



FINAL ORDER
EFFECTIVE
08-02-2018

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

CURTIS DEAN SHOFFNER,

Applicant.

)
)
)
)
)

Case No. 180403501C

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

On May 10, 2018, 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 Curtis Dean Shoffner. 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. Curtis Dean Shoffner (“Shoffner”) is a Missouri resident with a residential address of 19406 Justice Road, Lebanon, Missouri 65536.
2. On January 3, 2018, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Shoffner’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. 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 36.4.

4. Shoffner accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.

5. Background Question No. 4 of the 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.).

6. Shoffner answered "No" in response to Background Question No. 4.

7. Contrary to Shoffner's response, the Consumer Affairs Division ("Division") of the Department discovered the following delinquent state income tax obligations that Shoffner failed to disclose on his Application:

- a. On May 13, 2009, the Green County Circuit Court entered a judgment against Shoffner for unpaid income taxes for the 2003 tax 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 \$3,491.78]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Curtis D. Shoffner, Green County Cir. Ct., Case No. 0931-MC00843.

- b. On January 30, 2012, the Green County Circuit Court entered a judgment against Shoffner for unpaid income taxes for the 2006 tax 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 \$4,276.96]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Curtis D. Shoffner, Green County Cir. Ct., Case No. 1231-MC00600.

8. On January 8, 2018, after reviewing Shoffner's Application and his delinquent tax obligations, Special Investigator Andrew Engler for the Division sent an inquiry letter to Shoffner. The inquiry letter requested that Shoffner provide a payment agreement for payment of his delinquent state income tax obligation or a letter of compliance from the Missouri Department of Revenue. The inquiry letter further requested a response within twenty (20) days and warned Shoffner that failure to respond could result in the Department refusing to issue a motor vehicle extended service contract ("MVEESC") producer license to Shoffner.
9. The United States Postal Service did not return the January 8, 2018 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Shoffner.
10. Shoffner did not respond to the Division's January 8, 2018 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
11. On January 31, 2018, after receiving no response from Shoffner, Special Investigator Andrew Engler sent a second inquiry letter to Shoffner. The inquiry letter requested the same information previously requested in the January 8, 2018 inquiry letter. The inquiry letter further requested a response within twenty (20) days, and warned Shoffner that failure to respond could result in an administrative action.
12. The United States Postal Service did not return the January 31, 2018 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Shoffner.

13. Shoffner failed to respond to the Division's January 31, 2018 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
14. It is inferable that Shoffner failed to disclose his delinquent tax obligations on his Application in order to misrepresent his tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (2016)¹ 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 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;

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

* * *

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

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

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)

¹ All civil statutory references are to the Revised Statutes of Missouri (2016) unless otherwise noted.

days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

17. “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).
18. The Director may refuse to issue a MVESC producer license to Shoffner pursuant to § 385.209.1(2) because Shoffner failed to respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delays, there by twice violating 20 CSR 100-4.100(2)(A), a rule of the Director.
19. Each violation of a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
20. The Director may refuse to issue a MVESC producer license to Shoffner pursuant to § 385.209.1(3) because Shoffner attempted to obtain a MVESC producer license through material misrepresentation or fraud by answering “No” to Background Question No. 4 on his Application, and failed to disclose his delinquent state income tax obligations. *Department of Revenue v. Curtis D. Shoeffner*, Green County Cir. Ct., Case No. 0931-MC00843 and *Department of Revenue v. Curtis D. Shoffner*, Green County Cir. Ct., Case No. 1231-MC00600.
21. The Director may refuse to issue a MVESC producer license to Shoffner pursuant to § 385.209.1(13) because Shoffner failed to comply with an administrative or court order directing payment of state income tax as evidenced by the outstanding judgments in the amount of \$7,768.74 entered in *Department of Revenue v. Curtis D. Shoeffner*, Green County Cir. Ct., Case No. 0931-MC00843 and *Department of Revenue v. Curtis D. Shoffner*, Green County Cir. Ct., Case No. 1231-MC00600.
22. The Director has considered Shoffner’s history and all of the circumstances surrounding Shoffner’s Application. Granting Shoffner a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion and refuses to issue a MVESC producer license to Shoffner.
23. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Curtis Dean Shoffner** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 10th DAY OF May, 2018.



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.

[Remainder of page intentionally left blank.]

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2018 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:

Curtis Dean Shoffner
19406 Justice Road
Lebanon, Missouri 65536

No. 1Z0R15W84295768883



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

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2018 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Curtis Dean Shoffner
19406 Justice Road
Lebanon, Missouri 65536

Certified No. 7016 0340 0001 1319 8682



Kathryn Latimer

Paralegal

Missouri Department of Insurance, Financial
Institutions and Professional Registration

301 West High Street, Room 530

Jefferson City, Missouri 65101

Telephone: 573.751.2619

Facsimile: 573.526.5492

Email: Kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2018 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:

Curtis Dean Shoffner
5553 S. 232 Rd.
Fair Grover, MO 65648

Tracking No. 1Z0R15W84296434955



Kathryn Latimer

Paralegal

Missouri Department of Insurance, Financial
Institutions and Professional Registration

301 West High Street, Room 530

Jefferson City, Missouri 65101

Telephone: 573.751.2619

Facsimile: 573.526.5492

Email: Kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2018 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Curtis Dean Shoffner
5553 S. 232 Rd.
Fair Grover, MO 65648

Certified No. 7016 0340 0001 1319 8767



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

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2018 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Curtis Dean Shoffner
5553 S. 232 Rd.
Fair Grover, MO 65648

Certified No. 7016 0340 0001 1319 8781



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

CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2018 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Curtis Dean Shoffner
19406 Justice Road
Lebanon, Missouri 65536

Curtis Dean Shoffner
5553 S. 232 Rd.
Fair Grover, Missouri 65648



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