



FINAL ORDER
EFFECTIVE
12-11-2018

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

MARYANN THERESA GRAHAM,

Applicant.

)
)
)
)
)

Case No. 180320473C

ORDER REFUSING TO ISSUE
MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On July 5, 2018, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license application of MaryAnn Theresa Graham. After reviewing the Petition, 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. MaryAnn Theresa Graham (“Graham”) is a Missouri resident with a residential and mailing address of 12 Jody Dr., Foley, Missouri 63347-3343.
2. On December 11, 2017 the Department of Insurance, Financial Institutions and Professional Registration received Graham’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”).
3. The “Applicant’s Certification and Attestation” section of the Application states in pertinent part:

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. Graham accepted the “Applicant’s Certification and Attestation” section of the Application by her notarized signature dated December 6, 2017.

5. Graham responded “No” to Background Information Question 1 of the Application, which asked, in relevant part:

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.

6. On June 26, 2017, Graham pled guilty to, and was convicted of, Stealing, a Class A misdemeanor in violation of § 570.030 RSMo.¹ The court sentenced her to one year of incarceration, but suspended execution of sentence and placed her on two years’ probation. *State v. MaryAnn Theresa Graham*, St. Charles Co. Cir. Ct., Case No. 1611-CR00575-01.
7. The Assistant Prosecuting Attorney of Saint Charles County, instituting the prosecution of *State v. MaryAnn Theresa Graham*, St. Charles Co. Cir. Ct., Case No. 1611-CR00575-01, acted within her authority as an officer of the state of Missouri.
8. The Amended Information pursuant to which Graham pled guilty set forth that she had “appropriated a Chase card, which property was owned by M.D. ... without the consent of M.D. and with the purpose to deprive him thereof.” *See id.*
9. On December 18, 2017, Special Investigator Andrew Engler of the Department’s Consumer Affairs Division (“Special Investigator Engler” of the “Division”) mailed an inquiry letter to Graham requesting information and documentation about Graham’s criminal case and advising Graham that, “Pursuant to 20 CSR 100-4.100, your response is due within twenty days. Failure to respond could result in a refusal to issue your MVESC [producer] license.”
10. The December 18, 2017 inquiry letter was not returned to the Division as undeliverable, or for any other reason; therefore, Graham is presumed to have received it.
11. Graham neither responded to the December 18, 2017 inquiry letter nor demonstrated reasonable justification for her nonresponse.

¹ All criminal statutory references are to those contained in the version of the Missouri Revised Statutes pursuant to which the judgment was rendered.

12. On January 16, 2018, Special Investigator Engler mailed Graham a second inquiry letter requesting the same information and documents as his first inquiry letter had, and again warning that “[f]ailure to respond could result in an administrative action.”
13. The January 16, 2018 inquiry letter was not returned to the Division as undeliverable, or for any other reason; therefore, Graham is presumed to have received it.
14. Graham neither responded to the January 16, 2018 inquiry letter nor demonstrated reasonable justification for her nonresponse.
15. It is inferable, and hereby found as fact, that Graham failed to fully disclose her criminal record on her Application in order to materially misrepresent to the Director that the matters were nonexistent or insignificant and thereby improve the chance that her Application would be approved and she would be granted a motor vehicle extended service contract (“MVESC”) producer license.

CONCLUSIONS OF LAW

16. Section 385.209.1² 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:

* * *

- (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]

* * *

- (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[.]

² All civil statutory references are to the 2016 Missouri Revised Statutes.

17. Title 20 CSR 100-4.100(2)(A) is a rule of the Director and provides:

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) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.
18. "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. E.D. 2000) (internal citation omitted).
19. The Director may refuse to issue Graham a MVESC producer license pursuant to § 385.209.1(2) because she twice violated a rule of the Director, specifically 20 CSR 100-4.100, when she failed to respond to each of two Division inquiry letters and demonstrated no reasonable justification for her nonresponsiveness.
20. Each violation of a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
21. The Director may refuse to issue Graham a MVESC producer license pursuant to § 385.209.1(3) because she attempted to obtain a license through material misrepresentation or fraud by failing to disclose fully her criminal history, as required by the Application.
22. The Director may refuse to issue Graham a MVESC producer license pursuant to § 385.209.1(7) because Graham was found in violation of § 570.030 in a matter involving credit, banking, or finance. *State v. MaryAnn Theresa Graham*, St. Charles Co. Cir. Ct., Case No. 1611-CR00575-01.
23. The Director has considered Graham's history and all of the circumstances surrounding Graham's Application. Issuing Graham a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Graham a MVESC producer license.
24. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **MaryAnn Theresa Graham** is hereby **REFUSED**.

SO ORDERED.

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



Chlora Lindley Myers
CHLORA LINDLEY-MYERS
DIRECTOR, Missouri Department of Insurance,
Financial Institutions and Professional Registration

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.

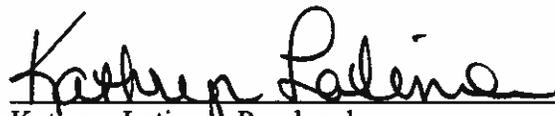
[The remainder of this page intentionally left blank]

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of November, 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:

MaryAnn Theresa Graham
12 Jody Drive
Foley, Missouri 63347-3343

No. 1Z0R15W84298363028



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov