State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
WILLIAM LOUIS TARRO,	)	**Case No. 140717556C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On September 11, 2014, 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 William Louis Tarro. 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. William Louis Tarro ("Tarro") is a Missouri resident with a residential address of 1436 Heritage Landing, Apartment 303, St. Charles, Missouri 63303.

2. On January 27, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Tarro's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. The "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. Tarro accepted the "Attestation" section by signing the Application under oath and before a notary public.

5. Background Question No. 1 of the Application asks 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 judgement[.]

6. Tarro answered "Yes" in response to Background Question No. 1.

7. Tarro attached a letter to his Application to further explain his response to Background Question No. 1. In his letter, Tarro disclosed he was charged with a Class B Felony of "intent-manufacturing-possession of over 35 grams of marijuana." Tarro stated that he has had "seven years to think about the mistakes I have made and I truly believe I have grown and learned from the things I have done."

8. Tarro also attached a copy of the Orders of Probation entered in Case Nos. 0711-CR04122-01 and 0711-CR02621-01.

9. The court records for Case Nos. 0711-CR04122-01 and 0711-CR02621-01 show that Tarro was convicted of three (3) felonies:

   a. On March 30, 2009, Tarro pled guilty to one (1) count of Possession of a Controlled Substance with Intent to Distribute, a Class B Felony, in violation of § 195.211 RSMo. The court suspended the imposition of sentence and

placed Tarro on supervised probation for five (5) years. On or about February 5, 2010, Tarro violated his probation and the court sentenced Tarro to thirty (30) days' shock incarceration.[1] On or about January 10, 2011, the court revoked Tarro's probation and sentenced him to seven (7) years' incarceration, but suspended the execution of sentence and placed Tarro on supervised probation for five (5) years. *State v. William L. Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR04122-01.

b. On March 30, 2009, Tarro pled guilty to two (2) counts of Distribution of a Controlled Substance, both Class B Felonies, both in violation of § 195.211 RSMo. The court suspended the imposition of sentence and placed Tarro on supervised probation for five (5) years. On or about February 8, 2010, Tarro violated his probation and the court sentenced Tarro to thirty (30) days' shock incarceration.[2] On or about January 10, 2011, the court revoked Tarro's probation and sentenced him to seven (7) years' incarceration on each count, to run concurrently, but suspended the execution of sentence and placed Tarro on supervised probation for five (5) years.[3] *State v. William L. Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR02621-01.

10. After reviewing Tarro's Application and his criminal record, Special Investigator Andrew Engler of the Consumer Affairs Division ("Division") sent an inquiry letter to Tarro dated January 29, 2014. Said inquiry letter requested additional documentation and information about Tarro's probation revocations. The inquiry letter further requested a response by February 18, 2014, and warned Tarro that a failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract ("MVESC") producer license.

11. The United States Postal Service did not return the January 29, 2014 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Tarro.

12. Tarro failed to provide a written response to the Division's January 29, 2014 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

13. Special Investigator Engler sent a second inquiry letter to Tarro dated February 18, 2014 that again requested additional documentation and information about Tarro's probation revocations. The inquiry letter further requested a response by March 10, 2014, and warned Tarro that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

14. On March 4, 2014, the Division received a letter from Tarro that stated the following:

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[1] The court later reduced this to twenty (20) days.
[2] The court later reduced this to twenty (20) days.
[3] The court ordered the sentences in Case No. 0711-CR04122-01 and Case No. 0711-CR02621-01 to run concurrently.

In response to the probation revocation in 2009, I was charged with a DWI at that time which caused a [sic] me to receive a probation violation. The new charged caused me to restart my probation on a SES instead of SIS for the 5 year sentence.

Probation will be completed July 1st of 2014.

15. Tarro did not make any further disclosures about his criminal past to the Division.

16. During its investigation, the Division discovered the following misdemeanor convictions[4] that Tarro failed to disclose:

    a. On April 14, 2008, Tarro pled guilty to one (1) count of Escape from Custody, a Class A Misdemeanor, in violation of § 575.200 RSMo, one (1) count of Failure to Comply with an Order of a Deputy Sheriff, a Class A Misdemeanor, in violation of § 575.145 RSMo, and one (1) count of Resisting Arrest, a Class A Misdemeanor, in violation of § 575.150 RSMo. The court suspended imposition of sentence and placed Tarro on supervised probation for two (2) years. *State v. William Louis Tarro*, St. Charles Co. Cir. Ct., Case No. 0611-CR06587.

