



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

HOLLY ANN SCOTT,

Renewal Applicant.

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Case No. 140918663C

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 5, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the motor vehicle extended service contract producer license of Holly Ann Scott. 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. Holly Ann Scott ("Scott") is a Missouri resident with a residential address of 2017 Santa Rosa, St. Charles, MO 63303.
2. On August 8, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Scott's motor vehicle extended service contract ("MVESEC") initial application ("2012 Application").
3. The "Applicant's Certification and Attestation" section of the 2012 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. On August 8, 2012, Scott signed the "Applicant's Certification and Attestation" section under oath before a notary public.

5. Background Question No. 4 of the 2012 Application asks, in relevant part:

Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?
6. Scott answered “No” to Background Question No. 4 on the 2012 Application.
7. Relying on Scott’s representation on her 2012 Application, the Department issued Scott a MVEESC producer license (#8192507) on August 10, 2012. That license expired on August 10, 2014.
8. On July 17, 2014, the Department received Scott’s Application for Motor Vehicle Extended Service Contract Producer License Renewal (“Renewal Application”).
9. 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.
10. On June 13, 2014, Scott signed the “Applicant’s Certification and Attestation” section under oath before a notary public.
11. Background Question No. 4 of the Renewal Application asks, in relevant part:

Have you failed to pay state or federal income tax, which has not been previously reported to this insurance department?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax, which has not been previously reported to this insurance department?
12. Scott answered “No” to Background Question No. 4 on the Renewal Application.
13. Contrary to Scott’s answers to Background Question No. 4 on her 2012 Application and Renewal Application, the Consumer Affairs Division’s (“Division”) investigation revealed information indicating that Scott had delinquent tax obligations to the State of Missouri for tax years 2005 and 2007-2011. Scott had not previously reported the failure to pay state income tax to the Department.

14. On February 22, 2010, the St. Louis County Circuit Court entered a judgment against Scott and her husband Jason C. Scott for unpaid taxes for the 2007 and 2008 tax filing years as follows:

The Director 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 \$1,015.00]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Jason C. Scott and Holly A. Scott, St. Louis Co. Cir. Ct., Case No. 1011-MC00644.

15. On December 19, 2011, the St. Louis County Circuit Court entered a judgment against Scott and her husband Jason C. Scott for unpaid taxes for the 2009 tax filing year as follows:

The Director 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 \$4,309.78]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Jason C. Scott and Holly A. Scott, St. Louis Co. Cir. Ct., Case No. 1111-MC07212.

16. On March 26, 2012, the St. Louis County Circuit Court entered a judgment against Scott and her husband Jason C. Scott for unpaid taxes for the 2005 tax filing year as follows:

The Director 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 \$546.57]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Jason C. Scott and Holly A. Scott, St. Louis Co. Cir. Ct., Case No. 1211-MC02270.

17. On January 25, 2013, the St. Louis County Circuit Court entered a judgment against Scott and her husband Jason C. Scott for unpaid taxes for the 2010 and 2011 tax filing year as follows:

The Director 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 \$2676.36]. Interest continues to accrue as provided by law until the full amount of the

tax liability is paid.

Department of Revenue v. Jason C. Scott and Holly A. Scott, St. Louis Co. Cir. Ct., Case No. 1311-MC00373.

18. On July 24, 2014, Special Investigator Andrew Engler ("Engler"), with the Division, sent an inquiry letter to Scott, by first class mail, asking for the status of the tax obligations, evidence of a repayment arrangement or a letter of compliance, and a written statement explaining why Scott failed to disclose her tax obligation on her original and renewal applications. The inquiry letter requested a response by August 13, 2014, and warned Scott that a failure to respond could result in the Department refusing to issue her a MVESC producer license.
19. The inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Scott.
20. Scott did not timely respond to the Division's July 24, 2014 inquiry letter nor did she demonstrate reasonable justification for the delay. Scott never responded to the inquiry.
21. On August 14, 2014, Special Investigator Engler sent a second inquiry letter to Scott via first class mail asking for the same information previously requested in the July 24, 2014 inquiry letter. The inquiry letter requested a response by September 3, 2014, and warned Scott that a failure to respond could result in the Department refusing to issue her a MVESC producer license.
22. The inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Scott.
23. Scott did not timely respond to the Division's August 14, 2014 inquiry letter nor did she demonstrate reasonable justification for the delay. Scott never responded to the inquiry.
24. As of September 23, 2014, Scott has not submitted any tax compliance documentation nor has she contacted the Department.
25. It is inferable, and hereby found as fact, that Scott failed to disclose her delinquent state income tax obligations on her Renewal Application in order to misrepresent to the Director that she owed no delinquent taxes and accordingly, in order to improve the chances that the Director would approve her application and renew her a MVESC producer license. This factual conclusion is further supported by the fact that despite being given the opportunity to explain the tax delinquencies or show tax compliance, Scott failed to respond to the Division's inquiries.

