FINAL ORDER EFFECTIVE 05-06-16

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
WESTLEY DYLAN TWENTE,	)	**Case No. 151201532C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On March 24, 2016, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue a motor vehicle extended service contract producer license to Westley Dylan Twente. 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. Westley Dylan Twente ("Twente") is a Missouri resident with a residential and mailing address of 245 Oakborough Drive, Lake Saint Louis, Missouri 63367.

2. On October 2, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Twente's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. Background Question No. 1 of the Application asks:

> 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 citations 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 convictions.

"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 was 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.

4. Twente answered "Yes" in response to Background Question No. 1.

5. Twente attached copies of court records entered in case number 1311-CR00508-01 and a letter to his Application to further explain his response to Background Question No. 1. In his letter, Twente stated, in part:

> I am writing this letter to explain the felony charge I received in April of 2013. I was charged with Assault – 2nd, C Class.
>
> I was at a party with some friends in August 2012 and a young lady approached me. … She was three years younger than me[1] and we ended up having sex. This caused a laceration of her bladder and I was charged with assault. …

[1] The Information charging Twente alleged that the crime occurred on or about August 25, 2012. *State v. Westley D. Twente*, St. Charles Co. Cir. Ct., Case No. 1311-CR00508-01. As of that date, Twente was nineteen (19) years old.

6. The court records Twente provided with his Application revealed that:

   a. On April 26, 2013, Twente pled guilty to Assault – 2nd Degree, a Class C Felony, in violation of § 565.060 RSMo.[2] The court sentenced Twente to seven (7) years' incarceration, but suspended the execution of sentence, ordered Twente to serve thirty-six (36) days' shock incarceration, and placed Twente on supervised probation for five (5) years. Twente was also ordered to pay restitution to the victim for any out-of-pocket medical or counseling expenses. *State v. Westley D. Twente*, St. Charles Co. Cir. Ct., Case No. 1311-CR00508-01.

CONCLUSIONS OF LAW

7. Section 385.209 RSMo. (Supp. 2013)[3] 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:
>
> * * *
>
> (5) Been convicted of any felony[.]

8. The Director may refuse to issue a motor vehicle extended service contract ("MVESC") producer license to Twente pursuant to § 385.209.1(5) because Twente has been convicted of a felony:

   a. Assault – 2nd Degree, a Class C Felony. *State v. Westley D. Twente*, St. Charles Co. Cir. Ct., Case No. 1311-CR00508-01.

9. The Director has considered Twente's history and all of the circumstances surrounding Twente's Application. Granting Twente a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his

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

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

discretion and refuses to issue a MVESC producer license to Twente.

10. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Westley Dylan Twente** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25TH **DAY OF** MARCH**, 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 25th day of March, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Westley Dylan Twente
245 Oakborough Drive
Lake St. Louis, MO 63367

Tracking No. 1Z0R15W84295713011

Kathryn Latimer

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.6515
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

Westley Dylan Twente
245 Oakborough Drive
Lake St. Louis, MO 63367

Certified No. 7012 3460 0002 8615 0522

Kathryn Latimer

Kathryn Latimer, Paralegal
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301 West High Street, Room 530
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Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Westley Dylan Twente
245 Oakborough Drive
Lake St. Louis, MO 63367

Kathryn Latimer

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