

FINAL ORDER
EFFECTIVE
12-06-2018

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

DAVID L. SHOULTA,

Applicant.

Case No. 180622765C

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

On July 18, 2018, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to David L. Shoulta. After reviewing the Petition, the 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. David L. Shoulta ("Shoulta"), is a Missouri resident with a residential address of 2932 Park Valley Dr., St. Peters, Missouri 63376.
2. On December 13, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Shoulta's initial "Application for Motor Vehicle Extended Service Contract Producer License" ("2011 Application").
3. On January 1, 2012, the Department issued Shoulta a Motor Vehicle Extended Service Contract ("MVESC") Producer License.
4. On December 2, 2013, the Department received a complete MVESC Application for a producer license ("2013 Application") from Shoulta.
5. The Department renewed Shoulta's MVESC producer license.
6. Shoulta failed to renew his MVESC license, and it expired on December 31, 2015.

7. On May 10, 2016, the Department received a complete Application for MVESC producer license" ("2016 Application") from Shoulta.
8. On May 20, 2016, the Department issued an MVESC license to Shoulta, which license expired May 20, 2018.
9. On May 16, 2018, the Department received an application for MVESC license from Shoulta ("2018 Application").
10. Background Question No. 1 on the 2018 Application states:

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, which has not been previously reported to this insurance department?

"Crime" includes a misdemeanor, felony or 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 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 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.

11. On the 2018 Application, Shoulta answered "Yes" to Question No. 1, and provided a written statement explaining why he answered "Yes." In addition, Shoulta provided a copy of the charging document and a copy of the document demonstrating the resolution of the crime with which Shoulta was charged.

12. The documents Shoulta provided disclosed that Shoulta was charged with a Class D felony, Driving While Intoxicated, in violation of Section 577.010, RSMo, *State v. David Leslie Shoulta*, St. Charles Co. Cir. Ct., Case No. 1811-CR00816-01.
13. According to the Information filed by the prosecuting attorney on March 8, 2018, Shoulta was charged with one felony count of Driving While Intoxicated and as a persistent offender for events that occurred on December 10, 2016 in St. Charles County, Missouri. As grounds for Shoulta being a persistent offender, the information also cites to a November 19, 2009, guilty plea by Shoulta to a misdemeanor charge of driving while intoxicated, *State v. David Leslie Shoulta*, St. Charles Co. Assoc. Cir. Ct., Case No. 0911-CR0321, as the result of events occurring on December 13, 2008, and a September 5, 2001, guilty plea by Shoulta to a misdemeanor charge of driving while intoxicated, *State v. David Leslie Shoulta*, St. Charles Co. Assoc. Cir. Ct., Case No. 01CR125952, as the result of events occurring on February 23, 2001. *State v. David Leslie Shoulta*, St. Charles Co. Cir. Ct., Case No. 1811-CR00816-01.
14. On April 19, 2018, Shoulta pled guilty to the Class D Felony, Driving While Intoxicated. The court sentenced Shoulta to four years confinement, suspended execution of the sentence and further ordered Shoulta placed on supervised probation for a period of five years. *Id.*
15. The Director is a state regulator of service contracts.

CONCLUSIONS OF LAW

16. Section 385.209.1, RSMo 2016,¹ provides:

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:

* * *

- (5) Been convicted of any felony[.]

¹ All further civil statutory references are to RSMo 2016 unless otherwise indicated.

17. The Director may refuse to issue an MVESC individual producer license to Shoulta under § 385.209.1(5) because Shoulta has been convicted of a felony. On April 19, 2018, Shoulta pled guilty to and was convicted of a Class D Felony, Driving While Intoxicated. *Id.*
18. The conviction constitutes sufficient grounds under § 385.209.1(5) for the Director to refuse to issue Shoulta an MVESC producer license.
19. The above-described instance is grounds upon which the Director may refuse to issue Shoulta an MVESC producer license. Shoulta is a convicted felon.
20. Accordingly the Director has considered Shoulta's history and all of the circumstances surrounding Shoulta's Application and is exercising her discretion to refuse to issue Shoulta an MVESC producer license.
21. This Order is in the public interest.

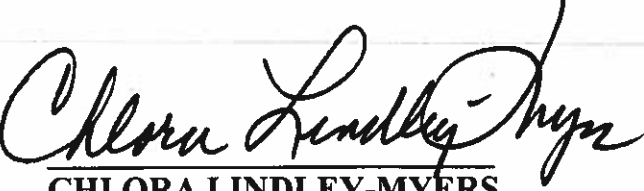
ORDER

IT IS THEREFORE ORDERED that the **REQUEST TO ISSUE** the Motor Vehicle Extended Service Contract producer license of **David L. Shoulta** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 31st DAY OF OCTOBER, 2018.




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 5th day of November, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

David L. Shoulta
2932 Park Valley Drive
St. Peters, Missouri 63376

Tracking No. 1Z0R15W84295723537

A handwritten signature in black ink, appearing to read 'Kathryn Latimer', is written over a horizontal line.

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