



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

SHANICKA L. COLLINS GROSS,

Applicant.

)
)
)
)
)

Case No. 197340

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 5, 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 Shanicka L. Collins Gross. 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. Shanicka L. Collins Gross, ("Collins Gross") is a Missouri resident with a residential address of record of 7446 Woodstock, St. Louis, Missouri, 63133.
2. On March 4, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Collins Gross's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Background Question No. 1 of the Application asks the following (emphasis added):

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 judgment[.]
4. Collins Gross marked “No” to Question No. 1.
 5. Collins Gross did not disclose any criminal history, including any pending criminal charges, in her Application.
 6. The Consumer Affairs Division’s investigation into Collins Gross’s Application revealed that a charge of Class C Felony Identity Theft or Attempt (Value \$501 to \$5,000) was pending against “Shanicka L. Collins” in the St. Louis County Circuit Court.¹
 7. On March 11, 2013, Consumer Affairs Division investigator Julie Hesser mailed an inquiry letter to Collins Gross, requesting an explanation of her “No” answer to Background Question No. 1, in light of the felony charge of Identity Theft or Attempt that appeared to be pending against Collins Gross under the name “Shanicka L. Collins.”
 8. Hesser mailed the March 11, 2013 letter by first class mail, to Collins Gross’s address of record, with sufficient postage attached.
 9. The March 11, 2013 letter was not returned as undeliverable.
 10. Collins Gross never responded to the March 11, 2013 letter and has not demonstrated any justification for her failure to respond.
 11. On April 11, 2013, Hesser mailed a second inquiry letter to Collins Gross, again requesting an explanation of her “No” answer to Background Question No. 1, in light of the felony charge of Identity Theft or Attempt that appeared to be pending against Collins Gross under the name “Shanicka L. Collins.”
 12. Hesser mailed the April 11, 2013 letter by first class mail, to Collins Gross’s address of record, with sufficient postage attached.
 13. The April 11, 2013 letter was not returned as undeliverable.

¹ *State of Missouri v. Shanicka L. Collins*, St. Louis Co. Cir. Ct., No. 12SL-CR12560-01.

14. Collins Gross never responded to the April 11, 2013 letter and has not demonstrated any justification for her failure to respond.
15. On May 13, 2013, Hesser mailed a third inquiry letter to Collins Gross, again requesting an explanation of her "No" answer to Background Question No. 1, in light of the felony charge of Identity Theft or Attempt that appeared to be pending against Collins Gross under the name "Shanicka L. Collins."
16. Hesser mailed the May 13, 2013 letter by first class mail, to Collins Gross's address of record, with sufficient postage attached.
17. The May 13, 2013 letter was not returned as undeliverable.
18. Collins Gross never responded to the May 13, 2013 letter and has not demonstrated any justification for her failure to respond.

CONCLUSIONS OF LAW

19. Section 385.209 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:

* * *

- (2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director[.]

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

- (2) Except as required under subsection (2)(B)—

- (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.

21. 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.
22. The Director may refuse to issue Collins Gross an MVESC producer license under § 385.209.1(2) because Collins Gross violated a rule of the Director, in that she failed to adequately respond to three written inquiries from the Consumer Affairs Division—on March 11, 2013, April 11, 2013, and May 13, 2013—without demonstrating reasonable justification for any of her failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director. Each of Collins Gross's failures to respond to Consumer Affairs Division inquiries is a violation of a rule of the Director and a separate and sufficient ground upon which to refuse to issue an MVESC producer license to Collins Gross.
23. The opportunity for identity theft can pose a serious risk to MVESC consumers. An MVESC producer is often entrusted with the personal information of consumers, and the misuse of that personal information can carry serious financial consequences.
24. The Consumer Affairs Division sent three written inquiries to Collins Gross, affording her the opportunity to demonstrate that she is not the defendant in the felony Identity Theft or Attempt case, or to otherwise assure the Director that granting her an MVESC producer license would be in the interest of the public. Collins Gross failed to respond to any of those inquiries, leaving the Consumer Affairs Division's questions unanswered and the Director's concern for the safety of the public unalleviated.
25. The Director has considered Collins Gross's history and all of the circumstances surrounding Collins Gross's Application. Each of Collins Gross's failures to respond to Consumer Affairs Division inquiries is a violation of a rule of the Director and a separate and sufficient ground upon which to refuse to issue Collins Gross an MVESC producer license. Granting Collins Gross an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Collins Gross's MVESC producer license.
26. This Order is in the public interest.

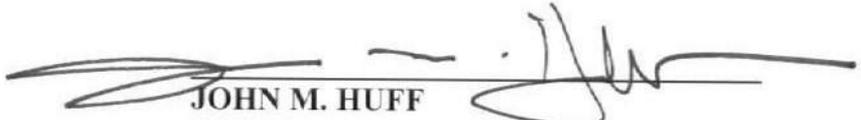
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Shanicka L. Collins Gross** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 8TH DAY OF NOVEMBER, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

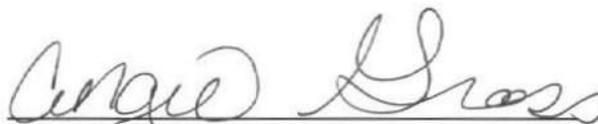
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 12th day of November, 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 address:

Shanicka L. Collins Gross
7446 Woodstock
St. Louis, Missouri 63133

Certified No. 7009 3410 0001 9255 0448



Angie Gross
Senior Office Support Assistant
Agent Investigation Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: angie.gross@insurance.mo.gov