CONCLUSIONS OF LAW

26. Section 385.209 RSMo (Supp. 2013) 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 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:

(1) Filed an application for license in this state within the previous ten years, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;

(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;

* * *

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

27. Title 20 CSR 100-4.100(2)(A) states, in relevant part,

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.

28. "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. 2000) (internal citations omitted).

29. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants, but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), the purpose of § 385.209 is not to punish applicants for a motor vehicle extended service contract producer license, but to protect

the public.

30. Scott's MVEESC producer license may be refused renewal pursuant to § 385.209.1(1) because Scott filed an application for license in this state within the previous ten years which, as of the effective date of the license, was incomplete in a material respect or contained incorrect, misleading, or untrue information. In particular, Scott failed to disclose in her 2012 Application her Missouri state income tax delinquencies in:
 - a) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1011-MC00644;
 - b) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1111-MC07212; and
 - c) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1211-MC02270.
31. Scott's "No" answer to Background Question No. 4 constitutes incorrect, misleading and untrue information, and rendered her 2012 Application incomplete in material respects. Therefore, renewal of Scott's MVEESC producer license may be refused pursuant to § 385.209.1(1).
32. Scott's MVEESC producer license may also be refused renewal pursuant to § 385.209.1(2) because Scott violated a rule of the Director, namely 20 CSR 100-4.100 (2)(A), in that Scott failed to timely respond to two (2) written inquiries from the Division or demonstrate a reasonable justification for the delay.
33. Each violation of a rule of the Director is a separate and sufficient cause pursuant to § 385.209.1(2) to refuse the renewal of Scott's MVEESC producer license.
34. Scott's MVEESC producer license may be refused renewal pursuant to § 385.209.1(3) because Scott obtained a license through material misrepresentation or fraud. Scott falsely answered "No" to Background Question No. 4 and failed to disclose her delinquent Missouri Tax obligations in her 2012 Application:
 - a) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1011-MC00644;
 - b) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1111-MC07212; and
 - c) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1211-MC02270.
35. Scott's MVEESC producer license may be refused renewal pursuant to § 385.209.1(3) because Scott attempted to obtain a license through material misrepresentation or fraud. Scott falsely answered "No" to Background Question No. 4 and failed to disclose her delinquent Missouri tax obligations in her Renewal Application.

- a) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1011-MC00644;
 - b) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1111-MC07212;
 - c) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1211-MC02270; and
 - d) *Department of Revenue v. Jason C. Scott and Holly A. Scott*, St. Louis Co. Cir. Ct., Case No. 1311-MC00373.
36. Scott's MVESC producer license may be refused renewal pursuant to § 385.209.1(13) because Scott failed to comply with four separate administrative or court orders directing payment of state income tax.
37. The Director has considered Scott's history and all of the circumstances surrounding Scott's Renewal Application. Renewing Scott's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Scott's MVESC producer license.
38. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license renewal application of Holly Ann Scott is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 10TH DAY OF November, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

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

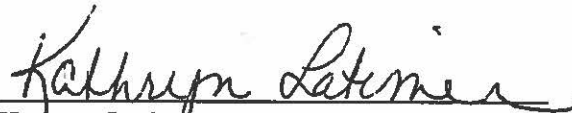
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 12th day of November, 2014 a copy of the foregoing Order and Notice was served upon the Renewal Applicant by UPS, signature required, at the following address:

Holly Ann Scott
2017 Santa Rosa
St. Charles, MO 63303

Tracking No. 1Z0R15W84295995020



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