State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
SHAUN J. LOAR,	)	**Case No. 150520299C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On February 2, 2016, 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 Shaun J. Loar. 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. Shaun J. Loar ("Loar") is a Missouri resident with a residential address of 3039 Andover Manor Drive, St. Louis, Missouri 63129.

2. On January 13, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Loar's completed Application for Motor Vehicle Extended Service Contract Producer License ("2012 Application").

3. The "Applicant's Certification and Attestation" section of the 2012 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. Loar signed the "Applicant's Certification and Attestation" section under oath before a notary public on December 7, 2011.

5. Background Question No. 1 of the 2012 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 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 judgement.

6. Loar answered "No" to Background Question No. 1 on his 2012 Application.

7. Relying on Loar's representation on his 2012 Application, the Department issued Loar a motor vehicle extended service contract ("MVESC") producer license (#8089744) on January 20, 2012.

8. On December 4, 2013, the Department received Loar's completed Application for Motor Vehicle Extended Service Contract Producer License Renewal ("2013 Renewal Application").

9. The "Applicant's Certification and Attestation" section of the 2013 Renewal 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.

10. Loar signed the "Applicant's Certification and Attestation" section of the 2013 Renewal Application under oath in front of a notary public on November 9, 2013.

11. Background Question No. 1 of the 2013 Renewal Application asks the following, in relevant part:

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 which has not been previously reported to the insurance department?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude any of the following if they were misdemeanor traffic violations 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 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").

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 certified copy of the charging document, and
c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

12. Loar answered "No" to Background Question No. 1 on his 2013 Renewal Application.

13. However, the Consumer Affairs Division's ("Division") investigation revealed Loar failed to disclose the following criminal history on his 2012 Application and 2013 Renewal Application. Said charges were pending at the time of Loar's 2012

Application and were convictions at the time of his 2013 Renewal Application.

a. On January 2, 2010, Loar was charged with DWI Alcohol – Aggravated Offender, a Class C Felony, in violation of § 577.010 RSMo.[1] Loar subsequently pled guilty to this charge on January 17, 2012, and on March 20, 2012, the court sentenced Loar to four years' incarceration with credit for time served. *State v. Shaun J. Loar*, Jefferson Co. Cir. Ct., Case No. 10JE-CR01885-01.

b. On February 21, 2010, Loar was charged with Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker or Probation and Parole Officer in the 3rd Degree, a Class A Misdemeanor, in violation of § 565.083 RSMo. On March 20, 2012, Loar pled guilty to this charge and was sentenced to 60 days confinement in the county jail to run concurrent with the sentence entered in case number 10JE-CR01885-01. *State v. Shaun J. Loar*, Jefferson Co. Cir. Ct., Case No. 10JE-CR02700.

c. On February 21, 2010, Loar was charged with Resisting/Interfering with Arrest, Detention or Stop, a Class A Misdemeanor, in violation of § 575.150 RSMo. On March 20, 2012, Loar pled guilty to this charge and was sentenced to 60 days confinement in the county jail to run concurrent with the sentence entered in case number 10JE-CR01885-01. *Id.*

14. On December 9, 2013, an Investigator for the Division sent an inquiry letter to Loar's mailing address of record. This inquiry letter sought information and documentation regarding the one felony and two misdemeanor convictions Loar failed to disclose on his 2013 Renewal Application.

15. On December 31, 2013, the Division received certified court records from Loar regarding his felony DWI conviction entered in case number 10JE-CR01885-01. However, Loar did not send court records related to his two misdemeanor convictions for Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker or Probation and Parole Officer in the 3rd Degree or Resisting/Interfering with Arrest, Detention or Stop entered in case number 10JE-CR02700.

16. On January 3, 2014, Loar called the Investigator for the Division in response to the December 9, 2013 inquiry letter. Loar claims he misunderstood Background Question No. 1 and believed he was not required to disclose his felony DWI charge or conviction on either his 2012 Application or the 2013 Renewal Application.

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[1] All references to criminal statutes are to those contained in the version of the Missouri Revised Statutes under which the court rendered judgment.

