



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

SHAUN J. LOAR,

Applicant.

Case No. 14-0424414C

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 29, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the motor vehicle extended service contract producer license of Shaun J. Loar. 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. Shaun J. Loar ("Loar") is a Missouri resident with a residential address of record of 3039 Andover Manor Drive, St. Louis, Missouri, 63129.
2. On January 13, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Loar's supplemented Application for Motor Vehicle Extended Service Contract Producer License (the "2012 Application").
3. By signing the 2012 Application, Loar 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 2012 Application asked 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 judgment[.]

5. Loar marked "No" to Question No. 1 of the 2012 Application.
6. Loar did not disclose any criminal history or pending criminal charges in the 2012 Application.
7. On January 20, 2012, relying on Loar's 2012 Application responses, the Director issued Loar an individual MVESC producer license. That license expired on January 20, 2014.
8. On December 4, 2013, the Department received Loar's supplemented Application for Motor Vehicle Extended Service Contract Producer License Renewal (the "2013 Application").
9. By signing the 2013 Application, Loar attested and certified that "all of the information submitted in this application and attachments is true and complete."
10. Background Question No. 1 of the 2013 Application asked:

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, which has not been previously reported to this insurance department?

"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: involving 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”).

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 judgment.

- 11. Loar marked “No” to Question No. 1 of the 2013 Application.
- 12. Loar did not disclose any criminal history in the 2013 Application.
- 13. The Consumer Affairs Division’s investigation into the 2013 Application revealed that, contrary to Loar’s “No” answers to Background Question No. 1 in the 2012 Application and 2013 Application, a felony charge and three misdemeanor charges were pending against Loar at the time he submitted the 2012 Application, and Loar was convicted of that felony and two of the misdemeanors before he submitted his 2013 Application:
 - a. On January 2, 2010, Loar was charged in the Jefferson County Circuit Court with the Class C Felony of DWI – Alcohol – Aggravated Offender, in violation of § 577.010, RSMo, and the Class D Felony of Operating a Motor Vehicle on a Highway While Driver License or Privileges Revoked (Revoked for Points/Failure to Submit to Chemical Test), in violation of § 302.321, RSMo, which was amended to the Class A Misdemeanor of Operated a Motor Vehicle Without Valid License – 1st or 2nd Offense, in violation of § 302.020, RSMo.¹
 - b. On January 17, 2012, Loar pleaded guilty in the Jefferson County Circuit Court to the the Class C Felony of DWI – Alcohol – Aggravated Offender in violation of § 577.010, RSMo. On March 20, 2012, the court sentenced Loar to four years’ imprisonment, with credit for time served.²
 - c. On February 21, 2010, Loar was charged in the Jefferson County Circuit Court with the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, in violation of § 565.083, RSMo, and the Class A Misdemeanor

¹ *State of Missouri v. Shaun J. Loar*, Jefferson Co. Cir. Ct., No. 10JE-CR01885-01.

² *Id.*

of Resisting/Interfering with Arrest, Detention or Stop, in violation of § 575.150.³

- d. On March 20, 2012, Loar pleaded guilty to the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, in violation of § 565.083, RSMo, and the class A Misdemeanor of Resisting/Interfering with Arrest, Detention or Stop, in violation of § 575.150. The court sentenced Loar on each count to 60 days' incarceration in county jail, with the sentences to run concurrently.⁴
14. On December 9, 2013, Consumer Affairs Division investigator Andrew Engler mailed Loar a written inquiry, noting Loar's "No" answer to Background Question No. 1 in his 2013 Application, as well as the criminal history he should have disclosed in his 2013 Application, and requiring Loar to submit a written statement explaining the circumstances of each incident.
15. On January 3, 2014, Loar called Engler and verbally responded to the December 9, 2013 written inquiry, admitting that he had been convicted of a felony DWI, but stating that he answered "No" to Background Question No. 1 of the 2013 Application because he thought the question excluded DWI convictions or charges, and because he had never been notified of the charges in Case No. 10JE-CR02700.
16. Contrary to Loar's statements made during the January 3, 2014 phone call:
 - a. The language of Background Question No. 1 of the 2013 is plain and clear in excluding only misdemeanor DWI convictions or charges; and
 - b. The same attorney who represented Loar in Case No. 10JE-CR01885-01 entered his appearance on Loar's behalf in Case No. 10JE-CR02700 on October 12, 2010, a warrant was served on Loar in Case No. 10JE-CR02700 on October 14, 2010, and Loar entered a guilty plea in Case No. 10JE-CR02700 on March 21, 2012.
17. It is inferable, and is hereby found as fact, that Loar falsely answered "No" to Question No. 1 of the 2013 Application, and failed to disclose in his 2013 Application his convictions of the Class C Felony of DWI – Alcohol – Aggravated Offender, the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, and the Class A Misdemeanor of Resisting/Interfering with Arrest, Detention or Stop, in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the

³ *State of Missouri v. Shaun J. Loar*, Jefferson Co. Cir. Ct., No. 10JE-CR02700.