    b. On April 14, 2008, Tarro pled guilty to one (1) count of Trespass in the First Degree, a Class B Misdemeanor, in violation of § 569.140 RSMo and one (1) count of Possession of an Intoxicating Liquor by a Minor, an unclassified Misdemeanor, in violation of § 311.325 RSMo. The court suspended imposition of sentence and placed Tarro on supervised probation for two (2) years.[5] *State v. William Louis Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR07859.

    c. On August 5, 2008, Tarro pled guilty to one (1) count of Possession of Up to 35 Grams of Marijuana, a Class A Misdemeanor, in violation of § 195.202 RSMo. The court fined Tarro a total of $199.50. *State v. William Louis Tarro*, Warren Co. Cir. Ct., Case No. 08BB-CR00644.

17. It is inferable, and is hereby found as fact, that Tarro failed to disclose his misdemeanor convictions on his Application in order to misrepresent to the Director the extent of his criminal history, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

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[4] For the purposes of the Application, convictions include suspended sentences, such as suspended imposition of sentence. *See* Background Question No. 1.

[5] The court ordered the probation in Case No. 0611-CR06587 and Case No. 0711-CR07859 to run concurrently.

CONCLUSIONS OF LAW

18. 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:
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> * * *
>
> (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;
>
> * * *
>
> (5) Been convicted of any felony[.]

19. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, 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.

20. "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).

21. 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 MVESC producer license, but to protect the public.

22. The Director may refuse to issue a MVESC producer license to Tarro under § 385.209.1(2) because Tarro failed to adequately respond to the January 29, 2014

inquiry letter from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a department regulation.

23. The Director may refuse to issue a MVESC producer license to Tarro under § 385.209.1(3) because Tarro attempted to obtain a MVESC producer license through material misrepresentation or fraud by failing to disclose his six (6) misdemeanor convictions on his Application:

    a. *State v. William Louis Tarro*, St. Charles Co. Cir. Ct., Case No. 0611-CR06587 (Escape from Custody, a Class A Misdemeanor, in violation of § 575.200, Failure to Comply with an Order of a Deputy Sheriff, a Class A Misdemeanor, in violation of § 575.145, and Resisting Arrest, a Class A Misdemeanor, in violation of § 575.150);

    b. *State v. William Louis Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR07859 (Trespass in the First Degree, a Class B Misdemeanor, in violation of § 569.140 and Possession of an Intoxicating Liquor by a Minor, an unclassified Misdemeanor, in violation of § 311.325); and

    c. *State v. William Louis Tarro*, Warren Co. Cir. Ct., Case No. 08BB-CR00644 (Possession of Up to 35 Grams of Marijuana, a Class A Misdemeanor, in violation of § 195.202).

24. Each of Tarro's failures to disclose material information on his Application is a separate and sufficient cause for refusal pursuant to § 385.209.1(3).

25. The Director may refuse to issue a MVESC producer license to Tarro under § 385.209.1(5) because Tarro has been convicted of three (3) felonies:

    a. *State v. William L. Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR04122-01 (Possession of a Controlled Substance with Intent to Distribute, a Class B Felony, in violation of § 195.211);

    b. *State v. William L. Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR02621-01 (Distribution of a Controlled Substance, a Class B Felony, in violation of § 195.211); and

    c. *State v. William L. Tarro*, St. Charles Co. Cir. Ct., Case No. 0711-CR02621-01 (Distribution of a Controlled Substance, a Class B Felony, in violation of § 195.211).

26. Each felony conviction is a separate and sufficient cause for refusal under § 385.209.1(5).

27. The Director has considered Tarro's history and all of the circumstances surrounding Tarro's Application. Granting Tarro a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Tarro.

28. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **William Louis Tarro** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 17th **DAY OF** SEPTEMBER **2014.**

JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

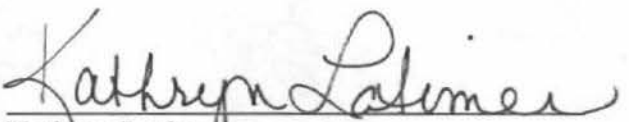
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 18th day of September, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

William Louis Tarro
1436 Heritage Landing
Apartment 303
St. Charles, Missouri 63303

Tracking No. 1Z0R15W84299626868



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