



State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
HOWARD THERON WALKER JR.,) Case No. 160815382C
)
Applicant.)

ORDER REFUSING TO ISSUE MOTOR VEHICLE
EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On January 18, 2017, the Consumer Affairs Division submitted a Petition to the Acting Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Howard Theron Walker Jr. After reviewing the Petition, Investigative Report, and supporting documents the Acting Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Howard Theron Walker Jr. ("Walker") is a Missouri resident with a residential and mailing address of 7286 Hazelcrest, Hazelwood, Missouri 63042 and a business address of 2163 West Terra Lane, O'Fallon, Missouri 63366.
2. On August 26, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Walker's Application for Motor Vehicle Extended Service Contract Producer License ("2013 Application").
3. The "Applicant's Certification and Attestation" section of the 2013 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. Walker accepted the "Applicant's Certification and Attestation" section by signing

the 2013 Application under oath and before a notary public.

5. Background Question No. 2 of the 2013 Application asks:

Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?

“Involved” means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation or surrendering a license to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license. “Involved” also means having a license application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions, in your capacity as an owner, partner, officer, director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

If you answer yes, you must attach to this application:

- a) a written statement identifying the type of license and explaining the circumstances of each incident,
- b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Walker answered “No” in response to Background Question No. 2 of the 2013 Application.
7. Contrary to his response, on December 29, 2010, Walker was denied a Missouri Mortgage Loan Originator License by the Missouri Division of Finance, Mortgage License Section. *See In re the Appeal of: Howard Walker, Jr., State of Missouri Residential Mortgage Bd.*
8. Relying on Walker’s misrepresentation on his 2013 Application, on August 26, 2013 the Director issued a motor vehicle extended service contract (“MVESC”) producer license to Walker.
9. On August 26, 2015, Walker’s MVESC producer license expired.

10. On May 3, 2016, the Department received Walker's Application for Motor Vehicle Extended Service Contract Producer License ("2016 Application").

11. The "Applicant's Certification and Attestation" section of the 2016 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 have provided all information and documentation requested in Background Information Question [4].

12. Walker accepted the "Applicant's Certification and Attestation" section by signing the 2016 Application under oath and before a notary public.

13. Employment History Question No. 35 of the 2016 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.

14. In response to Employment History Question No. 35, Walker answered:

	FROM		TO		POSITION HELD
	MONTH	YEAR	MONTH	YEAR	
DHI Industries LLC O'Fallon, MO	02	2015	02	2016	License Agent (Insurance)
Auto Repair O'Fallon, MO	01	2014	02	2015	License Agent (Insurance)
Car Safe St. Peters, MO	06	2013	12	2013	Customer Service
Gateway Reverse Mortgage West Port, MO	02	2010	06	2013	Mortgage Broker

15. At no time since August 26, 2015, has the Director issued a MVESC producer license to Walker to sell, offer, negotiate, or solicit motor vehicle extended service contracts with consumers.
16. DHI Industries, LLC d/b/a Auto Repair Network is licensed by the Department as a MVESC business entity producer, License Number 8312718, to sell, offer, negotiate, or solicit motor vehicle extended service contracts.
17. Based upon his 2016 Application, since August 27, 2015, Walker has engaged in selling, offering, negotiating, or soliciting MVESCs with consumers, in or from this state, without a MVESC producer license.
18. Background Question No. 2 of the 2016 Application asks:

Have you ever been named or involved as a party in an administrative proceeding or action regarding any professional or occupational license or registration, or regarding the lack of such license or registration?

“Involved” means having a license censured, suspended, revoked, canceled, terminated or being assessed a fine, a voluntary forfeiture, a cease and desist order, a prohibition order, a consent order, or being placed on probation. “Involved” also includes the act of surrendering a license to resolve an administrative proceeding or action. “Involved” also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license or is related to the lack of such license. “Involved” also means having a license application denied or the act of withdrawing an application to avoid a denial. You must **INCLUDE** any business so named because of your actions or because of your capacity as an owner, partner, officer, director, or member or manager of a Limited Liability Company. You may **EXCLUDE** terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

If you answer yes, you must attach to this application:

- a) a written statement identifying the type of license and explaining the circumstances of each incident,
 - b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
 - c) a certified copy of the official document which demonstrates the resolution of the charges and/or final judgment.
19. Walker falsely answered “No” in response to Background Question No. 2 of the 2016 Application, and again failed to disclose that on December 29, 2010, he was denied a

“Missouri Mortgage Loan Originator License” by the Missouri Division of Finance, Mortgage License Section. *See In re the Appeal of: Howard Walker, Jr., State of Missouri Residential Mortgage Bd.*

20. Background Question No. 4 of the 2016 Application asks:

Have you failed to pay state or federal income tax?

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

Answer “Yes” if the answer to either question (or both) is “Yes.”

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each administrative or court order,
- b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.),
- c) a certified copy of each administrative or court order, judgment, and/or lien, and
- d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).

21. Walker answered “No” in response to Background Question No. 4.

22. Contrary to Walker’s response, during its investigation, the Consumer Affairs Division (“Division”) discovered the following delinquent state income tax obligation:

- a. On October 17, 2014 the St. Louis County Circuit Court entered a judgment against Walker for unpaid income tax for the 2009 filing year as follows:

[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 \$2,091.17]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Howard T. Walker, St. Louis Co. Cir. Ct., Case No. 14SL-MC14629.

23. On May 6, 2016, after reviewing Walker’s 2016 Application and his delinquent tax obligation, Special Investigator Andrew Engler of the Division sent an inquiry letter to Walker. The inquiry letter requested that Walker provide a payment plan or a letter

of compliance from the Department of Revenue. The inquiry letter further requested a response within twenty (20) days, and warned Walker that failure to respond could result in the Department refusing to issue him a MVESC producer license.

