



FINAL ORDER
EFFECTIVE
05-04-2018

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

GRACIELA A. HERREJON-ESPARZA,)
)
 Applicant.)

Case No. 161020459C

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

On January 9, 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 Graciela A. Herrejon-Esparza. 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. Graciela A. Herrejon-Esparza (“Herrejon-Esparza”) is a Missouri resident with a residential address of 902 Pardella, St. Louis, Missouri 63125.
2. On April 24, 2014, the Director of the Department of Insurance, Financial Institutions and Professional Registration (“Department”) issued Herrejon-Esparza a Motor Vehicle Extended Contract Producer License (“MVESC”) (License Number 8067015). That license expired on April 24, 2016.
3. On June 6, 2016, the Department received Herrejon-Esparza’s Application for a Motor Vehicle Extended Service Contract Producer License Renewal (“Renewal Application”).
4. The “Applicant’s Certification and Attestation” section of the Renewal 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.

5. Herrejon-Esparza signed the "Applicant's Certification and Attestation" section under oath before a notary public on June 1, 2016.
6. Employment History Question No. 35 of the Renewal 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.
7. In response to Employment History Question No. 35, Herrejon-Esparza admits she was working in "Sales" for Spanish Service Center of St. Charles, Missouri, from March 2016 to April 2016. Herrejon-Esparza also wrote the word "present" in the section that included her employment history related to Spanish Service Center.
8. Spanish Service Center¹ in St. Charles, Missouri, is a MVESC business entity producer licensed by the Department to sell, offer, negotiate, or solicit motor vehicle extended service contracts.
9. On June 8, 2016, a special investigator for the Consumer Affairs Division ("Division") of the Department contacted Herrejon-Esparza by phone to inquire about the Employment History she listed on her Renewal Application. Herrejon-Esparza admitted to the special investigator that she was employed by Spanish Service Center and was currently selling motor vehicle extended service contracts for the business.
10. Based on the employment information disclosed in Herrejon-Esparza's Renewal Application, and her admissions to the special investigator, Herrejon-Esparza sold, offered, or solicited motor vehicle extended service contracts, in or from this state, without a MVESC producer license from April 24, 2016 to, at least, June 8, 2016.

CONCLUSIONS OF LAW

11. Section 385.209 RSMo.² (2016) provides, 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

¹ The Department originally issued Spanish Service Center a business entity producer license for motor vehicle extended service contracts on September 10, 2014, license number 8328205. That license expired on September 11, 2016. The Department re-issued license number 8328205 to Spanish Service Center on May 24, 2017, that license is currently active and expires on May 24, 2019.

² All civil statutory reference are to the Revised Statutes of Missouri (2016) unless otherwise indicated.

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; [or]

* * *

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

12. Section 385.206 RSMo. provides, in relevant 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[.]

13. Section 385.207 RSMo provides, in relevant part:

* * *

3. 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.

* * *

6. A producer license issued under this section, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after that date authorize its holder under sections 385.200 to 385.220 to sell, offer, negotiate, or solicit motor vehicle extended service contracts.

14. The Director may refuse to renew Herrejon-Esparza's MVESC producer license pursuant § 385.209.1(2) because Herrejon-Esparza violated a provision in §§ 385.200 to 385.220, namely § 385.206.1(6), when, after her MVESC producer license expired, she unlawfully, in or from this state, sold, offered, negotiated, or solicited a motor vehicle extended service contract with a consumer without a license.

15. The Director may refuse to renew Herrejon-Esparza's MVESC producer license pursuant to § 385.209.1(11) because Herrejon-Esparza admitted that she unlawfully acted as a producer without a license when she, in or from this state, sold, offered, negotiated or solicited a motor vehicle extended service contract with a consumer after her MVESC license expired and during her employment in "Sales" at Spanish Service Center from April 24, 2016 to, at least, June 8, 2016.
16. The Director has considered Herrejon-Esparza's history and all of the circumstances surrounding Herrejon-Esparza's Renewal Application. Renewing Herrejon-Esparza's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion and refuses to renew Herrejon-Esparza's 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 Graciela A. Herrejon-Esparza is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 30th DAY OF March, 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.

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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 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 addresses:

Graciela A. Herrejon-Esparza
902 Pardella
St. Louis, Missouri 63125

No. 1Z0R15W84292079589



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