



FINAL ORDER
EFFECTIVE
02-10-2017

State of Missouri

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

IN RE:

AMY MAE VOLZ,

Applicant.

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Case No. 160712346C

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

On November 23, 2016, 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 Amy Mae Volz. 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. Amy Mae Volz ("Volz") is a Missouri resident with a residential address of record of 29 Boles Avenue, Wentzville, Missouri 63385.
2. On May 16, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Volz's Application for Motor Vehicle Extended Service Contract Producer License ("2016 Application").
3. The "Applicant's Certification and Attestation" section of the 2016 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. Volz signed the "Applicant's Certification and Attestation" section of the 2016 Application under oath before a notary public.
5. Background Question No. 1 of the 2016 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 documentation which demonstrates the resolution of the charges or any final judgment.

6. Volz answered “yes” response to Background Question No. 1 of the 2016 Application.
7. Volz provided a statement explaining her response to Background Question No. 1. Volz’s statement provided, verbatim, in part:

In regards to question 1 of the background section, I do have a couple of incidents to disclose.

I was convicted of Possession of a Controlled Substance that occurred in the year 2000. I was 18 at the time this occurred. I had just gotten my own apartment after graduating high school. I had a group of friends over and one of them had brought a baggie of methamphetamine along with some drug paraphernalia. A confidential informant had contacted a police officer who then came to my apartment and charged all 5 of us with possession of a controlled substance. I completed 5 years of probation and a 120 shock treatment program along with paying court costs and fines.

I have an ongoing case of domestic assault in the third degree stemming from an incident in May of 2015. My mother came over to my home to watch my children. My mother has a very combative personality and every time we get together she wants to pick a fight. An argument ensued when she made derogatory comments regarding my children being bi-racial and then she became physical with me. I defended myself by holding her arms so she could not strike me and then pushing her away. She called the police and I was charged with assault in the 3rd degree. I have an upcoming court date in about a week and my attorney is filing another continuance. He is asking for a settlement of anger management class and probation. ...

8. Volz also provided court documents disclosing the following criminal history:

- a. On July 28, 2000, Volz pled guilty to Possession of Controlled Substance Except 35 Grams or Less of Marijuana, a Class C Felony in violation of § 195.202, RSMo (2000). *State v. Amy M. Volz*, Lincoln Co. Cir. Ct., Case No. 45R010000428-01. On August 6, 2002, the court sentenced Volz to five years' incarceration with the department of corrections but suspended execution of the sentence, ordering Volz complete five years' supervised probation. *Id.* On December 5, 2006, Volz confessed to a violation of her probation and on January 16, 2007, the court revoked her probation and sentenced her to 120 days' shock incarceration. *Id.* After completing her incarceration, Volz was placed on supervised probation for an additional five years. *Id.* Volz was released from probation on or about July 23, 2009. *Id.*
- b. On November 5, 2015, Volz was charged with Domestic Assault – 3rd Degree – 1st/2nd Offense, a Class A Misdemeanor in violation of § 565.074, RSMo.¹ *State v. Amy Mae Volz*, St. Charles Co. Cir. Ct., Case No. 1511-CR05358.

9. Background Question No. 2 of the 2016 Application asked the following:

Have you ever been named or involved as a party in an administrative proceeding or action regarding any professional or occupational license or registration, or regarding the lack of such license or registration?

“Involved” means having a license censured, suspended, revoked, canceled, terminated or being assessed a fine, a voluntary forfeiture, a cease and desist order, a prohibition order, a consent order, or being placed on probation. “Involved” also includes the act of surrendering a license to resolve an administrative proceeding or action. “Involved” also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license or is related to the lack of such license. “Involved” also means having a license application denied, or the act of withdrawing an application to avoid a denial. You must INCLUDE any business so named because of your actions or because of your capacity as an owner, partner, officer, director, or member or manager of a Limited Liability Company.

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

You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

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

- a) a written statement identifying the type of license and explaining the circumstances of each incident,
- b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
- c) a certified copy of the official document which demonstrates the resolution of the charges and/or a final judgment. Surname answered "yes"/ "no" response to Background Question No. 1 on his 2015 Application.

