

FINAL ORDER
EFFECTIVE
12-08-2017

State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
PETER ANTHONY WILLENBORG JR.,) **Case No. 170501268C**
)
Applicant.)

ORDER REFUSING TO ISSUE
MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On June 5, 2017, 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 Peter Anthony Willenborg Jr. After reviewing the Petition, 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. Peter Anthony Willenborg Jr. ("Willenborg") is a Missouri resident with a residential and mailing address of 22 Beale Street, Rock Hill, Missouri 63119-1168, and a business address of 1323 Jamie Lane, Waterloo, Illinois 62298-5569.
2. On May 25, 2004, Willenborg pled guilty to, and was convicted of, Possession Of Up To 35 Grams Marijuana, a Class A Misdemeanor, in violation of § 195.202, RSMo;¹ the court sentenced him to pay a fine. *State v. Peter A. Willenborg*, Jefferson Co. Cir. Ct., Case No. 23CR304-0117.
3. On or about February 22, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Willenborg's electronic application for a resident insurance producer license ("2011 Application").
4. Willenborg falsely answered "No" to Background Information Question 37.1 of the 2011 Application, which asked:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may

¹ All criminal statutory references are to those contained in the version of the Missouri Revised Statutes pursuant to which each judgment was rendered.

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 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.

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,
- c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

5. The “Applicant’s Certification and Attestation” section of the 2011 Application, which Willenborg accepted as a condition of submission, provided in relevant part:

I hereby certify that, under penalty of perjury, 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.

6. On February 22, 2011, relying on the misrepresentations in Willenborg’s 2011 Application, the Department granted him an insurance producer license. It expired on February 23, 2013.
7. On October 7, 2016, the Prosecuting Attorney for Saint Louis County, Missouri charged Willenborg by Information with DWI - Alcohol - Persistent Offender, a Class D Felony, in violation of § 577.010, RSMo. *State v. Peter A. Willenborg*, St. Louis Co. Cir. Ct., Case No. 16SL-CR06520-01. On or about October 25, 2016, Willenborg personally appeared before the court and waived formal arraignment. *Id.* As of January 20, 2017, the prosecution was ongoing.² *Id.*
8. On January 23, 2017, the Department received Willenborg’s Application for Motor Vehicle Extended Service Contract Producer License (“2017 Application”).
9. Willenborg responded “No” to Background Information Question 36.1 of the 2017 Application, which asked:

Have you ever been convicted of a crime, had a judgment withheld or deferred, received a suspended imposition of sentence (“SIS”) or

² See ¶ 10, *infra*.

suspended execution of sentence (“SES”), or are you currently charged with committing a crime?

“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: 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”).

Unless excluded by the language above, you must disclose convictions that have been expunged.

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) a certified copy of the charging document, and
- c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

10. On January 20, 2017, Willenborg signed the 2017 Application before a notary and under oath.
11. Specifically, the 2017 Application’s “Applicant’s Certification and Attestation” section stated, in relevant part:

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.

12. On February 17, 2017, Special Investigator Andrew Engler of the Department’s Consumer Affairs Division (“Division”) mailed an inquiry letter to Willenborg, requesting court records and an explanation for why he had answered “No” to Background Question 36.1 of the 2017 Application in spite of his 2004 conviction and then-pending felony prosecution. The inquiry letter advised Willenborg that by regulation

his response was “due within twenty days. ... Failure to respond could result in an administrative action.”

13. The February 17, 2017 inquiry letter was not returned to the Division as undeliverable; therefore, Willenborg is presumed to have received it.
14. Willenborg neither responded to the February 17, 2017 inquiry letter nor demonstrated reasonable justification for his nonresponsiveness.
15. On May 31, 2017, Willenborg pled guilty and was convicted of DWI - Alcohol - Persistent Offender, a Class D Felony, in violation of § 577.010, RSMo; the court sentenced him to two years' incarceration, but suspended execution of the sentence and ordered Willenborg to complete five years' probation. *State v. Peter A. Willenborg*, St. Louis Co. Cir. Ct., Case No. 16SL-CR06520-01.
16. It is inferable, and hereby found as fact, that Willenborg failed to disclose his criminal record on his 2011 Application and 2017 Application in order to materially misrepresent to the Director that he had no relevant criminal history and thereby improve the chances that his applications would be approved and he would be granted the respective licenses.

CONCLUSIONS OF LAW

17. Section 385.209.1³ 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:

- (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;
- (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]

* * *

³ All civil statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes.

(5) Been convicted of any felony[.]

18. Title 20 CSR 100-4.100(2)(A) 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.

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. E.D. 2000) (internal citation omitted).
20. The Director may refuse to issue Willenborg a motor vehicle extended service contract ("MVESC") producer license pursuant to § 385.209.1(1) because as of February 22, 2011 his 2011 Application was materially incomplete or contained incorrect, misleading, or untrue information because he had answered "No" to Background Information Question 37.1 and did not disclose his conviction for Possession Of Up To 35 Grams Marijuana.
21. The Director may refuse to issue Willenborg a MVESC producer license pursuant to § 385.209.1(2) because he violated a rule of the Director, specifically 20 CSR 100-4.100, when he failed to respond to the Division's February 17, 2017 inquiry letter and demonstrated no reasonable justification for his nonresponsiveness.
22. The Director may refuse to issue Willenborg a MVESC producer license pursuant to § 385.209.1(3) because he obtained a resident insurance producer license through material misrepresentation or fraud by failing to disclose his Possession Of Up To 35 Grams Marijuana conviction, as required by the 2011 Application.
23. The Director may refuse to issue Willenborg a MVESC producer license pursuant to § 385.209.1(3) because he attempted to obtain a MVESC producer license through material misrepresentation or fraud by failing to disclose his pending felony prosecution, *State v. Peter A. Willenborg*, St. Louis Co. Cir. Ct., Case No. 16SL-CR06520-01, as required by the 2017 Application.
24. Each time Willenborg obtained or attempted to obtain a license through material misrepresentation or fraud is a separate and sufficient ground for refusal pursuant to § 385.209.1(3).
25. The Director may refuse to issue Willenborg a MVESC producer license pursuant to § 385.209.1(5) because he has been convicted of a felony, specifically DWI - Alcohol - Persistent Offender, a Class D Felony, in violation of § 577.010, RSMo. *State v. Peter A. Willenborg*, St. Louis Co. Cir. Ct., Case No. 16SL-CR06520-01.

26. The Director has considered Willenborg's history and all of the circumstances surrounding Willenborg's 2017 Application, including the subterfuge of his 2011 Application. Issuing a MVESC producer license to Willenborg would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse Willenborg's 2017 Application for a MVESC producer license.
27. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Peter Anthony Willenborg Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 30th DAY OF August, 2017.



Chlora Lindley Myers

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 30th day of August, 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:

Peter Anthony Willenborg Jr.
22 Beale Street
Rock Hill, Missouri 63119-1168

No. 1Z0R15W84298505937



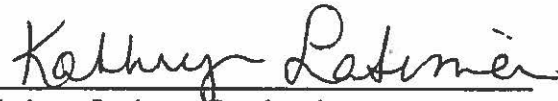
Kathryn Latimer/Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

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

Peter Anthony Willenborg Jr.
22 Beale Street
Rock Hill, Missouri 63119-1168

Certified No. 7013 2250 0000 4609 5039



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 7th day of November, 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:

Peter Anthony Willenborg Jr.
22 Beale Street
Rock Hill, Missouri 63119-1168



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
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