



FINAL ORDER
EFFECTIVE
10-25-16

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

TAMBRA ANN BURNETTE,

Applicant.

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Case No. 160720357C

ORDER REFUSING TO ISSUE MOTOR VEHICLE
EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On August 31, 2016, 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 Tambra Ann Burnette. After reviewing the Petition and Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Tambra Ann Burnette ("Burnette") is a Missouri resident with a residential and mailing address of 602 4th Street, Elsberry, Missouri 63343.
2. On May 5, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Burnette's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
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. I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state

or federal income tax obligation and I have provided all information and documentation requested in Background Information Question []4.

4. Burnette accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.
5. Background Question No. 4 of the Application asks:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court 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.).

6. Burnette answered "No" in response to Background Question No. 4.
7. Contrary to Burnette's response, during its investigation, the Consumer Affairs Division ("Division") discovered the following delinquent state income tax obligation that Burnette failed to disclose on her Application:

- a. On or about June 3, 2011, the Franklin County Circuit Court entered a judgment against Burnette for unpaid income taxes for the 2005 filing year as follows:

[Department] of Revenue, under Section 143.902, RSMo, hereby certifies that the following assessment of tax, interest, additions to tax, penalties, and fees have been made and become final [in the amount of \$2,091.64]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Tandra A. Burnette, Franklin Co. Cir. Ct., Case No. 11AB-MC00609.

8. On May 12, 2016, after reviewing Burnette's Application and her delinquent tax obligation, Special Investigator Andrew Engler of the Division sent an inquiry letter to Burnette. The inquiry letter requested that Burnette provide a payment plan or a letter of compliance from the Department of Revenue. The inquiry letter further requested a response within twenty (20) days, and warned Burnette that failure to respond could result in the Department refusing to issue her a motor vehicle extended service contract ("MVESC") producer license.
9. The United States Postal Service did not return the May 12, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Burnette.
10. Burnette failed to provide a written response to the Division's May 12, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
11. On June 2, 2016, after receiving no response from Burnette, Special Investigator Andrew Engler of the Division sent a second inquiry letter to Burnette. The inquiry letter requested the same documentation requested in the May 12, 2016 inquiry letter. The inquiry letter further requested a response within twenty (20) days, and again warned Burnette that failure to respond could result in the Department refusing to issue her a MVESC producer license.
12. The United States Postal Service did not return the June 2, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Burnette.
13. Burnette failed to provide a written response to the Division's June 2, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
14. It is inferable, and hereby found as fact, that Burnette failed to disclose her delinquent tax obligation on her Application in order to misrepresent her tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve her Application and issue her a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)¹ 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

¹ All statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement unless otherwise indicated.

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;

(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[.]

16. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division is a rule of the Division and states:

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 a MVESC producer license to Burnette pursuant to § 385.209.1(2) because Burnette failed to respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delays, thereby twice violating 20 CSR 100-4.100(2)(A), a rule of the Director.
19. Each violation of a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).

20. The Director may refuse to issue a MVESC producer license to Burnette pursuant to § 385.209.1(3) because Burnette attempted to obtain a MVESC producer license through material misrepresentation or fraud in that she failed to disclose the following delinquent tax obligation in response to Background Question No. 4 on her Application:
- a. Judgment in the amount of \$2,091.64 for unpaid income taxes for the 2005 filing year. *Department of Revenue v. Tambra A. Burnette*, Franklin Co. Cir. Ct., Case No. 11AB-MC00609.
21. The Director may refuse to issue a MVESC producer license to Burnette pursuant to § 385.209.1(13) because Burnette failed to comply with an administrative or court order directing payment of state income tax:
- a. Judgment in the amount of \$2,091.64 for unpaid income taxes for the 2005 filing year. *Department of Revenue v. Tambra A. Burnette*, Franklin Co. Cir. Ct., Case No. 11AB-MC00609.
22. The Director has considered Burnette's history and all of the circumstances surrounding Burnette's Application. Issuing Burnette a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Burnette a MVESC 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 **Tambra Ann Burnette** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 6th DAY OF September, 2016.



JOHN M. HUFF
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 6th day of September, 2016, 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:

Tambra Ann Burnette
602 North 4th Street
Elsberry, Missouri 63343-1206

No. 1Z0R15W84299944934


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 20th day of September, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Tambra Ann Burnette
602 North 4th Street
Elsberry, Missouri 63343-1206

Certified No. 7013 2250 0000 4609 6432



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