



State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
 BRYAN RICHARD HARVEY,) Case No. 161129508C
)
 Applicant.)

ORDER REFUSING TO ISSUE
MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 19, 2016, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license application of Bryan Richard Harvey. 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. Bryan Richard Harvey ("Harvey") is a Missouri resident with a residential address of 660 Towerwood Drive, Ballwin, Missouri 63021 and a business address of 2055 Exchange Drive, Saint Charles, Missouri 63303.
2. On October 23, 2003, Harvey pled guilty to Stealing Over \$500.00, a Class C Felony, in violation of § 570.030 ("Stealing Over \$500").¹ *State v. Bryan R. Harvey*, St. Louis Co. Cir. Ct., Case No. 2102R-06493-01 ("*Harvey I*"). Although the court initially suspended imposition of sentence and ordered Harvey to complete three years' probation, on February 14, 2005, it revoked his probation, convicted him, and sentenced him to five years' incarceration. *Id.* After Harvey had served shock incarceration, the court suspended execution of the sentence and placed Harvey on probation. *Id.*
3. As set forth by the charging instrument in *Harvey I* and admitted by Harvey's guilty plea, he stole inventory from a former employer.²

¹ All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri pursuant to which each judgment was rendered.

² "A plea of guilty voluntarily and understandingly made is conclusive as to the guilt of the accused, [and] admits all of the facts charged[.]" *Robinson v. State*, 491 S.W.2d 314, 315 (Mo. banc 1973). Harvey also acknowledged that the victim was his former employer in correspondence with Special Investigator Engler of the Department.

4. On January 28, 2005, Harvey pled guilty to Involuntary Manslaughter in the First Degree, a Class C Felony, in violation of § 565.024 (“Involuntary Manslaughter”). *State v. Bryan R. Harvey*, St. Louis Co. Cir. Ct., Case No. 2104R-03595-01 (“*Harvey II*”). On February 14, 2005, the court convicted him and sentenced him to five years’ incarceration. After Harvey had served shock incarceration, the court suspended execution of the sentence and placed Harvey on probation. *Id.*
5. On October 19, 2016, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Harvey’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”).
6. The “Applicant’s Certification and Attestation” section of the Application, which Harvey accepted by signing before a notary on October 14, 2016, provides, in relevant part:

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.

(Emphases added.)

7. Harvey answered “Yes” to Background Question No. 1 of the Application which asked, in relevant part:

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?

* * *

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.

8. Harvey provided with his Application a letter and documentation regarding his conviction for Involuntary Manslaughter in *Harvey II*, but no information regarding his conviction for Stealing Over \$500 in *Harvey I*.
9. It is inferable, and hereby found as fact, that Harvey failed to disclose his prosecution in *Harvey I*, as required by Background Question No. 1 of the Application, in order to misrepresent the extent of his criminal record to the Director and thereby increase the

likelihood that the Director would approve his Application and issue him a motor vehicle extended service contract ("MVESC") producer license.

CONCLUSIONS OF LAW

10. Section 385.209.1, RSMo (Supp. 2013)³ provides, 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:

* * *

- (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
- (4) Misappropriated or converted any moneys or properties received in the course of doing business;
- (5) Been convicted of any felony; [or]
- (6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere[.]

- 11. The Director may refuse to issue a MVESC producer license to Harvey pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose *Harvey I* and his resulting conviction in completion of the Application, as required.
- 12. The Director may refuse to issue a MVESC producer license to Harvey pursuant to § 385.209.1(4) because he misappropriated or converted property received in the course of doing business when he committed Stealing Over \$500.
- 13. The Director may refuse to issue a MVESC producer license to Harvey pursuant to § 385.209.1(5) because he has been convicted of two felonies, specifically Stealing Over \$500 and Involuntary Manslaughter.
- 14. Each of Harvey's felony convictions constitutes a separate and sufficient cause to refuse licensure pursuant to § 385.209.1(5).

³ All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement.

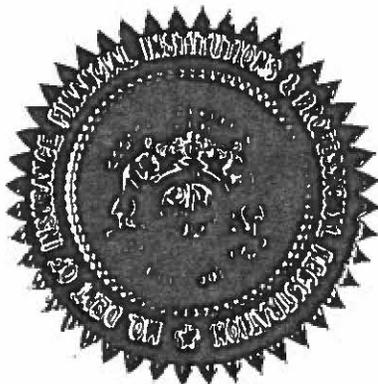
15. The Director may refuse to issue a MVESC producer license to Harvey pursuant to § 385.209.1(6) because he demonstrated untrustworthiness or financial irresponsibility in the conduct of business by stealing from his employer.
16. The Director has considered Harvey's history and all of the circumstances surrounding Harvey's Application. Issuing Harvey a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Harvey a MVESC producer license.
17. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Bryan Richard Harvey** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20TH **DAY OF** DECEMBER, 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.

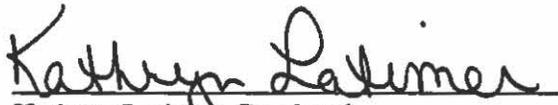
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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December, 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:

Bryan Richard Harvey
660 Towerwood Drive
Ballwin, Missouri 63021-6204

No. 1Z0R15W84297290779



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