FINAL ORDER EFFECTIVE 06-13-16

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
TIARA L. LUSTER,	)	**Case No. 160330199C**
	)	
Applicant.	)	

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

On May 10, 2016, 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 Tiara L. Luster. 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. Tiara L. Luster ("Luster") is a Missouri resident with a current residential address of 3939 Hermans Orchard Court, Florissant, Missouri 63034.

2. On December 16, 2015, the Department received Luster's "Application for Motor Vehicle Extended Service Contract Producer License" ("Application").

3. Luster signed the "Applicant's Certification and Attestation" section of the Application, which states, in relevant part, as follows:

> 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.
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> * * *
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> 5. I further certify, under penalty of perjury, that a) I have no child support obligation, b) I have a child support obligation and I am currently in

compliance with that obligation, or c) I have a child support obligation that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Information Question 36.7.

4. Background Information Question No. 1 of the Application asks, 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?

* * *

"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.

5. Luster answered "No" to Background Information Question No. 1.

6. Contrary to Luster's "No" answer, the Division's investigation revealed that, in fact, Luster has numerous state and federal convictions:

a. On March 16, 2009, Luster was charged with the Class A Misdemeanor of Passing Bad Checks, in violation of § 570.120.[1] On May 18, 2011, Luster pled guilty to the charge and the court sentenced her to pay a $200.00 fine. *State v. Tiara L. Luster*, St. Charles Co. Assoc. Cir. Ct., Case No. 0911-CR01584.

b. On January 5, 2005, Luster was charged with the Class C Felony of Stealing a Credit Device, in violation of § 570.030, and the Class A Misdemeanor of Fraudulent Use of a Credit or Debit Device, in violation of § 570.130. On April 20, 2005, Luster pled guilty to the charges. The court suspended imposition of sentence on both counts, placed Luster on supervised probation for five years for the Felony and two years for the Misdemeanor, and imposed several special conditions to include community service. *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2104R-04400-01. On June 7, 2007, Luster waived hearing and admitted violating her probation by violating condition number 1 regarding laws; the court continued Luster on probation but ordered Luster to complete additional community service. On September 15, 2008, Luster once again waived hearing and admitted that she violated her probation; the court revoked her probation. On February 23, 2009, the court sentenced Luster to six months in the St. Louis Department of Justice Services on

[1] All criminal statutory citations are to that version of RSMo in effect at the time of the commission of the crime.

each count, to be served concurrently with each other and with Luster's sentences in two other cases, *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2105R-002703-01 and *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 07SL-CR07131-01.

c. On July 6, 2005, Luster was charged with the Class C Felony of Stealing a Credit Device, in violation of § 570.030, and the Class D Felony of Fraudulent Use of a Credit or Debit Device, in violation of § 570.130. On September 29, 2005, Luster pled guilty to the charges. The court suspended imposition of sentence and placed Luster on supervised probation for five years on both counts, and imposed special conditions. *State v. Tiara Luster*, St. Louis Co. Cir. Ct., Case No. 2105R-002703-01. On May 25, 2006, Luster waived hearing and admitted to violating her probation by violating condition number 1 regarding laws; the court continued Luster on probation and sentenced Luster to 60 days of electronic home monitoring. On February 23, 2009, Luster once again waived hearing and admitted to violating her probation by violating condition number 1 regarding laws; the court revoked Luster's probation and sentenced Luster to six months in the St. Louis Department of Justice Services on each count, to be served concurrently with each other and with Luster's sentences in two other cases, *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 07SL-CR07131-01 and *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2104R-04400-01.

d. On June 25, 2008, Luster was charged with the Class C Felony of Forgery, in violation of § 570.090. On September 15, 2008, Luster entered an *Alford*[2] plea of guilty. On February 23, 2009, the court sentenced Luster to six months in the St. Louis Department of Justice Services, to be served concurrently with her sentences in *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2104R-04400-01 and *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2105R-002703-01. *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 07SL-CR07131-01.

e. On March 2, 2011, Luster was charged with the Class C Felony of Forgery, in violation of § 570.090. On October 20, 2011, Luster pled guilty to the charge and the court sentenced her to a seven-year suspended execution of sentence, five years' supervised probation, and 60 days on the electronic monitoring program. On March 27, 2014, Luster waived hearing and admitted that she had violated her probation by violating condition number 1 regarding laws. The court revoked her probation and sentenced her to seven years in the Missouri Department of Corrections, to be served concurrently with Luster's sentences in *State v. Tiara Lashea Luster*, St. Louis Co. Cir. Ct., Case No. 13SL-CR04318-01 and *United States v. Tiara L. Luster*, Case No. 4:12-cr-00350-JAR-1 (E.D. Mo. 2013). *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 11SL-CR00663-01.