24. The United States Postal Service did not return the May 6, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Walker.
25. Walker failed to provide a response to the Division's May 6, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
26. On May 27, 2016, after receiving no response from Walker, Special Investigator Andrew Engler of the Division sent a second inquiry letter to Walker. The inquiry letter requested the same documentation requested in the May 6, 2016 inquiry letter. The inquiry letter further requested a response within twenty (20) days, and again warned Walker that failure to respond could result in the Department refusing to issue him a MVESC producer license.
27. The United States Postal Service did not return the May 27, 2016 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Walker.
28. Walker failed to provide a response to the Division's May 27, 2016 inquiry letter, and failed to demonstrate a reasonable justification for the delay.
29. It is inferable, and hereby found as fact, that Walker failed to disclose the denial of his Missouri Mortgage Loan Originator License on his 2013 Application in order to misrepresent his professional license history to the Director, and accordingly, in order to improve the chances that the Director would approve his 2013 Application and issue him a MVESC producer license.
30. It is inferable, and hereby found as fact, that Walker failed to disclose the denial of his Missouri Mortgage Loan Originator License and his delinquent tax obligation on his 2016 Application in order to misrepresent his professional license history and his tax compliance to the Director, and accordingly, in order to improve the chances that the Director would approve his 2016 Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

31. Section 385.209 RSMo (Supp. 2013)¹ states, 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, which, 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;

* * *

(9) Been refused a license or had a license revoked or suspended by a state or federal regulator of service contracts, financial services, investments, credit, insurance, banking, or finance;

* * *

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

* * *

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

32. Section 385.206 states, 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

¹ All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement unless otherwise indicated.

consumer, other than the following:

* * *

(6) A business entity producer or individual producer licensed under section 385.207[.]

33. Section 385.207.3 states:

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.

34. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division states:

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.

35. "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).

36. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(1) because Walker filed an application for license in this state within the previous ten (10) years that contained incorrect and misleading information in that Walker failed to disclose the denial of a Missouri Mortgage Loan Originator License in response to Background Question No. 2 on his 2013 Application.

37. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(2) because Walker failed to respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delays, thereby twice violating 20 CSR 100-4.100(2)(A), a rule of the Director.

38. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(2) because Walker violated a provision in §§ 385.200 to 385.220, namely

§ 385.206.1(6), when he unlawfully, in or from this state, sold, offered, negotiated, or solicited motor vehicle extended service contracts with consumers since August 27, 2015, during his employment with DHI Industries, LLC d/b/a Auto Repair Network.

39. Each violation of any provision in §§ 385.200 to 385.220 or a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
40. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(3) because Walker obtained a MVESC producer license through material misrepresentation or fraud in that he failed to disclose the denial of a Missouri Mortgage Loan Originator License in response to Background Question No. 2 on his 2013 Application.
41. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(3) because Walker attempted to obtain a MVESC producer license through material misrepresentation or fraud in that he failed to disclose the denial of a Missouri Mortgage Loan Originator License in response to Background Question No. 2 on his 2016 Application.
42. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(3) because Walker attempted to obtain a MVESC producer license through material misrepresentation or fraud in that he failed to disclose the following delinquent tax obligation in response to Background Question No. 4 on his 2016 Application:
 - a. Judgment in the amount of \$2,091.17 for unpaid income tax for the 2009 filing year. *Department of Revenue v. Howard T. Walker*, St. Louis Co. Cir. Ct., Case No. 14SL-MC14629.
43. Each instance in which Walker obtained or attempted to obtain a license through material misrepresentation or fraud is a separate and sufficient ground for refusal pursuant to § 385.209.1(3).
44. The Director may refuse to issue a MVESC producer license to Walker pursuant to §385.209.1(9) because Walker has been refused a license by a state regulator of banking or finance, specifically the Missouri Division of Finance.
45. The Director may refuse to issue a MVESC producer license to Walker pursuant to § 385.209.1(11) because he unlawfully acted as a producer without a license during his employment as a "License Agent (Insurance)" at DHI Industries, LLC, d/b/a Auto Repair Network since August 27, 2015.
46. The Director may refuse to issue a MVESC producer license to Walker pursuant to

§ 385.209.1(13) because Walker failed to comply with administrative or court order directing payment of state income tax:

- a. Judgment in the amount of \$2,091.17 for unpaid income tax for the 2009 filing year. *Department of Revenue v. Howard T. Walker*, St. Louis Co. Cir. Ct., Case No. 14SL-MC14629.
47. The Director has considered Walker's history and all of the circumstances surrounding Walker's 2016 Application. Issuing Walker a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Walker a MVESC producer license.
48. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Howard Theron Walker Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19TH DAY OF JANUARY, 2017.





JOHN M. HUFF, ACTING 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.

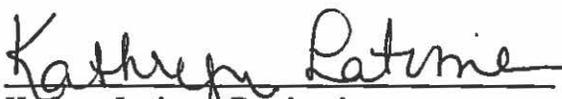
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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2017, 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:

Howard Theron Walker
7286 Hazelcrest
Hazelwood, Missouri 633630426

Tracking No. 1Z0R15W84293604651



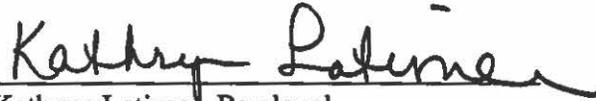
Kathryn Latimer, Paralegal
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Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

Howard Theron Walker
7286 Hazelcrest
Hazelwood, Missouri 633630426

Certified No: 7013 2250 0000 4609 6807



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