



DEPARTMENT OF COMMERCE AND INSURANCE

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

IN RE:

PERRY LOUIS SPILLER

Applicant.

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Case No. 1905300845C

**ORDER REFUSING TO ISSUE A 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, 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. Perry Louis Spiller (“Spiller”) is a Missouri resident with a residential address of record of 104 Mississippi Avenue, Apartment 7, Crystal City, MO 63019.
2. On December 10, 2018, the Missouri Department of Insurance, Financial Institutions and Professional Registration¹ received Spiller’s Application for Motor Vehicle Extended Service Contract Producer License (“2018 Application”).
3. Background Information Question 4 of the 2018 Application asked the following:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court

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

order directing payment of state or federal income tax?

Answer "Yes" if the answer to either question (or both) is "Yes."

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

- a) a written statement explaining the circumstances of each administrative or court order,
- b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.),
- c) a certified copy of each administrative or court order, judgment, and/or lien, and
- d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).

4. Spiller answered "No" to Background Information Question 4.
5. The applicant's attestation section of the 2018 Application read, 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.

6. Spiller certified this Attestation by signing the 2018 Application before a notary, who notarized it.
7. An investigation conducted by the Consumer Affairs Division ("Division) revealed that Spiller has Missouri state tax indebtedness that he failed to disclose in response to Background Information Question 4 on the 2018 Application.
 - a. On May 16, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling \$8,718.51. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02797. The debt remains unsatisfied.
 - b. On May 23, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent

individual income tax, interest, additions to tax, and fees totaling \$1,085.93. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02962. The debt remains unsatisfied.

8. The Division's investigation also discovered that, on December 13, 2011, the Department had received Spiller's Application for Motor Vehicle Extended Service Contract Producer License ("2011 Application").

9. Background Information Question 4 of the 2011 Application asked the following:

Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

10. Spiller answered "No" to Background Information Question 4, even though Spiller had the delinquent tax obligations in *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02797 and *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02962 described above.

11. The applicant's attestation section of the 2011 Application read, 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. Spiller certified this Attestation by signing the 2011 Application before a notary, who notarized it.

13. Spiller's 2011 Application was approved and he was issued a license on January 1, 2012. Spiller failed to renew his license, and it expired on December 31, 2013.

14. On December 17, 2018, Division Special Investigator Andrew Engler ("Engler") sent an inquiry letter via first class mail from the United States Post Office to Spiller at the residential address that Spiller provided on his Application, 104 Mississippi Avenue, Apartment 7, Crystal City, MO 63019. In his letter, Engler noted that the investigation had discovered the two tax liens and asked Spiller to provide a payment agreement or a letter of compliance from the Department of Revenue.

Engler stated that Spiller's response was due in 20 days and that "[f]ailure to respond could result in a refusal to issue . . . []" the license.

15. The United States Postal Service did not return the Division's December 17, 2018 letter to the Division as undeliverable, and therefore it is presumed that Spiller received it.
16. Spiller did not respond to the Division's December 17, 2018 letter, nor did he demonstrate reasonable justification for the delay.
17. Again on January 10, 2019, Engler sent another inquiry letter via first class mail from the United States Post Office to Spiller at the residential address that Spiller provided on his Application. In his letter, Engler again noted that the investigation had discovered the two tax liens and asked Spiller to provide a payment agreement or a letter of compliance from the Department of Revenue. Engler also again stated that Spiller's response was due in 20 days and that "[f]ailure to respond could result in a refusal to issue . . . []" the license.
18. The United States Postal Service did not return Engler's January 10, 2019 letter to the Division as undeliverable, and therefore it is presumed that Spiller received it.
19. Spiller did not timely respond to Engler's January 10, 2019 letter, nor did he demonstrate reasonable justification for the delay.
20. It is inferable, and hereby found as fact, that Spiller failed to disclose his unsatisfied Missouri state tax obligations of \$8,718.51 and \$1,085.93 on his 2011 Application and his 2018 Application in order to misrepresent to the Director that he had not failed to pay state income tax and did not have a delinquent tax obligation not subject to a repayment agreement, in the hopes that the Director would look more favorably on his 2011 Application and his 2018 Application and issue a license to him.

CONCLUSIONS OF LAW

21. Section 385.209, RSMo (2016),² provides, 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

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

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]

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

22. 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.

23. "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. Ct. App. 2000).

24. The Director may refuse to issue Spiller's license pursuant to § 385.209.1(1) because Spiller 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, in that Spiller failed to disclose on his 2011 Application that he had the following tax delinquencies:

- a. On May 16, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling

\$8,718.51. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02797. The debt remains unsatisfied.

- b. On May 23, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling \$1,085.93. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02962. The debt remains unsatisfied.

25. Each omission by Spiller constitutes separate and sufficient cause for refusal pursuant to § 385.209.1(1).

26. The Director may refuse to issue Spiller's license pursuant to § 385.209.1(2) because Spiller violated a rule of the Director, specifically, 20 CSR 100-4.100(2)(A). Spiller failed to respond to written inquiries from the Division, mailed on December 17, 2018, and on January 10, 2019, and Spiller failed to demonstrate reasonable justification for any delay.

27. Each such violation by Spiller constitutes separate and sufficient cause for refusal pursuant to § 385.209.1(2).

28. The Director may refuse to issue Spiller's license pursuant to § 385.209.1(3) because Spiller obtained or attempted to obtain a license through material misrepresentation or fraud in that Spiller failed to disclose on his 2011 Application and 2018 Application that he had the following tax delinquencies:

- a. On May 16, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling \$8,718.51. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02797. The debt remains unsatisfied.

- b. On May 23, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling \$1,085.93. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02962. The debt remains unsatisfied.

29. Each such misrepresentation by Spiller, on each of his applications, constitutes separate and sufficient cause for refusal pursuant to § 385.209.1(3).

30. The Director may refuse to issue Spiller's license pursuant to § 385.209.1(13) because Spiller failed to comply with any administrative order directing payment of state income tax. Spiller failed to pay his state income tax when due and, after the assessment for the taxes, interest, and penalties became final, the Department of Revenue filed Certificates of Tax Liens in the following cases:
 - a. On May 16, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling \$8,718.51. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02797. The debt remains unsatisfied.
 - b. On May 23, 2011, the Department of Revenue filed a Certificate of Tax Lien in St. Charles County Circuit Court showing delinquent individual income tax, interest, additions to tax, and fees totaling \$1,085.93. *Department of Revenue v. Perry L. Spiller*, St. Charles Cnty. Cir. Ct., Case No. 1111-MC02962. The debt remains unsatisfied.
31. Each failure to comply with any administrative order directing payment of state income tax by Spiller constitutes separate and sufficient cause for refusal pursuant to § 385.209.1(13).
32. The above-described instances are grounds upon which the Director may refuse to issue Spiller a motor vehicle extended service contract producer license.
33. The Director has considered Spiller's history and all of the circumstances surrounding Spiller's application, and exercises her discretion to refuse to issue Spiller's license.
34. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the license Application of **Perry Louis Spiller** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 18th DAY OF December, 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.

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of December, 2020, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Perry Louis Spiller
104 Mississippi Avenue, Apartment 7
Crystal City, MO 63019

Tracking No. 1Z0R15W84298098995



Kim Landers
Missouri Department of Commerce and
Insurance
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.6515
Facsimile: 573.526.5492