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[2] *See North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

f. On March 5, 2014, Luster was charged with the Class C Felony of Forgery, in violation of § 570.090. On March 27, 2014, Luster pled guilty to the charge and the court sentenced her to five years in the Missouri Department of Corrections, to be served concurrently with her sentence in *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 11SL-CR00663-01. *State v. Tiara Lashea Luster*, St. Louis Co. Cir. Ct., Case No. 13SL-CR04318-01.

g. On September 19, 2012, Luster was charged with Felony Identity Theft, because she knowingly transferred, possessed and used, without lawful authority, a means of identification of another person, to wit, the name, date of birth, and social security number of D.G., in connection with the commission of the Missouri Felony offense of Forgery, in violation of 18 U.S.C. §§ 1028(a)(7) and 2. On February 5, 2013, Luster pled guilty to the charge. On May 16, 2013, the court sentenced Luster to 27 months in the Federal Bureau of Prisons and two years' supervised release. Luster was also required to pay restitution. *United States v. Tiara L. Luster*, Case No. 4:12-cr-00350-JAR-1 (E.D. Mo. 2013).

7. Background Information Question No. 7 of the Application asks:

Do you currently have or have you had a child support obligation?

If you answer yes:
a) are you in arrearage?
b) by how many months are you in arrearage? _____ months
c) what is the total amount of your arrearage? _____
d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency).
f) are you the subject of a child support related subpoena/warrant? (If you answer yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)
g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?

8. Luster answered "No" to all subparts of Background Information Question No. 7.

9. Contrary to Luster's "No" answers, the Division's investigation revealed that, in fact, Luster has a child support obligation in arrears, as follows: On July 12, 2010, the court ordered Luster to pay $110.00 per month in child support for her minor child, T.H. *T.H., et al. v. Tiara Luster*, St. Louis Co. Cir. Ct., Case No. 09SL-CR02338. As of December 2015, when the Department received Luster's Application, Luster was

$2,400.33 in arrears. Upon information and belief, on March 7, 2016, the state applied Luster's tax refund of $2,620.00 to her arrears on her child support case up to that point. As of May 4, 2016, Luster was $220.33 in arrears.

10. It is inferable, and hereby found as fact, that Luster failed to disclose her criminal history and her child support arrearage on her Application in order to misrepresent to the Director that she did not have such criminal and child support issues, and accordingly, in order to improve the chances that the Director would approve her Application and issue a motor vehicle extended service contract ("MVESC") producer license to her.

11. On December 18, 2015, Andrew Engler, Special Investigator with the Division, sent an inquiry letter to Luster via first class mail, postage prepaid, at the residential address she provided on her Application. In it, Engler indicated that the Division's investigation revealed that Luster had been convicted of numerous crimes, to include Forgery, Passing a Bad Check, Identity Theft, Fraudulent Use of a Credit or Debit Device, and Stealing a Credit Card or Letter of Credit. Engler asked Luster to provide a statement regarding the circumstances surrounding each conviction and an explanation as to why Luster failed to disclose those convictions on her Application. Engler also requested certified copies of the charging document and judgment in each case. Engler requested that Luster provide a response within twenty days.

12. The United States Postal Service did not return Engler's December 18, 2015 inquiry letter to the Division as undeliverable.

13. Luster did not respond to Engler's December 18, 2015 letter and she did not demonstrate reasonable justification for delay.

