substance and the Class A Misdemeanor of Possession of Drug Paraphernalia with Intent to Use in order to misrepresent to the Director that she had no criminal history, and, accordingly, in order to improve the chances that the Director would approve her Application and issue her a license.

9. On November 21, 2014, Special Investigator Andrew Engler, ("Engler"), of the Division, mailed an inquiry letter to Digrispino, noting that an investigation revealed misdemeanor charges that she failed to disclose on her Application. The inquiry letter requested that Digrispino explain the circumstances surrounding "the charge" and why she failed to disclose it. The letter further requested a certified copy of the Information, Complaint or other charging document in the criminal matter.

10. The United States Postal Service did not return the November 21, 2014 inquiry letter to the Division, and therefore, it is presumed received by Digrispino.

11. Digrispino never responded to the November 21, 2014 inquiry letter nor demonstrated a reasonable justification for the delay.

12. On December 11, 2014, Engler mailed a second inquiry letter to Digrispino, substantively identical to the November 21, 2014 inquiry letter, with the same request for explanation and certified records.

13. The United States Postal Service did not return the December 11, 2014 inquiry letter to the Division, and therefore, it is presumed received by Digrispino.

14. Digrispino never responded to the December 11, 2014 inquiry letter nor demonstrated a reasonable justification for the delay.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013) 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; [or]
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

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

17. "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. 2000) (internal citations omitted).

18. 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 ("MVESC") producer license, but to protect the public.

19. The Director may refuse to issue an MVESC producer license to Digrispino under § 385.209.1(3) because Digrispino attempted to obtain an MVESC producer license through material misrepresentation or fraud. Digrispino falsely answered "No" to Background Question No. 1 and failed to disclose in her Application her guilty pleas to the Class A Misdemeanor of Possession of a Controlled Substance (possession of under 35 grams of marijuana), and the Class A Misdemeanor of Possession of Drug Paraphernalia with Intent to Use. *State of Missouri v. Samantha Louise Digrispino,* Pike Co. Cir. Ct., Case No. 04P3-CR00341. Digrispino failed to disclose her criminal background in order to misrepresent to the Director that she had no criminal history, and, accordingly, in order to improve the chances that the Director would approve her Application and issue her an MVESC producer license.

20. The Director also may refuse to issue an MVESC producer license to Digrispino under § 385.209.1(2) because Digrispino violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), in that she failed to respond to two written inquiries from the Consumer Affairs Division without demonstrating reasonable justification for the delay.

21. Each violation of 20 CSR 100-4.100(2)(A) is a separate and sufficient cause for refusal to issue Digrispino an MVESC producer license.

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

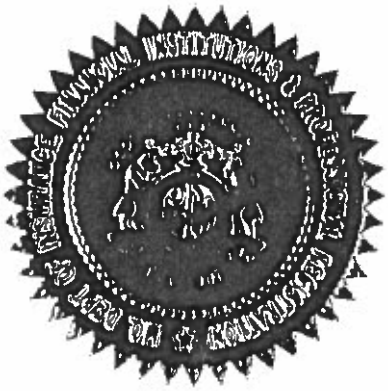
23. This Order is in the public interest.

ORDER

IT IS THEREFORE ordered that the motor vehicle extended service contract producer license application of Samantha L. Digrispino is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25 **DAY OF** June **, 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 26th day of June, 2015 a copy of the foregoing Order and Notice was served upon the Applicant by UPS, signature required, at the following address:

Samantha L. Digrispino
423 Quentin Dr.
St. Charles, MO 63301

Track No. 1Z0R15W84290073347

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