17. Loar's MVESC producer license (#8089744) expired on January 20, 2014.

18. On May 2, 2014, the Director of the Department issued an Order Refusing to Renew a Motor Vehicle Extended Services Contract Producer License ("Order") to Loar. The Director's Order found that grounds existed to refuse to renew Loar's license pursuant to § 385.209.1(1), (3), and (5)[2] as follows:

    a. Loar was convicted of a felony, in violation of § 385.209.1(5).

    b. Loar attempted to obtain and did obtain a Motor Vehicle Extended Services Contract ("MVESC") producer license through material misrepresentation or fraud, in violation of § 385.209.1(3), when he failed to disclose his Class C Felony charge and his Class A Misdemeanor charge that were both pending against him at the time Loar submitted his 2012 Application by falsely answering "No" to Background Question No. 1 on his 2012 Application.

    c. Loar attempted to obtain a MVESC producer license through material misrepresentation or fraud, in violation of § 385.209.1(3), when he failed to disclose his Class C Felony conviction and two Class A Misdemeanor convictions by falsely answering "No" to Background Question No. 1 on his 2013 Renewal Application.

    d. Loar filed an application in this state within the previous ten years which, as of the effective date of the license, was incomplete in a material respect because it contained incorrect, misleading or untrue information, in violation of § 385.209.1(1), because by falsely answering "No" to Background Question No. 1 on his 2012 Application and failing to disclose his Class C Felony charge and his Class A Misdemeanor charges that were pending against him at the time Loar submitted his 2012 Application. *Id.*

    In re: Shaun J. Loar, Order Refusing to Renew Motor Vehicle Extended Service Contract Producer License, Case No. 140424414C (May 2, 2014).

19. The 2014 Refusal included a Notice that provided instructions regarding filing a complaint with the Administrative Hearing Commission of Missouri ("Commission") within 30 days. *In re: Shaun J. Loar*, Order Refusing to Renew Motor Vehicle Extended Service Contract Producer License, Case No. 140424414C (May 2, 2014).

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[2] All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement, unless otherwise indicated.

20. On May 2, 2014, the Department served Loar with the 2014 Refusal at his residential address of record via United States Postal Service, certified mail.[3] On May 6, 2014, the certified mail was signed for by "Christina DeNoyer."

21. On May 7, 2014, an Investigator for the Division received a phone call from Loar regarding the 2014 Refusal. Loar acknowledged that he received the documents showing he was refused.

22. Loar did not file a complaint with the Commission regarding the 2014 Refusal.

23. On March 16, 2015, a manager at Repair Defense Network confirmed to the Division that Loar has been making sales over the phone during his period of employment with their company, including after he was refused in early May 2014. Said manager claimed to have recently learned that Loar did not have a MVESC producer license due to the Director's 2014 Refusal.

24. On April 7, 2015, the Department received Loar's completed Application for a Motor Vehicle Extended Service Contract Producer License ("2015 Application").

25. The "Applicant's Certification and Attestation" section of the 2015 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.

26. On March 31, 2015, Loar signed the "Applicant's Certification and Attestation" section of the 2015 Application under oath in front of a notary public.

27. Employment History Question No. 35 of the 2015 Application requests the following, in relevant part:

    Account for all time for the past five years. List all employment experience starting with your current employer and working back five years.

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[3] The Department served or attempted to serve Loar with the 2014 Refusal through numerous means: United States Postal Service ("USPS"), certified mail, United Parcel Service, restricted delivery (signature required; electronic tracking), and USPS regular mail. Each time the Department served Loar with the 2014 Refusal, it was served to the same address Loar listed on his 2015 Application (paragraph 24, *infra*). This is also the address the Division sent its December 2013 inquiry letter to which Loar responded by sending records and calling the Division (paragraphs 14-16, *supra*).

28. In response to Employment History Question No. 35, Loar admits he was working as a "Sales Rep" for Repair Defense Network of St. Ann, Missouri, from January 2014 to March 2015.

29. Repair Defense Network,[4] located in St. Peters, Missouri, is a MVESC business entity producer licensed by the Department to sell, offer, negotiate, or solicit motor vehicle extended service contracts.

30. Based on the employment information disclosed in Loar's 2015 Application, and the admissions of the manager from Repair Defense Network, Loar sold, offered, or solicited motor vehicle extended service contracts, in or from this state, without a MVESC producer license from early May 2014 to March 2015.

