



**FINAL ORDER**  
**EFFECTIVE**  
**02-12-2018**

**State of Missouri**

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION

IN RE: )  
 )  
 KYLE WAYNE SETTLES, ) Case No. 171016398C  
 )  
 Applicant. )

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

On November 13, 2017, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Kyle Wayne Settles. 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. Kyle Wayne Settles (“Settles”) is a Missouri resident with a residential and mailing address of 9536 Fredericksburg Court, Sappington, Missouri 63126.
2. On July 18, 2017, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Settles’ Application for Motor Vehicle Extended Service Contract Producer License (“Application”).
3. Background Information 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?

4. Settles answered “Yes” to Background Information Question Number 1 on his Application.

5. Settles enclosed various court documents with his Application that show the following criminal history: On July 31, 2014, Settles pled guilty to the Class A Misdemeanor of Stealing by Deceit, in violation of § 570.030,<sup>1</sup> and the Class A Misdemeanor of Possession of Drug Paraphernalia with Intent to Use, in violation of § 195.233. *State v. Kyle Wayne Settles*, St. Charles Co. Cir. Ct., Case No. 1311-CR01495. Also on July 31, 2014, the court suspended imposition of sentence and placed Settles on limited probation for two years. *Id.*
6. The Division's investigation also revealed that Settles has a pending criminal charge in Florida that he did not disclose on his Application. On June 5, 2015, Settles was charged with Retail Theft in violation of Fla. Stat. § 812.015(2). *State v. Kyle W. Settles*, Palm Beach Co., Florida, Case No. 50-2015-MM-007441-AXXX-SB. The Florida court issued a capias warrant for Settles on October 9, 2015; that warrant remains outstanding. *Id.*
7. On July 21, 2017, Division Special Investigator Andrew Engler ("Engler") sent an inquiry letter via first-class mail, postage prepaid, to Settles at his residential and mailing address. In his letter, Engler asked Settles to explain the circumstances surrounding his pleas of guilty to Stealing by Deceit and Possession of Drug Paraphernalia with Intent to Use. Engler also asked Settles to explain why he failed to disclose the Retail Theft charge pending against him in Florida, to provide a statement explaining the circumstances surrounding that charge, and to provide "a certified copy of the Information, Complaint, Judgment or other charging document" in that case. Engler asked for a response within twenty days and stated that, "[f]ailure to respond could result in a refusal to issue your MVESC license."<sup>2</sup>
8. The United States Postal Service did not return Engler's July 21, 2017 inquiry letter to the Division as undeliverable and it is presumed received.
9. On August 1, 2017, Settles contacted Engler by telephone. Settles indicated that he had received Engler's letter. Engler told Settles that Settles needed to provide the requested explanations for his crimes and the previously requested court documentation. Settles indicated that he would do so, but Engler did not receive the requested information or documents.
10. Ultimately, Settles did not respond timely or in any way at all to Engler's July 21, 2017 inquiry letter and he did not demonstrate reasonable justification for any delay.

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<sup>1</sup> Each criminal statutory citation is to that version of the statute in effect at the time the crime was committed.

<sup>2</sup> An MVESC license is a motor vehicle extended service contract producer license.

11. Again on August 14, 2017, Engler sent another inquiry letter to Settles via first-class mail, postage prepaid, to Settles' residential and mailing address. In his letter, Engler again asked Settles to explain the circumstances surrounding his pleas of guilty to Stealing by Deceit and Possession of Drug Paraphernalia with Intent to Use. Engler also asked Settles to explain why he failed to disclose the Retail Theft charge pending against him in Florida, to provide a statement explaining the circumstances surrounding that charge, and to provide "a certified copy of the Information, Complaint, Judgment or other charging document" in that case. Engler indicated that he would allow Settles to respond within an additional twenty days and noted that "[f]ailure to respond could result in an administrative action."
12. The United States Postal Service did not return Engler's August 14, 2017 inquiry letter to the Division as undeliverable and it is presumed received.
13. Settles did not respond timely or in any way at all to the Division's August 14, 2017 inquiry letter and he did not demonstrate reasonable justification for any delay.
14. It is inferable, and hereby found as fact, that Settles failed to disclose on his Application the Retail Theft charge pending against him in Florida in the hopes that the Director would look more favorably upon his Application and issue a license to him.

### CONCLUSIONS OF LAW

15. Section 385.209.1 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:

\* \* \*

- (2) Violated any provision in sections 385.200 to 385.220, or violated any rules, subpoena, or order of the director;

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

16. 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.

17. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).
18. The Director may refuse to issue a motor vehicle extended service contract producer license to Settles under § 385.209.1(2) because Settles violated 20 CSR 100-4.100(2)(A), in that Settles failed to respond to two written inquiries from the Division from July 21, 2017 and August 14, 2017, and Settles failed to demonstrate reasonable justification for any delay.
19. Each violation of 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient ground for the Director to refuse to issue a motor vehicle extended service contract producer license to Settles under § 385.209.1(2).
20. The Director may refuse to issue a motor vehicle extended service contract producer license to Settles under § 385.209.1(3) because Settles attempted to obtain a license through material misrepresentation or fraud in that he failed to disclose the fact that he is facing a pending Retail Theft charge in Florida.
21. The above-described instances are grounds upon which the Director may refuse to issue Settles a motor vehicle extended service contract producer license. Settles failed to disclose a pending Retail Theft charge in Florida. Also, Settles failed to respond to two Division inquiry letters and he did not demonstrate reasonable justification for any delay.
22. The Director has considered Settles' history and all of the circumstances surrounding Settles' Application. Issuing a motor vehicle extended service

contract producer license to Settles would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Settles a motor vehicle extended service contract producer license.

23. This Order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license Application of Kyle Wayne Settles is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 09<sup>th</sup> DAY OF January, 2018.



*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 9th day of January, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Kyle Wayne Settles  
Fredericksburg Court  
Sappington, MO 63126

Tracking No. 1Z0R15W842991542349536



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of January, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Kyle Wayne Settles  
Fredericksburg Court  
Sappington, MO 63126

Certified No. 7016 0340 0001 1319 8668



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