14. On January 15, 2016, Engler sent another inquiry letter to Luster via first class mail, postage prepaid, at Luster's address. In it, Engler reiterated that the Division's investigation revealed that Luster had numerous convictions; Engler asked for a written statement regarding the circumstances surrounding those crimes and an explanation as to why Luster failed to disclose them on her Application. Engler asked again that Luster provide certified copies of the charging documents and judgments in her cases. Engler requested a response in twenty days.

15. The United States Postal Service did not return Engler's January 15, 2016 inquiry letter to the Division as undeliverable.

16. Luster did not respond to Engler's January 15, 2016 letter and she did not demonstrate reasonable justification for delay.

17. The Director is a state regulator of service contracts.

CONCLUSIONS OF LAW

18. Section 385.209.1, RSMo Supp. 2013,[3] 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:
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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;
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> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
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> (5) Been convicted of any felony;
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> (7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance; [or]
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> * * *
>
> (12) Failed to comply with an administrative or court order imposing a child support obligation[.]

19. 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

[3] All further civil statutory references are to RSMo Supp. 2013 unless otherwise indicated.

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.

20. The Director may refuse to issue an MVESC producer license to Luster under § 385.209.1(2) because Luster violated a rule of the Director, specifically, 20 CSR 100-4.100(2)(A). Luster failed to adequately and timely respond (indeed, she did not respond at all) to two written inquiries from the Division, mailed on December 18, 2005 and January 15, 2016. Further, Luster failed to demonstrate reasonable justification for any delay.

21. 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 Luster an MVESC producer license under § 385.209.1(2).

22. The Director may refuse to issue an MVESC producer license to Luster under § 385.209.1(3) because Luster attempted to obtain a license through material misrepresentation or fraud. In her Application, Luster answered "No" in response to Background Information Question No. 1 regarding any criminal history. But the Division's investigation revealed numerous criminal convictions, in state and federal court.

23. The Director may refuse to issue an MVESC producer license to Luster under § 385.209.1(3) because Luster attempted to obtain a license through material misrepresentation or fraud. In her Application, Luster answered "No" in response to Background Information Question No. 7 regarding child support obligations and arrearages. But the Division's investigation revealed that Luster does in fact have a child support obligation. She is currently only $220.33 in arrears, but that was only after the state applied her tax refund money ($2,620.00) to her more substantial arrearages that were pending in early March 2016.

24. Each attempt to obtain a license through material misrepresentation or fraud constitutes a separate and sufficient ground to refuse to issue Luster an MVESC producer license under § 385.209.1(3).

25. The Director may refuse to issue an MVESC producer license to Luster under § 385.209.1(5) because Luster has been convicted of felonies, many times over. In fact, Luster has been convicted of seven felonies (six state felonies and one federal felony), as follows:

a. On April 20, 2005, Luster pled guilty to the Class C Felony of Stealing a Credit Device, in violation of § 570.030, and the Class A Misdemeanor of Fraudulent Use of a Credit or Debit Device, in violation of § 570.130, and the court sentenced

her to probation. On February 23, 2009, after Luster violated her probation twice, the court revoked her probation and sentenced Luster to six months in the St. Louis Department of Justice Services on each count. *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2104R-04400-01.

b. On September 29, 2005, Luster pled guilty to the Class C Felony of Stealing a Credit Device, in violation of § 570.030, and the Class D Felony of Fraudulent Use of a Credit or Debit Device, in violation of § 570.130, and the court sentenced her to probation. On February 23, 2009, after Luster violated her probation twice, the court revoked her probation and sentenced Luster to six months in the St. Louis Department of Justice Services on each count. *State v. Tiara Luster*, St. Louis Co. Cir. Ct., Case No. 2105R-002703-01.

c. On September 15, 2008, Luster pled guilty to the Class C Felony of Forgery, in violation of § 570.090, and the court sentenced her to probation. On March 27, 2014, Luster admitted that she had violated her probation, and the court revoked her probation and sentenced her to seven years in the Missouri Department of Corrections. *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 07SL-CR07131-01.

d. On October 20, 2011, Luster pled guilty to the Class C Felony of Forgery, in violation of § 570.090, and the court sentenced her to probation. On March 27, 2014, Luster admitted that she had violated her probation, and the court revoked her probation and sentenced her to seven years in the Missouri Department of Corrections. *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 11SL-CR00663-01.