10. Volz answered "no" response to Background Question No. 2 of the 2016 Application.
11. Contrary to Volz's response to Background Question No. 2, Volz had a license application denied in an administrative proceeding regarding a professional or occupational license or registration. On February 28, 2014, the Director of the Department issued an Order Refusing to Issue an Insurance Producer License to Volz. *In re: Amy M. Volz*, Mo. Dep't of Ins., Fin. Inst. and Prof'l Registration, DIFP Case No. 131202609C ("2014 Refusal Order").
12. As found by the Director in the 2014 Refusal Order, cause existed to deny Volz's application for an insurance producer license because Volz had been convicted of a felony, and because Volz failed to respond to three inquiry letters from the Division, thereby violating a rule of the Director — 20 CSR 100-4.100(2)(A). *Id.*
13. The Director's 2014 Refusal Order included a "Notice" of Volz's right to request a hearing by filing a complaint with the Administrative Hearing Commission within 30 days of the mailing of the notice. The 2014 Refusal Order and notice were sent to Volz by certified mail on March 3, 2014. Volz did not request a hearing regarding the Director's 2014 Refusal Order and the 2014 Refusal Order became final on April 2, 2014.
14. After reviewing Volz's 2016 Application and Attachments, Special Investigator Andrew Engler ("Engler") sent an inquiry letter, dated May 18, 2016, to Volz. Engler requested a statement from Volz explaining the 2014 Refusal Order and her failure to disclose it in response to Background Question No. 2 of her 2016 Application.
15. On or about May 19, 2016, the Department received Volz's response to Engler's inquiry letter in which Volz explained the following, verbatim, in part:

In regards to your letter concerning question 2 of the background section, I would like to explain.

I had applied for an insurance producer license after which the Dept of Insurance requested additional information. I sent the documentation requested, but failed to get it back to them in the requested time frame. My understanding is that they refused the license because the requested documentation was received late.

When filling out the MVESC Producer License, and reading over question two; I did not see or fully understand that it was asking if I had a prior license that had been refused. I did not see the word "refusal" in the question and that is why I mis-marked with a "NO" rather than yes. I do apologize for that oversight on my part.

Please let me know if you need any additional information. Again, I am sorry for the misunderstanding, on my part, regarding question 2.

CONCLUSIONS OF LAW

16. Section 385.209.1 states, in relevant part:

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;

* * *

(5) Been convicted of any felony;

* * *

(9) Been refused a license or had a license revoked or suspended by a state regulator of service contracts, financial services, investments, credit, insurance, banking, or finance;

17. Collateral estoppel "is used to preclude the relitigation of an issue that already has been decided in a different cause of action." *Brown v. Carnahan*, 370 S.W.3d 637, 658 (Mo. banc 2012) (citation omitted).

18. The Director may refuse to issue Volz an MVESC producer license pursuant to § 385.209.1(2) because, as found in the 2014 Refusal Order, Volz failed to adequately respond to three separate inquiries from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a rule of the Director.

19. Each failure to provide an adequate response and failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal under § 385.209.1(2).

20. The Director may refuse to issue Volz an MVESC producer license pursuant to § 385.209.1(5) because, as found in the 2014 Refusal Order, Volz has been convicted of a felony:

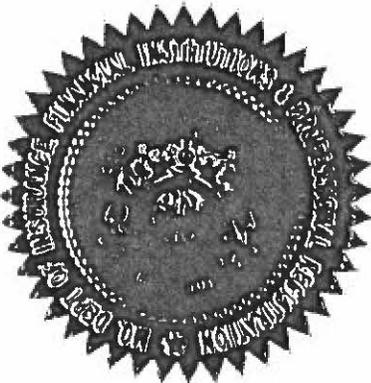
- a. Possession of Controlled Substance Except 35 Grams or Less of Marijuana, a Class C Felony in violation of § 195.202, RSMo (2000). *State v. Amy M. Volz*, Lincoln Co. Cir. Ct., Case No. 45R010000428-01.
21. The Director may refuse to issue Volz an MVESC producer license pursuant to § 385.209.1(9) because Volz has been refused a license by a state regulator of service contracts, financial services, investments, credit, insurance, banking, or finance. Specifically, Volz was refused an insurance producer license by this Department. *In re: Amy M. Volz*, Mo. Dep't of Ins., Fin. Inst. and Prof'l Registration, DIFP Case No. 131202609C.
22. The Director has considered Volz's history and all of the circumstances surrounding Volz's 2015 Application, and exercises his discretion to refuse to issue Volz an MVESC producer license.
23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that Amy Mae Volz's Motor Vehicle Extended Service Contract producer license application of is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 1ST DAY OF DECEMBER, 2016.




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 2nd day of December, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, Signature required, to the following address:

Amy Mae Volz
29 Boles Avenue,
Wentzville, MO 63385

Tracking No. 1Z0R15W84292803367



Kim Landers
Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kimberly.landern@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, to the following address:

Amy Mae Volz
29 Boles Avenue
Wentzville, MO 63385

Certified No. 7014 1820 0000 3083 9873



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 11th day of January, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, to the following address:

Amy Mae Volz
29 Boles Avenue
Wentzville, MO 63385



Kathryn Latimer

Paralegal

Missouri Department of Insurance, Financial
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301 West High Street, Room 530

Jefferson City, Missouri 65101

Telephone: 573.751.6515

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Email: Kathryn.latimer@insurance.mo.gov