

DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:

Kevin Paul Dallas,

Applicant.

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Case No. 1909230965C

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

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance, takes up the above matter for consideration and disposition. 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. Kevin Paul Dallas ("Dallas") is a Missouri resident with a mailing address of 110 Holdinghausen Drive, Crystal City, MO 63019.
2. On May 9, 2019, the Department of Insurance, Financial Institutions and Professional Registration ("DIFP")¹ received Dallas' motor vehicle extended service contract ("MVESC") producer license application ("Application").
3. Background Question Number 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?

¹ The Department of Insurance, Financial Institutions and Professional Registration is the predecessor agency of the Department of Commerce and Insurance. See Executive Order 19-02.

4. Dallas answered “No” to Background Question Number 1.
5. As a condition of submission, Dallas accepted the Applicant’s Certification and Attestation section of his Application, which stated, in relevant part:

I hereby certify, under penalty of perjury, that all 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.

6. An investigation conducted by the Consumer Affairs Division (“Division”) of DIFP revealed that Dallas has been convicted of two (2) felonies and a misdemeanor. Dallas pled guilty to two (2) counts of Stealing \$150 or more, a Class C Felony, in violation of § 570.030, RSMo, and pled guilty to one (1) count of Stealing Under \$150, a Class A Misdemeanor, in violation of § 570.030, RSMo. *State v. Kevin P. Dallas*, St. Louis County Cir. Ct., Case No. 96CR4276.
7. On May 16, 2019, Special Investigator Andrew Engler with the Division sent an inquiry letter to Dallas requesting a statement from him explaining the circumstances of the above-stated felony convictions, why he failed to disclose the convictions on his Application, and to provide documentation of the felony and misdemeanor convictions. The inquiry letter cited 20 CSR 100-4.100 and informed Dallas that failure to respond could be grounds for discipline or refusal of his license. The inquiry letter was mailed to the address provided by Dallas in the Application.
8. The United States Postal Service did not return the Division’s May 16, 2019 inquiry letter to the Division, and therefore it is presumed received by Dallas.
9. Dallas did not respond to the Division’s May 16, 2019 letter, nor did he demonstrate reasonable justification for the delay.
10. On June 10, 2019, Special Investigator Andrew Engler sent a second inquiry letter to Dallas again requesting a statement and documentation from Dallas regarding his convictions. The second inquiry letter was again mailed to the address provided by Dallas in the Application.
11. The United States Postal Service did not return the Division’s June 10, 2019 inquiry letter to the Division, and therefore it is presumed received by Dallas.
12. Dallas did not respond to the Division’s June 10, 2019 letter, nor did he demonstrate reasonable justification for the delay
13. It is inferable and hereby found as fact that Dallas failed to disclose his felony and misdemeanor convictions on his Application in order to misrepresent to the Director that

he was without any felony and misdemeanor convictions and increase the chance that the Director would exercise her discretion to issue him a MVESC producer license.

CONCLUSIONS OF LAW

14. Section 385.209, RSMo (2016),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 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;

* * *

(5) Been convicted of any felony [.]

15. Title 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, is a rule of the Director and 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.

16. "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. E.D. 2000).

17. The Director may refuse to issue Dallas a MVESC producer license under § 385.209.1(2) because he violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), when he

² All civil statutory references are to the Revised Statutes of Missouri (2016) unless otherwise indicated.

failed to provide a response to the two inquiries from the Division regarding his felony convictions, without demonstrating reasonable justification for his failure to respond.

18. The Director may refuse to issue Dallas a MVESC producer license under § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud by concealing on his application that he had been convicted of two (2) felonies and a misdemeanor. Dallas pled guilty to two (2) counts of Stealing \$150 or more, a Class C Felony, in violation of § 570.030, RSMo, and pled guilty to one (1) count of Stealing Under \$150, a Class A Misdemeanor, in violation of § 570.030, RSMo. *State v. Kevin P. Dallas*, St. Louis County Cir. Ct., Case No. 96CR4276.
19. The Director may refuse to issue Dallas a MVESC producer license under § 385.209.1(5) because he has been convicted of two (2) felonies. Dallas pled guilty to two (2) counts of Stealing \$150 or more, a Class C Felony, in violation of § 570.030, RSMo. *State v. Kevin P. Dallas*, St. Louis County Cir. Ct., Case No. 96CR4276. Each felony conviction constitutes a separate and sufficient ground for the Director to refuse to issue Dallas a MVESC producer license under § 385.209.1(5).
20. The Director has considered Dallas' history and all the circumstances surrounding Dallas' application.
21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Motor Vehicle Extended Service Contract Producer License Application for **Kevin Paul Dallas** is hereby refused.

SO ORDERED.

WITNESS MY HAND THIS 19th DAY OF February, 2020.



Chlora Lindley Myers
CHLORA LINDLEY-MYERS
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.

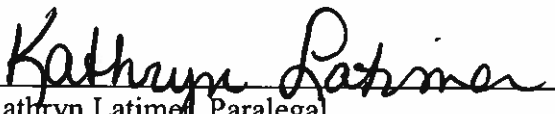
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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2020, 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:

Kevin Paul Dallas
110 Holdinghausen Drive
Crystal City, MO 63019

No. 1Z0R15W84293869956


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