



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

IN RE:)
)
CLETUS DEWAYNE BLACKWELL,) **Case No. 170531291C**
)
Applicant.)

ORDER REFUSING TO ISSUE MOTOR VEHICLE
EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On August 25, 2017, 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 Cletus Dewayne Blackwell. After reviewing the Petition, Investigative Report, and supporting documentation, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Cletus Dewayne Blackwell ("Blackwell") is a Missouri resident with a residential and mailing address of 51 Blackwell Lane, Eolia, Missouri 63344.
2. On September 30, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Blackwell's Application for a Motor Vehicle Extended Service Contract Producer License ("2013 Application").
3. The "Applicant's Certification and Attestation" section of the 2013 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. Blackwell accepted the "Applicant's Certification and Attestation" section by signing

the 2013 Application under oath and before a notary public.

5. Employment History Question No. 35 of the 2013 Application requests the following, in relevant part:

Account for all time for the past five years. List all employment experience starting with your current employer [and] working back five years.

6. In response to Employment History Question No. 35, Blackwell answered:

| | FROM | | TO | | POSITION HELD |
|--|-------|------|-------|------|------------------|
| | MONTH | YEAR | MONTH | YEAR | |
| Preston & Donald Blackwell Eolia, MO | 09 | 12 | 10 | 13 | Caregiver |
| Unemployment Benefits MO | 03 | 11 | 09 | 12 | |
| Frontier Mortgage Chesterfield, MO | 01 | 10 | 03 | 11 | Telemarketing |
| US Fidelis Wentzville, MO | 07 | 04 | 01 | 10 | Sales Manager |

7. Background Question No. 1 of the 2013 Application asks:

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 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[.]

8. Blackwell answered “No” in response to Background Question No. 2 of the 2013 Application.
9. Contrary to Blackwell’s response, during its investigation, the Consumer Affairs Division (“Division”) discovered the following felony convictions:
 - a. On September 9, 1997, Blackwell pled guilty to Burglary – 2nd Degree, a Class C Felony, in violation of § 569.170 RSMo.¹ The court suspended imposition of sentence and placed Blackwell on five (5) years’ supervised probation. On September 5, 2001, the court revoked Blackwell’s probation and sentenced him to three (3) years’ incarceration, but suspended the execution of sentence, and placed Blackwell on five (5) years’ supervised probation. *State v. Cletus Dewayne Blackwell*, Montgomery Co. Cir. Ct., Case No. 12F397-00004-01.
 - b. On August 24, 2010, Blackwell pled guilty to, and was convicted of, DWI – Alcohol – Aggravated Offender, a Class C Felony, in violation of § 577.010 RSMo. The court sentenced Blackwell to four (4) years’ incarceration, but suspended the execution of sentence, and placed Blackwell on five (5) years’ supervised probation. *State v. Cletus Dewayne Blackwell*, St. Charles Co. Cir. Ct., Case No. 0911-CR02955-01.
 - c. On September 13, 2010, Blackwell pled guilty to, and was convicted of, DWI – Alcohol – Persistent Offender, a Class D Felony, in violation of § 577.010 RSMo. The court sentenced Blackwell to four (4) years’ incarceration, but suspended the execution of sentence, and placed Blackwell on three (3) years’ supervised probation. *State v. Cletus D. Blackwell*, Lincoln Co. Cir. Ct., Case No. 08L6-CR01499-01.
10. On October 8, 2013, after reviewing Blackwell’s 2013 Application and his criminal record, Special Investigator Andrew Engler (“Engler”) of the Consumer Affairs

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

Division (“Division”) sent an inquiry letter to Blackwell. The inquiry letter requested that Blackwell provide a statement regarding his convictions, an explanation for failing to disclose his criminal history, and corresponding court records. The inquiry letter further requested a response within twenty (20) days, and warned Blackwell that failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract (“MVESC”) producer license.

11. On April 7, 2014, after receiving no written response from Blackwell, Engler sent Blackwell a second letter. The letter informed Blackwell that his 2013 Application was “being referred for refusal” and offered Blackwell the opportunity to withdraw his 2013 Application. The letter included a Voluntary Withdrawal form and requested that Blackwell respond “on or before April 18, 2014.”
12. On April 15, 2014, the Department received Blackwell’s signed Voluntary Withdrawal form.
13. On April 26, 2017, the Department received Blackwell’s Application for a MVESC Producer License (“2017 Application”).
14. The “Applicant’s Certification and Attestation” section of the 2017 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].
15. Blackwell accepted the “Applicant’s Certification and Attestation” section by signing the 2017 Application under oath and before a notary public.
16. Employment History Question No. 35 of the 2017 Application requests the following, in relevant part:

Account for all time for the past five years. List all employment experience starting with your current employer [and] working back five years.

