



FINAL ORDER
EFFECTIVE
09-08-2017

State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:

BRETT WALTER FRIDAY,

Applicant.

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Case No. 161128500C

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

On March 24, 2017, the Consumer Affairs Division, submitted a Petition to the Director ("Director") alleging cause to refuse to issue a motor vehicle extended service contract producer license to Brett Walter Friday. 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. Brett Walter Friday ("Friday") is a Texas resident with a residential and mailing address of 101 Catie Lane, Joshua, Texas 76058.
2. On February 9, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Friday's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. The "Applicant's Certification and Attestation" section of the 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. Friday accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.

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

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 and juvenile offenses. “Convicted” includes, but is not limited to, having been found guilty by a 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 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 sentences – 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. Friday answered “No” to Background Question No. 1 of the Application.

7. Contrary to Friday’s response, an investigation by the Consumer Affairs Division (“Division”) of the Department revealed:

- a. On or before September 17, 2015, Friday pled guilty to Aggravated Assault With A Deadly Weapon, To-Wit: A Knife, a Second Degree Felony, in violation of § 22.02(a)(2) TEX. PENAL CODE.¹ The court deferred adjudication of guilt, and placed Friday on five (5) years’ community supervision. *State of Texas v. Brett Walter Friday*, Tarrant Co. Dist. Ct., Case No. 1421509W.

8. The Division’s investigation additionally revealed that on March 28, 2016, the Internal Revenue Service filed a Notice of Federal Tax Lien in Gaston County, North Carolina, stating “that taxes (including interest and penalties) ha[d] been assessed against [Friday,]” specifically a total of \$47,517.92 of federal income tax regarding the 2001 – 2006 filing

¹ All criminal statutory references are to those contained in the version of the Texas Penal Code under which the court rendered judgment.

years, and that it had “made a demand for payment of this liability, but it remain[ed] unpaid.” *Notice of Federal Tax Lien*, Gaston Co. Cir. Ct. (Apr. 7, 2014).

9. On February 16, 2016, after reviewing Friday’s Application Special Investigator Andrew Engler of the Division sent an inquiry letter to Friday. The inquiry letter requested that Friday provide a statement explaining the circumstance surrounding the charge, an explanation for his failure to disclose the charge, and certified court records. The inquiry letter warned Friday that a failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract (“MVESC”) producer license.
10. The United States Postal Service did not return the February 16, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Friday.
11. Friday failed to respond to the Division’s February 16, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
12. On March 9, 2016, Special Investigator Andrew Engler of the Division sent a second inquiry letter to Friday. The inquiry letter requested the same information and documentation requested in the February 16, 2016 inquiry letter. The inquiry letter again warned Friday that a failure to respond could result in the Department refusing to issue him a MVESC producer license.
13. The United States Postal Service did not return the March 9, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Friday.
14. Friday failed to respond to the Division’s March 9, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
15. It is inferable, and hereby found as fact, that Friday failed to disclose his criminal record on the 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 Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

16. Section 385.209 RSMo (Supp. 2013)² states, 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

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

licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:

* * *

(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; [or]

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

17. 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 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.

18. "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).
19. The Director may refuse to issue a MVESC producer license to Friday pursuant to § 385.209.1(2) because Friday failed to respond to two (2) inquiry letters from the Division and failed to demonstrate a reasonable justification for the delays, thereby twice violating 20 CSR 100-4.100(2)(A), a rule of the Director.
20. Each violation of a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
21. The Director may refuse to issue a MVESC producer license to Friday pursuant to § 385.209.1(3) because Friday attempted to obtain a MVESC producer license through material misrepresentation or fraud when he failed to disclose his criminal record in response to Background Question No. 1 of the Application:

- a. Aggravated Assault With A Deadly Weapon, To-Wit: A Knife, a Second Degree Felony. *State of Texas v. Brett Walter Friday*, Tarrant Co. Dist. Ct., Case No. 1421509W.
22. The Director may refuse to issue a MVEESC producer license to Friday pursuant to § 385.209.1(13) because Friday failed to comply with an administrative or court order directing payment of federal income tax:
- a. Judgment in the amount of \$47,517.95 for unpaid taxes for the 2001 – 2006 filing years. *Notice of Federal Tax Lien*, Gaston Co. Cir. Ct. (Apr. 7, 2014).
23. The Director has considered Friday's history and all of the circumstances surrounding Friday's Application. Granting Friday a MVEESC producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion and refuses to issue a MVEESC producer license to Friday.
24. This Order is in the public interest.

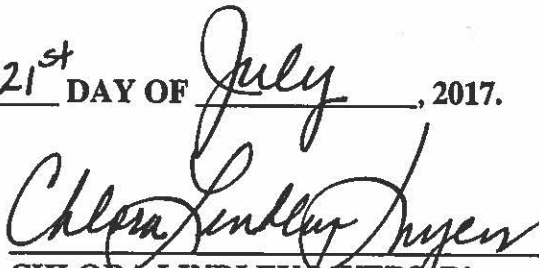
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Brett Walter Friday** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 21st DAY OF July, 2017.




CHLORA LINDLEY MYERS, Director
Missouri Department of Insurance,
Financial Institutions and Professional Registration

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 24th day of July, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Brett Walter Friday
101 Catie Lane
Joshua, Texas 76058

No. 1Z0R15W84294295341



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 27th day of July, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Brett Walter Friday
101 Catie Lane
Joshua, Texas 76058

Certified No. 7016 0340 0000 7970 3050

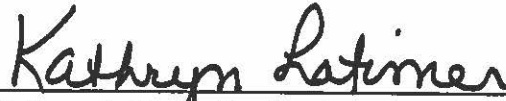


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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August, 2017, 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:

Brett Walter Friday
101 Catie Lane
Joshua, Texas 76058



Kathryn Latimer, Paralegal
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