



State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:

GRAYLIN TROY NEWTON,

Applicant.

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Case No. 170703314C

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

On July 28, 2017, 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 Graylin Troy Newton. After reviewing the Petition, the Investigative Report, and relevant documents, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Graylin Troy Newton ("Newton") is a Missouri resident with a residential and mailing address of 5367 Knoll Creek Dr., Hazelwood, Missouri, 63042.
2. On September 9, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Newton's Short Form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. § 1033 and 1034 ("§ 1033 Waiver Application"), seeking the Director's consent to engage in the business of insurance in Missouri because he had been convicted of a felony involving dishonesty or a breach of trust.
3. In his § 1033 Waiver Application, Newton disclosed the following federal criminal background:
 - a. On July 18, 2000, Newton pled guilty to and was convicted of Felony Wire Fraud in violation of 18 U.S.C. § 1343.¹ The court sentenced him to one month's imprisonment at a halfway house and ordered, *inter alia*, three years' supervised probation, \$100.00 criminal monetary penalties, and \$11,570.00 restitution. *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115.
 - b. According to the Indictment by a federal grand jury and filed and prosecuted by

¹ All criminal citations are to the laws in effect at the time of the judgment or resolution of the criminal cases.

the United States Attorney, while employed by the United States Department of Agriculture as a Processor in the Centralized Service Center, Rural Development, Newton serviced Rural Development accounts placed in foreclosure by the Department of Agriculture. As a Processor, Newton had the power to accelerate delinquent accounts and initiate foreclosure proceedings and to reinstate accounts. As a Processor, Newton was also required to document all contacts with borrowers on the borrowers' computerized loan history, could not accept partial payment on a loan once foreclosure had begun, and was not authorized to contact borrowers from his residence. *Id.*, Indictment.

- c. According to the Indictment, Newton devised a scheme to defraud and to obtain money and property by false and fraudulent pretenses and representations from the Department of Agriculture and from borrowers of the Rural Development loan program by doing the following:
 - i. Upon learning of loans placed in foreclosure status, Newton would and did contact the borrowers both from his office and from his home, and tell them that Newton could get the loans out of foreclosure status if the borrowers would send money to Newton through Western Union. The amount of money was less than the amounts due to pay off the foreclosures.
 - ii. Newton accepted money sent through Western Union by borrowers whose loans were in foreclosure status, kept the money, and neither reported the money to the Department of Agriculture nor entered his contacts with the borrowers in the borrowers' computerized accounts.
 - iii. Newton made false and fraudulent representations and promises to 15 borrowers telling them if they wired money to Newton, he could stop the foreclosure on their loans.
 - iv. One borrower wired \$1,000.00 through Western Union from Alabama to Newton in St. Louis, Missouri.

Id.

4. In his § 1033 Waiver Application, Newton failed to disclose that he had been charged on May 29, 2013 by the St. Louis County Prosecuting Attorney, through Indictment by a state grand jury, with:
 - a. Two counts of the Class C Felony of Forgery, in violation of § 570.090, in that on or about June 28 and 29, 2011, Newton, acting with others, with the purpose to defraud, used as genuine a writing, namely a motor vehicle title application, knowing it had been made so that it purported to have been made with different terms.

State v. Graylin Newton, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01.

5. The two Class C Felony charges for Forgery were still pending when Newton submitted his § 1033 Waiver Application.
6. On November 4, 2013, when the Division asked Newton to explain the Felony Forgery charges, Newton admitted to the Division that he changed the amount on the title when he purchased a vehicle so that he did not have to pay as much sales tax. He further explained that the charges would be reduced to misdemeanors if he paid a specified amount by December 13, 2013.
7. By letter dated November 5, 2013, the Director of the Department denied Newton's request for a waiver under 18 U.S.C. § 1033.
8. On April 27, 2017, the Department received Newton's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
9. 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 provided all information and documentation requested in Background Information Question 36.4.
10. Newton accepted the "Attestation" section by signing the Application under oath before a notary public.
11. Background Question No. 1 of the Application asks the following:

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 copy of the charging document, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

12. Newton answered “No” in response to Background Question No. 1.
13. Newton failed to disclose his federal Felony Wire Fraud conviction on his Application, although he had previously disclosed it to the Department as part of his 2013 § 1033 Waiver Application as set forth above in Paragraph 3. *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115.
14. Newton failed to disclose the resolution of *State v. Graylin Newton*, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01, that he also failed to disclose on his 2013 § 1033 Waiver Application as set forth in above Paragraphs 4 through 6.
15. Upon receiving Newton’s Application, the Division conducted an investigation and discovered the following regarding *State v. Graylin Newton*, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01.
 - a. On December 13, 2013, the St. Louis County Prosecuting Attorney, filed an Information in Lieu of Indictment amending the charges to two counts of Class A Misdemeanor of Stealing Under \$500, in violation § 570.030. The Information in Lieu of Indictment charged that Newton, acting with others, appropriated U.S. Currency, which property was in the possession of the Department of Revenue,

without the consent of the Department of Revenue and with the purpose to deprive it thereof. *Id.*, Information in Lieu of Indictment.

- b. Also on December 3, 2013, Newton pled guilty to the amended charges of two counts of Class A Misdemeanor of Stealing. The court suspended the imposition of sentence on both counts, ordered, *inter alia*, two (2) years' supervised probation and restitution. *State v. Graylin Newton*, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01.

