State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
STEVEN D. HAYDEN,	)	**Case No. 192688**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 12, 2013, 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 Steven D. Hayden. 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. Steven D. Hayden ("Hayden") is a Missouri resident with a residential address of record of 12021 Charter Oaks Parkway, St. Louis, Missouri, 63146.[1]

2. On March 4, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hayden's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. By signing the Application, Hayden attested and certified that "all of the information submitted in this application and attachments is true and complete."

4. Background Question No. 1 of the Applications 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 exclude

[1] Solely for purposes of this Order, the Director treats the biographical information provided in response to questions 1 through 31B of the Application as accurate. The Director reserves the right to assert at a later date, including upon any appeal of this Order, that some or all of that information is inaccurate or false.

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[.]

5. Hayden marked "No" to Question No. 1.

6. Hayden did not disclose any criminal history in the Application.

7. The Consumer Affairs Division's investigation into the Applications revealed that, contrary to Hayden's "No" answer to Background Question No. 1, Hayden has been convicted of six felonies:

   a. On or about January 13, 2011, Hayden pled guilty in the St. Louis County Circuit Court to two counts of the Class C Felony of Forgery, in violation of § 570.090, RSMo. The court suspended imposition of sentence and placed Hayden on five years' probation. The court also ordered Hayden to pay $4903 in restitution. On October 27, 2011, the court revoked Hayden's probation and sentenced Hayden to two years' imprisonment on each count, to be served concurrently. Following his release, the court again placed Hayden on probation, which is due to end on January 13, 2016.[2]

   b. On or about May 31, 2011, Hayden pled guilty in the St. Louis County Circuit Court to two counts of the Class C Felony of Passing a Bad Check, in violation of § 570.120, RSMo. The court suspended imposition of sentence and placed Hayden on five years' probation. The court also ordered Hayden to pay $600 in restitution. On October 27, 2011, the court revoked Hayden's probation and sentenced Hayden to two years' imprisonment on each count, to be served concurrently. Following his release, the court again placed Hayden

[2] *State of Missouri v. Steven Hayden*, St. Louis Co. Cir. Ct., 10SL-CR09015-01.

on probation, which is due to end on January 13, 2016.[3]

c. On or about April 12, 2013, Hayden pled guilty in the St. Louis County Circuit Court to the Class C Felony of Identity Theft, in violation of § 570.223, RSMo. The court sentenced Hayden to three years' incarceration but suspended execution of the sentence and placed Hayden on probation, which is due to end on April 12, 2018. The Complaint in this case was filed on February 27, 2012, and the Information was filed on October 16, 2012.[4]

d. Also on or about April 12, 2013, Hayden pled guilty in St. Louis County Circuit Court to the Class C Felony of Theft of Cable Television Service, in violation of § 507.300, RSMo. The court sentenced Hayden to three years' incarceration but suspended execution of the sentence and placed Hayden on probation, which is due to end on April 12, 2018. The Information in this case was filed on October 16, 2012.[5]

8. It is inferable, and is hereby found as fact, that Hayden falsely answered "No" to Question No. 1, and failed to disclose his convictions of two counts of the Class C Felony of Forgery, two counts of the Class C Felony of Passing a Bad Check, and failed to disclose the pending charges of the Class C Felony of Identity Theft and the Class C Felony of Theft of Cable Television Service in his Application, in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

9. On or about March 11, 2013, Consumer Affairs Division investigator Dennis Fitzpatrick mailed Hayden a written inquiry, requiring an explanation for Hayden's "No" answer to Background Question No. 1 and certified copies of the court documents related to his felony convictions.

10. Fitzpatrick mailed the March 11, 2013 inquiry to "Steven D. Hayden" at 12021 Charter Oaks Parkway, St. Louis, Missouri, 63146, which is the address Hayden provided in his Application.

11. Fitzpatrick mailed the inquiry by regular U.S. mail with sufficient postage attached.

12. The March 11, 2013 inquiry letter was not returned as undeliverable.

13. Hayden never responded to the March 11, 2013 inquiry letter and has failed to demonstrate any justification for his failure to respond.

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[3] *State of Missouri v. Steven Hayden*, St. Louis Co. Cir. Ct., 11SL-CR00701-01.
[4] *State of Missouri v. Steven D. Hayden*, St. Louis Co. Cir. Ct., 12SL-CR02301-01.
[5] *State of Missouri v. Steven D. Hayden*, St. Louis Co. Cir. Ct., 12SL-CR02388-01.

CONCLUSIONS OF LAW

14. Section 385.209 RSMo, Supp. 2012, 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;
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
>
> * * *
>
> (5) Been convicted of any felony[.]

15. 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.

16. 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.

17. Hayden may be refused an MVESC producer license pursuant to § 385.209.1(5) because he has been convicted of six felonies:

    a. *State of Missouri v. Steven Hayden*, St. Louis Co. Cir. Ct., 10SL-CR09015-01 (two (2) counts of the Class C Felony of Forgery, in violation of § 570.090, RSMo).

    b. *State of Missouri v. Steven Hayden*, St. Louis Co. Cir. Ct., 11SL-CR00701-01. (two (2) counts of the Class C Felony of Passing a Bad Check, in violation of § 570.120, RSMo).

    c. *State of Missouri v. Steven D. Hayden*, St. Louis Co. Cir. Ct., 12SL-CR02301-01 (Class C Felony of Identity Theft, in violation of § 570.223, RSMo).

    d. *State of Missouri v. Steven D. Hayden*, St. Louis Co. Cir. Ct., 12SL-CR02388-01 (Class C Felony of Theft of Cable Television Service, in violation of § 507.300, RSMo).

18. Hayden also may be refused an MVESC producer license pursuant to § 385.209.1(3) because Hayden attempted to obtain an MVESC producer license through material misrepresentation or fraud. Hayden falsely answered "No" to Question No. 1 of the Application and failed to disclose in his Application his convictions of two counts of the Class C Felony of Forgery, two counts of the Class C Felony of Passing a Bad Check, and the pending charges against him for the Class C Felony of Identity Theft and the Class C Felony of Theft of Cable Television Service. Hayden falsely answered Question No. 1 and failed to disclose his criminal history in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

19. Hayden also may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(2) because Hayden violated a rule of the Director, in that he failed to respond to a Consumer Affairs Division written inquiry mailed on March 11, 2013, and failed to demonstrate any reasonable justification for his failure to respond, and thereby violated 20 CSR 100-4.100(2), which is a rule of the Director.

20. The Director has considered Hayden's history and all of the circumstances surrounding Hayden's Application. Granting Hayden a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Hayden.

21. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Steven D. Hayden** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19TH **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 21st 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 addresses:

Steven D. Hayden
12021 Charter Oaks Parkway
St. Louis, Missouri 63146

Certified No. 7009 3410 0001 9255 0523

Angie Gross

Angie Gross
Senior Office Support Assistant
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