



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

In Re:)
)
JALLESE NORA STEWART,) Case No. 1812271066C
)
Applicant.)

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

On July 19, 2019, 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 Jallese Nora Stewart. 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. Jallese Nora Stewart (“Stewart”) is a Missouri resident with a residential and mailing address of 1651 South 5th Street, St. Charles, MO 63303.
2. On July 24, 2018, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Stewart’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”).¹
3. The “Applicant’s Certification and Attestation” section of the Application states, in relevant part:
 1. 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.
4. Stewart signed the “Applicant’s Certification and Attestation” section of the Application under oath before a notary public.

¹ Stewart was previously issued an MVESC producer license on January 3, 2014. Stewart failed to renew the license and it expired on January 2, 2016.

5. Background Question No. 1 of the Application asked the following:

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?

“Crime” includes 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 differed” 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.

6. Stewart answered “No” in response to Background Question No. 1 on her Application.

7. Contrary to Stewart’s response to Background Question No. 1, an investigation conducted by the Consumer Affairs Division (“Division”) of the Department revealed the following criminal history which Stewart failed to disclose:

- a. On August 2, 2010, Stewart pled guilty to and was convicted of Sale of a Controlled Substance, a Class B felony under §§ 558.011 and 560.011, RSMo.² *State of Missouri v. Jallese Nora Stewart*, St. Charles Co. Cir. Ct., Case No. 1011-CR02658-01. The

² All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri under which the court rendered judgment.

court suspended imposition of sentence and ordered Stewart to complete 5 years of supervised probation. *Id.*

8. It is inferable, and hereby found, that Stewart failed to disclose her criminal history in response to Background Question No. 1 of her Application in order to misrepresent to the Director that she has never been convicted of a felony and thereby improve the likelihood that the Director would issue her an MVESC producer license.
9. On July 31, 2018, the Division sent an inquiry letter by first class mail to Stewart at her address of record. The Division's inquiry letter requested that Stewart explain her failure to disclose her criminal history and provide certified copies of relevant court records. The Division's inquiry letter cited 20 CSR 100-4.100, notified Stewart that her response was due within twenty (20) days, and warned that failure to respond could result in refusal to issue Stewart a Motor Vehicle Extended Service Contract ("MVESC") producer license.
10. The United States Postal Service did not return the Division's July 31, 2018 inquiry letter as undeliverable, and therefore, Stewart is presumed to have received it.
11. Stewart did not respond to the Division's July 31, 2018 inquiry letter, nor did she demonstrate a reasonable justification for the delay.
12. On August 27, 2018, the Division sent a second inquiry letter by first class mail to Stewart at her address of record. The Division's second inquiry letter requested the same information and documents requested in the first inquiry letter, and again cited 20 CSR 100-4.100. The August 27, 2018 inquiry letter notified Stewart that her response was due within twenty (20) days, and warned that failure to respond could result in refusal to issue her an MVESC producer license.
13. The United States Postal Service did not return the Division's August 27, 2018 inquiry letter as undeliverable and therefore, Stewart is presumed to have received it.
14. Stewart did not respond to the Division's August 27, 2018 inquiry letter, nor did she demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo. 2016 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; [or]

(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, is a regulation 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.

17. "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. 2000) (internal citations omitted).

18. The Director may refuse to issue Stewart an MVESC producer license pursuant to § 385.209.1(2) because Stewart violated 20 CSR 100-4.100(2)(A), a rule of the Director, when she failed to respond to two inquiry letters from the Division within twenty days, or at all, and failed to demonstrate a reasonable justification for the delay.

19. Each instance in which Stewart violated 20 CSR 100-4.100(2)(A), a rule of the Director, constitutes a separate and sufficient cause for refusal pursuant to § 385.209.1(2).

20. The Director may refuse to issue Stewart an MVESC producer license pursuant to § 385.209.1(3) because Stewart attempted to obtain a license through material misrepresentation or fraud when she answered "No" to Background Question No. 1 of her Application and failed to disclose her criminal history to the Director. Specifically, Stewart failed to disclose:

a. That on August 2, 2010, she was convicted of Sale of a Controlled Substance, a Class B Felony. *State of Missouri v. Jallese Nora Stewart*, St. Charles Co. Cir. Ct., Case No. 1011-CR02658-01.

21. The Director has considered Stewart's history and all of the circumstances surrounding Stewart's Application, and exercises her discretion to refuse to issue Stewart an MVESC producer license.

22. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **JALLESE NORA STEWART** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 15th DAY OF AUGUST, 2019.



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 16th of August, 2019, 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:

Jallese Nora Stewart
1651 South 5th Street
St. Charles, MO 63303

No. 1Z0R15W84299165035



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