17. In response to Employment History Question No. 35, Blackwell answered:

| | FROM | | TO | | POSITION HELD |
|--------------------------------------|-------|------|-------|------|---------------|
| | MONTH | YEAR | MONTH | YEAR | |
| Unemployed since 2010 due to illness | | | | | |

18. On June 21, 2017, the Division received documentation from DHI Industries, LLC d/b/a Auto Repair Network (“DHI”), regarding unlicensed sales. The email stated that Blackwell, an employee of DHI from March 20, 2017 to April 5, 2017, was responsible for 18 MVESC sales.
19. DHI, located in O’Fallon, Missouri, is licensed by the Department as a MVESC business entity producer, License Number 8312718, to sell, offer, negotiate, or solicit motor vehicle extended service contracts.
20. At no time has the Director issued a MVESC producer license to Blackwell to sell, offer, negotiate, or solicit motor vehicle extended service contracts with consumers.
21. Blackwell has engaged in selling, offering, negotiating, or soliciting MVESCs with consumers, in or from this state, without a MVESC producer license.
22. Background Question No. 1 of the 2017 Application asks:

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 a 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 deferred” 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 document which demonstrates the resolution of the charges or any final judgment.

23. Blackwell answered “Yes” in response to Background Question No. 1 of the 2017 Application and disclosed the following conviction:

- a. DWI – Alcohol – Persistent Offender, a Class D Felony. *State v. Cletus D. Blackwell*, Lincoln Co. Cir. Ct., Case No. 08L6-CR01499-01.

24. Blackwell again failed to disclose his felony convictions for:

- a. Burglary – 2nd Degree, a Class C Felony. *State v. Cletus Dewayne Blackwell*, Montgomery Co. Cir. Ct., Case No. 12F397-00004-01.
- b. DWI – Alcohol – Aggravated Offender, a Class C Felony. *State v. Cletus Dewayne Blackwell*, St. Charles Co. Cir. Ct., Case No. 0911-CR02955-01.

25. Background Question No. 2 of the 2017 Application asks:

Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?

“Involved” means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation or surrendering a license to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license.

“Involved” also means having a license application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions, in your capacity as an owner, partner, officer, director, or member or manager of a Limited Liability Company. 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 copy of the official document which demonstrates the resolution of the charges or any final judgment.

26. Blackwell answered “No” to Background Question No. 2 of the 2017 Application, failing to disclose the withdrawal of his 2013 Application in order to avoid denial.

27. Background Question No. 4 of the 2017 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.).

28. Blackwell answered “No” in response to Background Question No. 4 of the 2017 Application.

29. Contrary to Blackwell’s response, during its investigation, the Division discovered the following delinquent state income tax obligation:

- a. On January 20, 2017, the Lincoln County Circuit Court entered a judgment against Blackwell for unpaid income tax for the 2012 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 \$1,000.47]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Cletus D. Blackwell, Lincoln Co. Cir. Ct., Case No. 17L6-MC00039.

30. It is inferable, and hereby found as fact, that Blackwell failed to disclose his criminal record on his 2013 Application in order to misrepresent his criminal history to the Director, and accordingly, in order to improve the chances that the Director would approve his 2013 Application and issue him a MVESC producer license.
31. It is inferable, and hereby found as fact, that Blackwell failed to disclose his complete criminal record, the withdrawal of his 2013 Application to avoid denial, his complete and accurate employment history, and his delinquent tax obligation on his 2017 Application in order to misrepresent the extent of his criminal history, his professional license history, his complete and accurate employment history, specifically, to conceal the fact that he engaged in selling, offering, negotiating, or soliciting MVESCs with consumers in or from this state without a MVESC producer license during his employment with DHI, and his tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve his 2017 Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

32. Section 385.209 RSMo² 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:

* * *

² All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement.

(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;

* * *

(11) Unlawfully acted as a producer without a license; [or]

* * *

(13) Failed to comply with an administrative or court order directing payment of state of federal income tax[.]

33. Section 385.206 provides, in part:

1. It is unlawful for any person in or from this state to sell, offer, negotiate, or solicit a motor vehicle extended service contract with a consumer, other than the following:

* * *

(6) A business entity producer or individual producer licensed under section 385.207[.]

34. Section 385.207.3 provides:

An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as an individual producer in accordance with this section.

