



State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

In Re:)
)
 Aaron Brent Mullin,) **Case No. 161026468C**
)
 Applicant.)

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

On April 17, 2017, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue a motor vehicle extended service contract producer license to Aaron Brent Mullin. After reviewing the Petition, and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Aaron Brent Mullin (“Mullin”) is a Texas resident with a residential address of record of 5309 Spinnaker Way Number 128, Fort Worth, Texas 76132.
2. On April 19, 2016, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Mullin’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. On April 14, 2016, Mullin swore and signed the “Applicant’s Certification and Attestation” section of the Application before a notary public.

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

“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”).

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 documentation which demonstrates the resolution of the charges or any final judgement[.]

6. Mullin answered “No” response to Background Question No. 1 of his Application. Stasi

7. Contrary to Mullin’s response to Background Question No. 1 of his Application, the Division’s investigation revealed the following conviction which Mullin failed to disclose:

- a. On July 20, 2012, Mullin was convicted of Possession of a Controlled Substance: Cocaine (Less than 1 gram), a Class A Misdemeanor, in violation of Texas Penal Code § 481.115.¹ Mullin was sentenced to one (1) day confinement and a fine of \$4,000. *State of Texas v. Aaron Brent Mullin*, 78th Jud. Dist. Ct. of Wichita Co., Cause No. 52286-B, TRN 9098632017.

8. On April 21, 2016, Special Investigator Sheri Sloan (“Sloan”) with the Division sent an inquiry letter by first class mail to Mullin at his address of record. The Division’s inquiry letter requested that Mullin explain his failure to report his conviction for possession of a controlled substance, the events that led to his arrest and subsequent conviction, and provide certified copies of relevant court records. The Division’s inquiry letter cited 20 CSR 100-4.100, notified Mullin that his response was due within twenty days, and warned that failure to respond could result in negative action being taken against his Application.

¹ All citations to criminal statutes are to the version of the statute under which the court rendered its judgment.

9. The United States Postal Service did not return the Division's April 21, 2016 inquiry letter as undeliverable and therefore, Mullin is presumed to have received it.
10. Mullin did not respond to the Division's April 21, 2016 inquiry letter, nor did he demonstrate a reasonable justification for the delay.
11. On May 18, 2016, Sloan sent a second inquiry letter to Mullin at his address of record. The second inquiry letter requested the same information and documents requested in the first inquiry letter, and again cited 20 CSR 100-4.100. The May 18, 2016 inquiry letter notified Mullin that his response was due within twenty days and warned that failure to respond could result in negative action being taken against his Application.
12. The United States Postal Service did not return the Division's May 18, 2016 inquiry letter as undeliverable and therefore, Mullin is presumed to have received it.
13. Mullin did not respond to the Division's May 18, 2016 inquiry letter, nor did he demonstrate a reasonable justification for the delay.
14. On June 28, 2016, Sloan sent a third inquiry letter to Mullin at his address of record. The third inquiry letter requested the same information and documents requested in the first and second inquiry letters, and again cited 20 CSR 100-4.100. The June 28, 2016 inquiry letter notified Mullin that his response was due within twenty days and warned that failure to respond could result in negative action being taken against his Application.
15. The United States Postal Service did not return the Division's June 28, 2016 inquiry letter as undeliverable and therefore, Mullin is presumed to have received it.
16. Mullin did not respond to the Division's June 28, 2016 inquiry letter, nor did he demonstrate a reasonable justification for the delay.
17. It is inferable, and hereby found as fact, that Mullin failed to disclose his Class A Misdemeanor conviction for Possession of a Controlled Substance: Cocaine (Less than 1 gram), in response to Background Question No. 1 of his Application in order to misrepresent material information, namely that he had no criminal record and thereby improve the likelihood that the Director would issue him a motor vehicle extended service contract ("MVESC") producer license.

CONCLUSIONS OF LAW

18. Section 385.209² 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

² All civil 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; [or]

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

19. 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.

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. The Director may refuse to issue Mullin an MVESC producer license pursuant to § 385.209.1(2) because Mullin violated 20 CSR 100-4.100(2)(A), a rule of the Director, when he failed to respond to three (3) inquiry letters from the Division within twenty (20) days and failed to demonstrate a reasonable justification for the delay.
22. Each instance in which Mullin violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), constitutes a separate and sufficient cause for refusal pursuant to § 385.209.1(2).
23. The Director may refuse to issue Mullin an MVESC producer license pursuant to § 385.209.1(3) because Mullin attempted to obtain a license through material misrepresentation or fraud when he answered "No" to Background Question No. 1 of his Application and failed to disclose that he was convicted of Possession of a Controlled Substance: Cocaine (Less than 1 gram), a Class A Misdemeanor, in violation of Texas Penal Code § 481.115. *State of Texas v. Aaron Brent Mullin*, 78th Jud. Dist. Ct. of Wichita Co., Cause No. 52286-B, TRN 9098632017.
24. The Director has considered Mullin's history and all of the circumstances surrounding his Application and exercised her discretion to refuse to issue Mullin an MVESC producer license.
25. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that Aaron Brent Mullin's Motor Vehicle Extended Service Contract producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th DAY OF July, 2017.



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 July 26, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, to the following address:

Aaron Brent Mullin
5309 Spinnaker Way
Number 128
Fort Worth, Texas, 76132

Tracking No. 1Z0R15W84290928585



Kathryn Latimer
Paralegal
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