31. Background Question No. 1 of the 2015 Application states the following, in relevant part:

> 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 violations 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 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, 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 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").
>
> Unless excluded by the language above, you must disclose convictions that have been expunged.

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[4] On January 2, 2014, the Department issued VSC Marketing Group, LLC, DBA Repair Defense Network, a motor vehicle extended service contracts business entity producer license, number 8088483, that license is currently active.

If you answer yes, you must attach to this application:
a) a written statement explaining the circumstances of each incident,
b) a certified copy of the charging document, and
c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

32. Loar answered "Yes" to Background Question No. 1 and provided a letter dated March 31, 2015 with his 2015 Application which explained that in "2012 [he] was charged with a felony DWI" and that he provided the Investigator for the Division with the "original court documents that explain, in detail, the charges" against him in December 2013. Loar further stated that he "misread the exclusions and failed to mark the proper answer" to Background Question No. 1 on his 2013 Renewal Application.

33. As stated in paragraph 15, *supra*, the Division received certified copies of court records from Loar regarding his felony conviction entered in case number 10JE-CR01885-01 on December 31, 2013 which evidence that Loar was convicted of DWI Alcohol – Aggravated Offender, a Class C Felony. However, Loar failed to provide certified copies of court records related to his two misdemeanor convictions in case number 10JE-CR02700 with his December 31, 2013 correspondence.

34. Additionally, Loar's March 31, 2015 letter provided with his 2015 Application did not disclose any information regarding his two misdemeanor convictions nor did Loar provide any information or the required certified copy of the criminal records related to his two misdemeanor convictions. *State v. Shaun J. Loar*, Jefferson Co. Cir. Ct., Case No. 10JE-CR02700.

35. Loar has not provided the Division with certified copies of criminal records or any information related to his two misdemeanor convictions at any time.

36. It is inferable, and hereby found as fact that Loar failed to disclose his two misdemeanor convictions which he was simultaneously convicted of and received a sentence to run concurrently with his felony conviction on his 2015 Application in order to misrepresent his criminal history to the Director, and accordingly, in order to improve the chances that the Director would approve his 2015 Application and issue a MVESC producer license to Loar.

CONCLUSIONS OF LAW

37. Section 385.209 RSMo. (Supp. 2013) provides, in relevant 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:

(1) Filed an application for license in this state within the previous ten years, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;

(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;

* * *

(9) Been refused a license or had a license revoked or suspended by a state or federal regulator of service contracts, financial services, investments, credit, insurance, banking or finance;

* * *

(11) Unlawfully acted as a producer without a license[.]

38. Section 385.206 RSMo. provides, in relevant part:

1. It is unlawful for any person in or from this state to sell, offer, negotiate, or solicit a motor vehicle extended service contract with a consumer, other than the following:

* * *

(6) A business entity producer or individual producer licensed under section 385.207[.]

39. Section 385.207 RSMo provides, in relevant part:

* * *

3. An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as an individual producer in accordance with this section.

* * *

6. A producer license issued under this section, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after that date authorize its holder under sections 385.200 to 385.220 to sell, offer, negotiate, or solicit motor vehicle extended service contracts.

40. "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).

41. As defined by 385.200(9), motor vehicle extended service contracts are also known as service contracts. The Director of the Department regulates the sale of motor vehicle extended service contracts or service contracts. *See generally*, §§ 385.200-385.209. The Director also supervises, regulates, licenses and disciplines MVESC producer applicants or licensees pursuant to the provisions of §§ 385.206.1, 385.207.3 through .8, and 385.209.

42. Collateral estoppel "is used to preclude the relitigation of an issue that already has been decided in a different cause of action." *Brown v. Carnahan*, 370 S.W.3d 637, 658 (Mo. banc 2012) (citation omitted).

43. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(5) because Loar was convicted of a felony:

    a. DWI Alcohol – Aggravated Offender, a Class C Felony. *State v. Shaun J. Loar,* Jefferson Co. Cir. Ct., Case No. 10JE-CR01885-01.

44. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(3) because, as found in the 2014 Refusal, Loar obtained a license through material misrepresentation or fraud when he falsely answered "No" to Background Question No. 1 on his 2012 Application and failed to disclose three pending criminal charges. *Id.*

45. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(3) because, as found in the 2014 Refusal, Loar attempted to obtain a MVESC producer license through material misrepresentation or fraud when he falsely

answered "No" to Background Question No. 1 on his 2013 Renewal Application and failed to disclose one felony and two misdemeanor convictions. *Id.*

46. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(3) because Loar attempted to obtain a MVESC producer license through material representation or fraud when he failed to disclose his two misdemeanor convictions in response to Background Question No. 1 on his 2015 Application:

    a. Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker or Probation and Parole Officer in the 3rd Degree, a Class A Misdemeanor. *State v. Shaun J. Loar*, Jefferson Co. Cir. Ct., Case No. 10JE-CR02700.

    b. Resisting/Interfering with Arrest, Detention or Stop, a Class A Misdemeanor. *Id.*

47. Each time Loar obtained or attempted to obtain a MVESC producer license through material misrepresentation or fraud is a separate and sufficient ground for the Director to refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(3).

48. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(1) because, as found in the 2014 Refusal, Loar filed an application for license in this state within the previous ten years which, as of the effective date of the license, was incomplete in a material respect or contained incorrect, misleading, or untrue information when Loar falsely answered "No" to Background Question No. 1 on his 2012 Application and failed to disclose three pending criminal charges. *See In re: Shaun J. Loar*, Order Refusing to Renew Motor Vehicle Extended Service Contract Producer License, Case No. 140424414C (May 2, 2014).

49. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(9) because Loar has previously been refused a license by the Director, a state regulator of service contracts. *In re: Shaun J. Loar*, Order Refusing to Renew Motor Vehicle Extended Service Contract Producer License, Case No. 140424414C (May 2, 2014).

50. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(2) because Loar violated a provision in §§ 385.200 to 385.220, namely § 385.206.1(6), when he unlawfully, in or from this state, sold, offered, negotiated, or solicited a motor vehicle extended service contract with a consumer without a license.

51. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(2) because Loar violated a provision in §§ 385.200 to 385.220, namely § 385.207.3, when he failed to apply for and obtain licensure with the director as an individual MVESC producer prior to selling, offering, negotiating or soliciting a motor vehicle extended service contract with a consumer in or from this state.

52. The Director may refuse to issue a MVESC producer license to Loar pursuant to § 385.209.1(11) because Loar unlawfully acted as a producer without a license when he, in or from this state, sold, offered, negotiated or solicited a motor vehicle extended service contract with a consumer during his employment as a "Sales Rep" for Repair Defense Network from early May 2014 to March 2015.

53. Since Loar did not appeal the refusal of his 2013 Renewal Application, he is precluded from relitigation of the findings of fact within the 2014 Refusal which included the fact that Loar was convicted of a felony; Loar obtained a license through material representation or fraud when he falsely answered "No" to Background Question No. 1 on his 2012 Application; Loar attempted to obtain a MVESC license by material misrepresentation or fraud when he falsely answered "No" to Background Question No. 1 on his 2013 Renewal Application; and that Loar's "No" answer to Background Question No. 1 on his 2012 Application constituted incorrect, misleading and untrue information, and rendered his 2012 Application incomplete in material respects. *In re: Shaun J. Loar*, Order Refusing to Renew Motor Vehicle Extended Service Contract Producer License, Case No. 140424414C (May 2, 2014).

54. The Director has considered Loar's history and all of the circumstances surrounding Loar's 2015 Application. Granting Loar a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Loar.

55. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Shaun J. Loar** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND **DAY OF** FEBRUARY**, 2016.**

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 3rd day of February, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Shaun J. Loar
3039 Andover Manor Drive
St. Louis, Missouri 63129

Tracking No. 1Z0R15W84299104412

Shaun J. Loar
500 Northwest Plaza
Suite 1200
St. Ann, Missouri 63074

Tracking No. 1Z0R15W84296246426

Kathryn Latimer
Paralegal
Missouri Department of Insurance, Financial Institutions and Professional Registration
301 West High Street, Room 530
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