e. On March 27, 2014, Luster pled guilty to the Class C Felony of Forgery, in violation of § 570.090, and the court sentenced her to five years in the Missouri Department of Corrections. *State v. Tiara Lashea Luster*, St. Louis Co. Cir. Ct., Case No. 13SL-CR04318-01.

f. On February 5, 2013, Luster pled guilty to Felony Identity Theft. On May 16, 2013, the court sentenced Luster to 27 months in the Federal Bureau of Prisons and two years' supervised release, and required Luster to pay restitution. *United States v. Tiara L. Luster*, Case No. 4:12-cr-00350-JAR-1 (E.D. Mo. 2013).

26. Each felony conviction constitutes a separate and sufficient ground to refuse to issue Luster an MVESC producer license under § 385.209.1(5).

27. The Director may refuse to issue an MVESC producer license to Luster under § 385.209.1(7) because Luster has, more than once, been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts,

financial services, investments, credit, insurance, banking or finance.

a. Luster has been convicted of six felonies and one misdemeanor in the St. Louis County Circuit Court, a court of competent jurisdiction. Each time, the case was initiated by an Assistant Prosecuting Attorney for St. Louis County of behalf of the state. Luster has been convicted twice of the Class C Felony of Stealing a Credit Device, a matter involving credit. *State v. Tiara L. Luster*, St. Louis Co. Cir. Ct., Case No. 2104R-04400-01; *State v. Tiara Luster*, St. Louis Co. Cir. Ct., Case No. 2105R-002703-01. Similarly, Luster has been convicted once of the Class A Misdemeanor of Fraudulent Use of a Credit or Debit Device, and once of the Class D Felony of Fraudulent Use of a Credit or Debit Device, another type of matter involving credit. *Id.*

b. Luster has also been convicted of the federal Felony of Identity Theft. *United States v. Tiara L. Luster*, Case No. 4:12-cr-00350-JAR-1 (E.D. Mo. 2013). The court was one of competent jurisdiction, and an Assistant United States Attorney initiated the case on behalf of the federal government. Luster's federal conviction is a matter involving financial services, credit, banking, or finance.

28. Each time that Luster has been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any mater involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking or finance constitutes a separate and sufficient ground to refuse to issue Luster an MVESC producer license under § 385.209.1(7).

29. The Director may refuse to issue an MVESC producer license to Luster under § 385.209.1(12) because Luster has failed to comply with an administrative or court order imposing a child support obligation. Luster is required to pay $110.00 per month in child support, but she is currently $220.33 in arrears.

30. The above-described instances are grounds upon which the Director may refuse to issue Luster an MVESC producer license. Luster has been convicted multiple times, of misdemeanors and felonies, in state and federal court. She has been convicted of Stealing a Credit Device, Fraudulent Use of a Credit or Debit Device, and Identity Theft – offenses that largely have to do with financial services, credit, banking or finance, and offenses that, without exception, involve dishonesty. Perhaps not surprisingly then, Luster lied and said she had no criminal history on her Application; she also failed to disclose her child support obligation. But when the Division sent letters to Luster to inquire about these undisclosed issues so that she might clarify or explain her history, Luster did not respond.

31. The Director has considered Luster's history and all of the circumstances surrounding Luster's Application. Issuing an MVESC producer license to Luster would not be in

the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Luster an MVESC producer license.

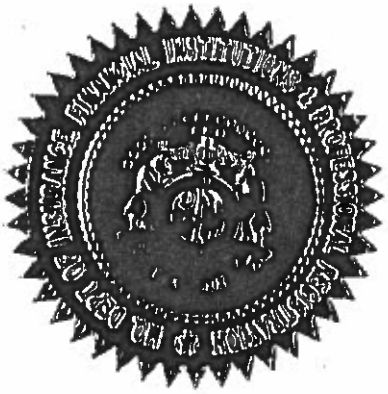
32. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the MVESC producer license Application of **Tiara L. Luster** is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 10th DAY OF May, 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.

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of May, 2016, 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:

Tiara L. Luster
3939 Hermans Orchard Court
Florissant, Missouri 63034

Tracking No. 1Z0R15W84298774003

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