35. The Director may refuse to issue a MVESC producer license to Blackwell pursuant to § 385.209(2) because Blackwell violated a provision in §§ 385.200 to 385.220, namely § 385.206.1(6), when he unlawfully, in or from this state, sold, offered, negotiated, or solicited 18 MVESCs with consumers during his employment with DHI, a licensed MVESC business entity producer.

36. Each instance in which Blackwell, in or from this state, sold, offered, negotiated, or solicited MVESCs with consumers is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
37. The Director may refuse to issue a MVESC producer license to Blackwell pursuant to § 385.209.1(3) because Blackwell attempted to obtain a MVESC producer license through material misrepresentation or fraud by failing to disclose his criminal history on the 2013 Application in order to misrepresent his criminal history to the Director, and, accordingly, in order to improve the chances that the Director would approve his 2013 Application and issue him a MVESC producer license.
38. The Director may refuse to issue a MVESC producer license to Blackwell pursuant to § 385.209.1(3) because Blackwell attempted to obtain a MVESC producer license through material misrepresentation or fraud by failing to disclose the extent of his criminal history, his withdrawal of the 2013 Application to avoid denial, his complete and accurate employment history, and his delinquent tax obligation on the 2017 Application in order to misrepresent the extent of his criminal history, his professional license history, his complete and accurate employment history, and his tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve his 2017 Application and issue him a MVESC producer license.
39. Each instance in which Blackwell obtained or attempted to obtain a license through material misrepresentation or fraud is a separate and sufficient ground for refusal pursuant to § 385.209.1(3).
40. The Director may refuse to issue a MVESC producer license to Blackwell pursuant to § 385.209.1(5) because Blackwell has been convicted of three (3) felonies:
 - a. DWI – Alcohol – Persistent Offender, a Class D Felony. *State v. Cletus D. Blackwell*, Lincoln Co. Cir. Ct., Case No. 08L6-CR01499-01.
 - b. Burglary – 2nd Degree, a Class C Felony. *State v. Cletus Dewayne Blackwell*, Montgomery Co. Cir. Ct., Case No. 12F397-00004-01.
 - c. DWI – Alcohol – Aggravated Offender, a Class C Felony. *State v. Cletus Dewayne Blackwell*, St. Charles Co. Cir. Ct., Case No. 0911-CR02955-01.
41. Each felony conviction is a separate and sufficient ground for refusal pursuant to § 385.209.1(5).
42. The Director may refuse to issue a MVESC producer license to Blackwell pursuant to § 385.209.1(11) because Blackwell, in or from this state, unlawfully acted as a

producer without a license when he sold 18 MVESCs during his employment as at DHI.

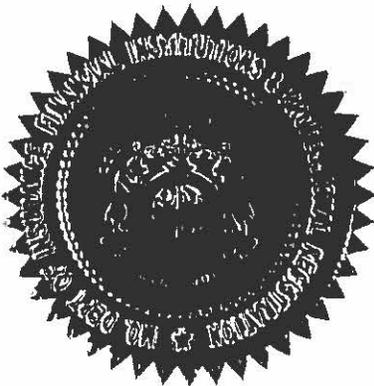
43. Each instance in which Blackwell, in or from this state, sold, offered, negotiated, or solicited MVESCs with consumers is a separate and sufficient ground for refusal pursuant to § 385.209.1(11).
44. The Director may refuse to issue a MVESC producer license to Blackwell pursuant to § 385.209.1(13) because Blackwell failed to comply with administrative or court order directing payment of state income tax:
 - a. Judgment in the amount of \$1,000.47 for unpaid income tax for the 2012 filing year. *Department of Revenue v. Cletus D. Blackwell*, Lincoln Co. Cir. Ct., Case No. 17L6-MC00039.
45. The Director has considered Blackwell's history and all of the circumstances surrounding Blackwell's Application. Issuing Blackwell a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion and refuses to issue Blackwell a MVESC producer license.
46. This Order is in the public interest.

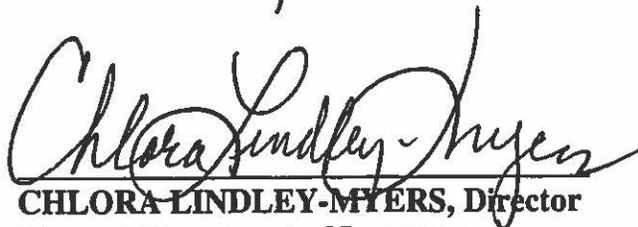
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of Cletus Dewayne Blackwell is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF September, 2017.





CHLORA LINDLEY-MYERS, 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 21st day of September, 2017, 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:

Cletus Dewayne Blackwell
51 Blackwell Lane
Eolia, Missouri 63344

No. 1Z0R15W84295214793



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