



**FINAL ORDER**  
**EFFECTIVE**  
**09-10-2018**

**State of Missouri**

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION

IN RE: )  
)  
EMILY ANNE MCCARTHY, ) Case No. 180718785C  
)  
Applicant. )

**ORDER REFUSING TO RENEW**  
**A MOTOR VEHICLE EXTENDED SERVICE CONTRACT**  
**PRODUCER LICENSE**

On August 2, 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 Emily Anne McCarthy. 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. Emily Anne McCarthy (“McCarthy”), is a Missouri resident with a residential and mailing address of 110 Cedar Point Place, Apt. # 8, Lake St. Louis, Missouri 63367.
2. On June 18, 2018, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received an application for Motor Vehicle Extended Service Contract (“MVESC”) Producer License Renewal (“Application”) McCarthy (“Application”).
3. Background Question No. 1 on the 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.

4. On the Application, McCarthy answered “Yes” to Question No. 1, and provided a written statement explaining why she answered “Yes.” In addition, McCarthy provided a copy of the charging document and a copy of the document demonstrating the resolution of the crime with which McCarthy was charged.
5. The documents McCarthy provided disclosed that McCarthy was charged with a Class E felony, Driving While Intoxicated. *State v. Emily Anne McCarthy*, St. Charles Co. Cir. Ct., Case No. 1811-CR00574-01.
6. According to the Information filed by the prosecuting attorney on April 6, 2018, McCarthy was charged with one felony count of Driving While Intoxicated and as a persistent offender for events that occurred on May 21, 2017 in St. Charles County, Missouri. As grounds for McCarthy being a persistent offender, the information also cites to a November 1, 2012, guilty plea by McCarthy to a charge of driving while intoxicated, as the result of events occurring on April 14, 2012, and a February 1, 2012, guilty plea by McCarthy to a charge of driving while intoxicated, as the result of events occurring on November 21, 2009. *Id.*
7. On May 17, 2018, McCarthy pled guilty to the Class E Felony, Driving While Intoxicated. The court sentenced McCarthy to three years confinement, suspended execution of the sentence and further ordered McCarthy placed on supervised probation for a period of five years. *Id.*

8. The Director is a state regulator of service contracts.

### CONCLUSIONS OF LAW

9. Section 385.209.1, RSMo 2016,<sup>1</sup> 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[.]

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

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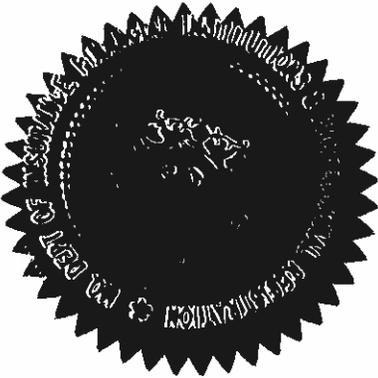
<sup>1</sup> All further civil statutory references are to RSMo 2016 unless otherwise indicated.

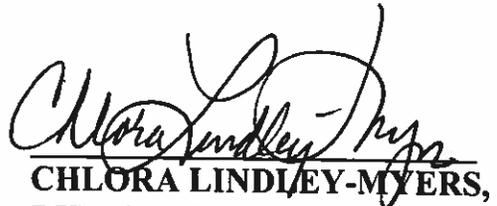
**ORDER**

**IT IS THEREFORE ORDERED** that the **REQUEST TO ISSUE** the insurance producer license of **Emily Anne McCarthy** is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 29<sup>th</sup> DAY OF AUGUST, 2018.



  
**CHLORA LINDLEY-MYERS,**  
**DIRECTOR**

## **NOTICE**

**TO: Applicant and any unnamed persons aggrieved by this Order:**

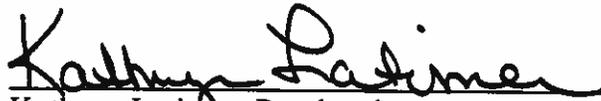
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 9th day of August, 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:

Emily Anne McCarthy  
110 Cedar Point Place, Apt. # 8  
Lake St. Louis, Missouri 63367

Tracking No. 1Z0R15W84291971106



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