- 16. Background Question No. 4 of the Application asks, in relevant part:

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

- 17. Newton answered "No" in response to Background Question No. 4.

- 18. Contrary to Newton's response, during its investigation, the Division discovered that the St. Louis County Circuit Court entered a judgment against Newton for the 2012 tax year as follows:

The [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 \$1,660.59]. Interest continues to accrue as provided by law until the amount of the tax liability is paid.

Department of Revenue, Collection Enforcement v. Graylin T. Newton, St. Louis Co. Cir. Ct., Case No. 16SL-MC00990.

- 19. It is inferable, and hereby found as fact, that Newton failed to disclose his criminal background on his Application in order to materially misrepresent to the Director that he had no criminal history, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a motor vehicle extended service contract ("MVESC") producer license.
- 20. It is also inferable, and hereby found as fact, that Newton failed to disclose his tax obligation and judgment in order to materially misrepresent to the Director his tax compliance status, and thus, to gain the Director's approval of his Application.

CONCLUSIONS OF LAW

21. Section 385.209.1 RSMo (Supp. 2013)² provides, in relevant part:

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:

* * *

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

(4) Misappropriated or converted any moneys or properties received in the course of doing business.

(5) Been convicted of any felony;

(6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere;

(7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance; [or]

* * *

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

22. "A guilty plea is an admission to the facts in the indictment or information." *Thurman v. State*, 263 S.W.3d 744, 752 (Mo. App. E.D. 2008).

² All civil statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

23. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(3) because Newton attempted to obtain an MVESC producer license through material misrepresentation or fraud by failing to disclose his criminal background in response to Background Question No. 1 and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license. Namely, Newton failed to disclose:
- a. Guilty plea and conviction of Felony Wire Fraud in *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115; and
 - b. Guilty plea and resolution of two counts of the Class A Misdemeanor for Stealing in *State v. Graylin Newton*, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01.
24. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(3) because Newton attempted to obtain an MVESC producer license through material misrepresentation or fraud by failing to disclose the following delinquent state income tax obligation in response to Background Question No. 4 on his Application:
- a. Judgment in the amount of \$1,660.59 for unpaid state income taxes for the 2012 filing year. *Department of Revenue, Collection Enforcement v. Graylin T. Newton*, St. Louis Co. Cir. Ct., Case No. 16SL-MC00990.
25. Each misrepresentation and failure to disclose information on his Application constitutes separate and sufficient cause to refuse to issue an MVESC producer license to Newton.
26. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(4) because Newton misappropriated or converted any moneys or properties received in the course of doing business when:
- a. Newton, while employed by the United States Department of Agriculture as a Processor in the Centralized Service Center, Rural Development, contacted borrowers whose loans were in foreclosure status and told them that he could get the loans out of foreclosure status if the borrowers would send money to Newton through Western Union. According to the federal Indictment to which Newton pled guilty to Felony Wire Fraud, Newton accepted money sent through Western Union by borrowers whose loans were in foreclosure status, kept the money, and neither reported the money to the Department of Agriculture nor entered his contacts with the borrowers in the borrowers' computerized accounts. *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115.
 - b. Newton appropriated U.S. Currency, which property was in the possession of the Department of Revenue, without the consent of the Department of Revenue and with the purpose to deprive the Department of Revenue of the property. *State v. Graylin Newton*, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01.

27. Each misappropriation or conversion of money or property is a separate and sufficient cause to refuse Newton's Application for an MVESC producer license.
28. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(5) because he has been convicted of a felony; namely Felony Wire Fraud, *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115.
29. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(6) because Newton used fraudulent or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business as evidenced by:
 - a. Guilty plea and conviction of Felony Wire Fraud in *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115; and
 - b. Guilty plea on two counts of the Class A Misdemeanor for Stealing in *State v. Graylin Newton*, St. Louis Co. Cir. Ct., No. 13SL-CR03716-01.
30. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(7) because Newton has been found in violation of the law by a court of competent jurisdiction in an action instituted by an officer of the United States, specifically a United States Attorney, in a matter involving financial services, credit, banking or finance. *United States v. Graylin T. Newton*, U.S.D.Ct., E.D.Mo., No. 4:00-cr-00115.
31. The Director may refuse to issue an MVESC producer license to Newton under § 385.209.1(13) because he failed to comply with an administrative or court order directing payment of state income tax; to wit: Judgment in the amount of \$1,660.59 for unpaid state income taxes for the 2012 filing year. *Department of Revenue, Collection Enforcement v. Graylin T. Newton*, St. Louis Co. Cir. Ct., Case No. 16SL-MC00990..
32. Issuing an MVESC producer license to Newton would not be in the public's interest. Newton pled guilty to and was convicted of Felony Wire Fraud. Newton misrepresented his criminal background and tax noncompliance on his Application.
33. The Director has considered Newton's history and all of the circumstances surrounding his Application. Issuing a motor vehicle extended service contract producer license to Newton would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Newton a motor vehicle extended service contract producer license.

34. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license Application of **Graylin Troy Newton** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 03rd DAY OF August, 2017.



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 this 14th day of August, 2017, 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:

Graylin Troy Newton
Knoll Creek Dr.
Hazelwood, MO 63042

Tracking No. 1Z0R15W842936436365367



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