State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
VIRGINIA VENUSE WORTHY,	)	**Case No. 141003685C**
	)	
Applicant.	)	

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

On November 20, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license application of Virginia Venuse Worthy. After reviewing the Petition, 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. Virginia Venuse Worthy ("Worthy") is a New Jersey resident with a mailing address of record of 3430 Sunset Ave, Suite 26, Ocean, NJ 07712.[1]

2. On December 29, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Worthy's Application for Motor Vehicle Extended Service Contract Producer License ("2011 Application").

3. Worthy answered "No" to Background Information question 33.1 of the 2011 Application which asked, in relevant part:

> Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?
>
> * * *
>
> If you answer yes, you must attach to this application:
> a) a written statement explaining the circumstances of each incident,

[1] Worthy provided this mailing address in both her 2011 Application and 2014 Application. *See infra*, Paragraphs 2 and 7. Worthy also provided 2651 Ridgeway Rd, Manchester, NJ 08759 as her residential address on both applications.

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

4. The Applicant's Certification and Attestation section of the 2011 Application, which Worthy accepted by her signature notarized December 20, 2011, provides, in relevant part:

> 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.

5. Relying on Worthy's sworn representations on her 2011 Application, including Worthy's "No" answer to Background Information question 33.1, the Director issued her a motor vehicle extended service contract ("MVESC") producer license, number 8088593, on January 1, 2012.

6. Worthy's MVESC producer license expired on January 1, 2014.

7. On January 17, 2014, the Department received Worthy's Application for Motor Vehicle Extended Service Contract Producer License Renewal ("2014 Application").

8. Worthy answered "No" to Background Information question 36.1 of the 2014 Application which asked, 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 this insurance department?
>
> * * *
>
> 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.

9. The Applicant's Certification and Attestation section of the 2014 Application, which Worthy accepted by her signature notarized January 13, 2014, provides, in relevant part:

> 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. The Division conducted an investigation and discovered, contrary to Worthy's sworn representations on her 2011 Application and 2014 Application, that on August 9, 1999, Worthy had pled guilty to Theft by Unlawful Taking, a Crime in the Third Degree, in violation of N.J. STAT. § 2C:20-3(a), and Forgery, a Crime in the Fourth Degree, in violation of N.J. STAT. § 2C:21-1(a)(3). On November 5, 1999, the court convicted Worthy on both counts and sentenced her to four years' probation, one day of "shock" incarceration, and payment of $3,250 in restitution.[2] *New Jersey v. Virginia V. Worthy*, Ocean Co. Super. Ct., Case No. 98114250.

11. On February 18, 2014, the Department received a letter from Worthy explaining that with regard to "[t]he charge with 'Theft by Unlawful Taking –move' I did not put that on my application because that charge happen 13 years ago. I thought it was sponge off my record after 10years."

12. The language of the 2011 Application and 2014 Application does not time-limit its inquiry into an applicant's past; on the contrary, it asks: "Have you *ever* been convicted ... ?" (emphasis added). Although certain prior crimes such as "misdemeanor traffic citations or ... driving without a license" are specifically excluded, neither application overlooks convictions based on their vintage.

13. It is inferable, and hereby found as fact, that Worthy answered "No" to Background Information question 33.1 of the 2011 Application and Background Information question 36.1 of the 2014 Application in order to misrepresent to the Director that she had no criminal history and, accordingly, to improve the chance that the Director would act favorably on the applications and issue, or renew, her MVESC producer license.

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[2] New Jersey does not classify misdeeds as felonies, but as high misdemeanors or crimes in the first through fourth Degree. *See Kaplowitz v. State Farm Mut. Ins. Co.*, 493 A.2d 637 (N.J. Super. Ct. Law Div. 1985); *Stewart v. Royal Ins. Co.*, 723 A.2d 1253 (N.J. Super. Ct. App. Div. 1999). For the purpose of applying Missouri law, "convictions may be considered felonies if they are either labeled as felonies or if persons convicted of them may be sentenced to death or imprisonment for a term in excess of one year." *State v. Grubb*, 120 S.W.3d 737, 739 (Mo. banc 2003); *see also* § 556.016.2, RSMo 2000. At the time of Worthy's convictions, a Crime in the Third Degree was punishable by up to five years' imprisonment and a Crime in the Fourth Degree was punishable by up to eighteen months' imprisonment. N.J. STAT. §2C:43-6(a) (1993). New Jersey recognizes that "the term 'felony' may embrace fourth degree crimes, which are punishable by imprisonment of as much as 18 months." *Kaplowitz, supra*, at 640.

CONCLUSIONS OF LAW

14. Section 385.209.1, RSMo (Supp. 2013),[3] provides, in relevant part:

> 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, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;
>
> * * *
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]
>
> * * *
>
> (5) Been convicted of any felony[.]

15. 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 MVESC producer licensees, but to protect the public.

16. The Director may refuse to renew Worthy's MVESC producer license pursuant to § 385.209.1(1) because Worthy's 2011 Application contained untrue and incorrect information and was incomplete in a material respect. The 2011 Application contained untrue and incorrect information because it bore Worthy's false representation that she had no criminal history. The 2011 Application was also incomplete because Worthy failed to attach the documentation requested of applicants with criminal histories.

17. The Director may refuse to renew Worthy's MVESC producer license pursuant to § 385.209.1(3) because Worthy obtained a license through material misrepresentation or fraud when she falsely represented on her 2011 Application that she had no criminal history and the Director, relying on Worthy's misrepresentation, issued Worthy a MVESC producer license on January 1, 2012.

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[3] All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

18. The Director may refuse to renew Worthy's MVESC producer license pursuant to § 385.209.1(3) because Worthy has attempted to obtain a license through material misrepresentation or fraud by her 2014 Application, on which she continued to misrepresent her criminal history.

19. The Director may refuse to renew Worthy's MVESC producer license pursuant to § 385.209.1(5) because Worthy has been convicted of two felonies, specifically:

    a. Theft by Unlawful Taking, a Crime in the Third Degree, in violation of N.J. STAT. § 2C:20-3(a); and

    b. Forgery, a Crime in the Fourth Degree, in violation of N.J. STAT. § 2C:21-1(a)(3).

New Jersey v. Virginia V. Worthy, Ocean Co. Super. Ct., Case No. 98114250.

20. Each of Worthy's felony convictions constitutes a separate and sufficient cause for refusal pursuant to § 385.209.1(5).

21. The Director has considered Worthy's history and all of the circumstances surrounding Worthy's 2014 Application, including the misrepresentations and incompleteness of her 2011 Application. Renewing Worthy's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Worthy's MVESC producer license.

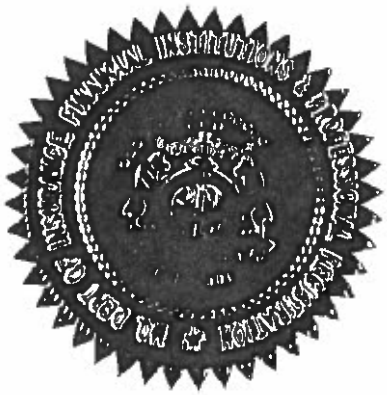
22. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license renewal application of **Virginia Venuse Worthy** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 24 **DAY OF** November, **2014.**



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 25th day of November, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following addresses:

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3430 Sunset Avenue, Suite 26
Ocean, New Jersey 07712-3918

No. 1Z0R15W84296163060

Virginia Venuse Worthy
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Manchester, New Jersey 08759-4706

No. 1Z0R15W84296221078

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