⁴ *Id.*

chances that the Director would approve his Application and issue him an MVESC producer license.

18. It is inferable, and is hereby found as fact, that Loar falsely answered "No" to Question No. 1 of the 2012 Application, and failed to disclose in his 2012 Application his pending charges of the Class C Felony of DWI – Alcohol – Aggravated Offender, the Class A Misdemeanor of Operated a Motor Vehicle Without Valid License – 1st or 2nd Offense, in violation of § 302.020, RSMo, the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, and the Class A Misdemeanor of Resisting/Interfering with Arrest, Detention or Stop, in order to misrepresent to the Director that he had no criminal history or pending charges, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

CONCLUSIONS OF LAW

19. 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:

(1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud;

* * *

(5) Been convicted of any felony[.]

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 motor vehicle extended service contract producer license, but to protect the public.

21. The Director may refuse to renew Loar's MVESC producer license under § 385.209.1(5) because Loar has been convicted of a felony:
 - a. The Class C Felony of DWI – Alcohol – Aggravated Offender, in violation of § 577.010, RSMo.
22. The Director also may refuse to renew Loar's MVESC producer license under § 385.209.1(3) because Loar attempted to obtain and obtained an MVESC producer license through material misrepresentation or fraud. Loar falsely answered "No" to Question No. 1 of the 2012 Application, and failed to disclose in his 2012 Application his pending charges of the Class C Felony of DWI – Alcohol – Aggravated Offender, the Class A Misdemeanor of Operated a Motor Vehicle Without Valid License – 1st or 2nd Offense, in violation of § 302.020, RSMo, the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, and the Class A Misdemeanor of Resisting/Interfering with Arrest, Detention or Stop, in order to misrepresent to the Director that he had no criminal history or pending charges, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
23. The Director also may refuse to renew Loar's MVESC producer license under § 385.209.1(3) because Loar attempted to obtain an MVESC producer license through material misrepresentation or fraud. Loar falsely answered "No" to Question No. 1 of the 2013 Application, and failed to disclose in his 2013 Application his convictions of the Class C Felony of DWI – Alcohol – Aggravated Offender, the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, and the Class A Misdemeanor of Resisting/Interfering with Arrest, Detention or Stop, in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
24. The Director also may refuse to renew Loar's MVESC producer license under § 385.209.1(1) because Loar filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information. Loar's 2012 Application was incomplete in a material respect and contained incorrect, misleading and untrue information in that Loar falsely answered "No" to Question No. 1 of the 2012 Application, and failed to disclose in his 2012 Application his pending charges of the Class C Felony of DWI – Alcohol – Aggravated Offender, the Class A Misdemeanor of Operated a Motor Vehicle Without Valid License – 1st or 2nd Offense, in violation of § 302.020, RSMo, the Class A Misdemeanor of Assault/Attempted Assault of a Law Enforcement Officer, Corrections Officer, Emergency Personnel, Highway Worker, Utility Worker, Cable Worker, or Probation and Parole Officer in the Third Degree, and the Class A Misdemeanor of Resisting/Interfering with Arrest, Detention or Stop.

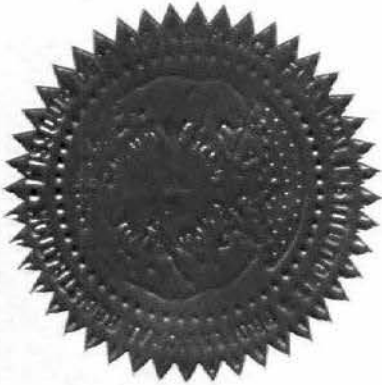
25. The Director has considered Loar's history and all of the circumstances surrounding Loar's Application. Granting Loar a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Loar.
26. This order is in the public interest.


ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Shaun J. Loar** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND DAY OF MAY, 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 2nd day of May, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

James R. Loar
3039 Andover Manor Drive
St. Louis, Missouri 63129

Certified No. 7009 3410 0001 9254 7738



Angie Gross
Senior Office Support Assistant
Agent Investigation Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: angie.gross@insurance.mo.gov