



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

DEANA MARIE EOFF,

Applicant.

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Case No. 140115058C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On February 14, 2014, 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 Deana Marie Eoff. 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. Deana Marie Eoff ("Eoff") is a Missouri resident with a residential address of record of 15 Melody Lane, St. Charles, Missouri, 63303.
2. On September 13, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Eoff's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application on or about July 1, 2013, Eoff attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. Background Question No. 1 of the 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[.]

5. Eoff answered "No" to Question No. 1. Eoff did not disclose any criminal history in her Application.
6. Contrary to Eoff's "No" answer to Question No. 1, the Consumer Affairs Division's investigation of Eoff's Application revealed that on or about May 9, 2013, Eoff was charged by Information in the Circuit Court of Crawford County, Missouri, with the Class A Misdemeanor of Possession of Up to 35 Grams of a Synthetic Cannabinoid, in violation § 195.202 RSMo. (Supp. 2012), and the Class A Misdemeanor of Unlawful Use of Drug Paraphernalia, in violation of § 195.233 RSMo. (Supp. 2012). Disposition on this case is still pending with a pending warrant for Eoff's arrest. *State v. Deana M. Eoff*, Crawford Co. Cir. Ct., Case No. 13CF-CR00439.
7. It is inferable that Eoff falsely answered "No" to Question No. 1 and failed to disclose her charges of the Class A Misdemeanor of Possession of Up to 35 Grams of a Synthetic Cannabinoid and the Class A Misdemeanor of Unlawful Use of Drug Paraphernalia in her Application in order to misrepresent to the Director that she had no criminal history, and, accordingly, in order to improve the chances that the Director would approve her Application and issue her a motor vehicle extended service contract ("MVESC") producer license.
8. Any claim by Eoff that she did not know of the criminal charges is not plausible where a Missouri State Highway patrolman issued and Eoff received two citations for the violations of §§ 195.202 and 195.233.
9. On September 24, 2013, Consumer Affairs Division Special Investigator Andrew P. Engler ("Engler") mailed an inquiry letter to Eoff, noting that despite Eoff's "No" answer to Question No. 1, he had discovered that Eoff had criminal history that should have been reported, requesting that Eoff explain the circumstances surrounding each criminal incident, and requesting copies of court documents related to each criminal charge.

10. Engler mailed the September 24, 2013 letter by first class mail, to Eoff's address of record, with sufficient postage attached.
11. The September 24, 2013 letter was not returned as undeliverable.
12. Eoff never responded to the September 24, 2013 letter and has not demonstrated any justification for her failure to respond.
13. On October 15, 2013, Engler mailed a second inquiry letter to Eoff, again noting that despite Eoff's "No" answer to Question No. 1, he had discovered that she had criminal history that should have been reported, and again requesting that Eoff explain the circumstances surrounding each criminal incident and provide copies of court documents related to each charge.
14. Engler mailed the October 15, 2013 letter by first class mail, to Eoff's address of record, with sufficient postage attached.
15. The October 15, 2013 letter was not returned as undeliverable.
16. Eoff never responded to the October 15, 2013 letter and has not demonstrated any justification for her failure to respond.

CONCLUSIONS OF LAW

17. Section 385.209 RSMo. (Supp. 2013) 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:

* * *

 - (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[.]
18. Regulation 20 CSR 100-4.100(2) states:

(2) Except as required under subsection (2)(B)—

(A) 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.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

19. "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).
20. 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 applicants for a MVESC producer license, but to protect the public.
21. The Director may refuse to issue a MVESC producer license to Eoff under § 385.209.1(3) because Eoff attempted to obtain a MVESC producer license through material misrepresentation or fraud. Eoff falsely answered "No" to Question No. 1 and failed to disclose her charges of the Class A Misdemeanor of Possession of Up to 35 Grams of a Synthetic Cannabinoid and the Class A Misdemeanor of Unlawful Use of Drug Paraphernalia, in her Application in order to misrepresent to the Director that she had no criminal history, and, accordingly, in order to improve the chances that the Director would approve her Application and issue her a MVESC producer license.
22. The Director also may refuse to issue a MVESC producer license to Eoff under § 385.209.1(2) because Eoff violated a rule of the Director, in that she failed to adequately respond to two written inquiries from the Consumer Affairs Division—mailed on September 24, 2013 and October 15, 2013—without demonstrating a reasonable justification for either of her failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
23. Each failure to provide an adequate response and failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal under § 385.209.1(2).

24. The Director has considered Eoff's history and all of the circumstances surrounding Eoff's Application. Granting Eoff 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 Eoff.
25. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Deana Marie Eoff** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19TH DAY OF FEBRUARY, 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 19th day of February, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Deana Marie Eoff
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St. Charles, Missouri 63303

No. 1Z0R15W84299843776


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