



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JACOB ANTHONY BOWMAN,

Applicant.

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Case No. 150122038C

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On the May 1, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the renewal of Jacob Anthony Bowman's motor vehicle extended service contract producer license. 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. Jacob Anthony Bowman ("Bowman") is a Missouri resident with a residential address of record of 150 Pleasant View Road, Foley, Missouri 63347.
2. On January 1, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Bowman a motor vehicle extended service contract ("MVESC") producer license (License No. 8088323). Bowman's MVESC producer license terminated on December 31, 2013.
3. On October 23, 2014, the Department received Bowman's Application for 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.

* * *

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 36.4.
5. Bowman signed the Renewal Application in the "Applicant's Certification and Attestation" section under oath and before a notary public.
6. Background Information Question No. 4 of the Renewal Application asks:

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?

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.).

7. Bowman marked "NO" to Background Question No. 4.
8. During its investigation, the Consumer Affairs Division ("Division") of the Department discovered the following outstanding tax obligations:
 - a. On December 10, 2013, the Lincoln County Circuit Court entered a judgment against Bowman for unpaid taxes for the 2010 and 2011 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 \$2,003.31]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Jacob A. Bowman, Lincoln Co. Cir. Ct., Case No. 13L6-MC00726.

9. After reviewing Bowman's Renewal Application and judgment for unpaid taxes, Division Special Investigator Andrew Engler ("Special Investigator Engler") sent an inquiry letter to Bowman dated October 27, 2014. Said inquiry letter requested additional information about Bowman's tax obligations. The inquiry letter further requested a response by November 16, 2014 and warned Bowman that a failure to respond could result in refusal of his Renewal Application.
10. The United States Postal Service did not return the October 27, 2014 inquiry letter to the Division, and therefore, it is presumed received by Bowman.
11. Bowman failed to provide a written response to the Division's October 27, 2014 inquiry letter by November 16, 2014 and failed to demonstrate a reasonable justification for the delay.
12. Special Investigator Engler sent another inquiry letter to Bowman dated November 17, 2014. Said inquiry letter requested additional information about Bowman's tax obligations. The inquiry letter further requested a response by December 7, 2014 and warned Bowman that a failure to respond could result in refusal of his Renewal Application.
13. The United States Postal Service did not return the November 17, 2014 inquiry letter to the Division, and therefore, it is presumed received by Bowman.
14. Bowman failed to provide a written response to the Division's November 17, 2014 inquiry letter by December 7, 2014 and failed to demonstrate a reasonable justification for the delay.
15. It is inferable, and hereby found as fact, that Bowman failed to disclose his outstanding tax obligation on his Renewal Application to misrepresent to the Director that he had no tax obligations and to improve the likelihood that the Director would renew his MVESC producer license.

CONCLUSIONS OF LAW

16. Section 385.209 RSMo (Supp. 2013)¹ provides in 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 All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

* * *

- (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]

* * *

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

17. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries to the Consumer Affairs Division 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 "presum[ption] that a document duly mailed has been received by the addressee." *Johnson v. March*, 376 S.W.3d 26, 31 (Mo. Ct. App. 2012) (internal citations omitted).
19. 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 MVEESC producer license but to protect the public.
20. The Director may refuse to renew Bowman's MVEESC producer license pursuant to § 385.209.1(2) because Bowman failed to respond to two inquiry letters and failed to provide a reasonable justification for the delays, thereby twice violating 20 CSR 100-4.100(2)(A), a Department regulation.
21. Each violation of a Department regulation is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).
22. The Director may refuse to renew Bowman's MVEESC producer license pursuant to § 385.209.1(3) because Bowman attempted to obtain a MVEESC producer license through material misrepresentation or fraud when he failed to disclose the following outstanding tax obligation on his Renewal Application in response to Background Question No. 4:

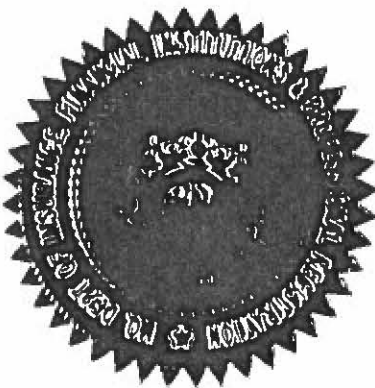
- a. *Department of Revenue v. Jacob A. Bowman*, Lincoln Co. Cir. Ct., Case No. 13L6-MC00726 (Judgment in the amount of \$2,003.31 for unpaid taxes in the 2010 and 2011 filing years).
23. The Director may refuse to renew Bowman's MVESC producer license pursuant to § 385.209.1(13) because Bowman failed to comply with an administrative or court order directing payment of state or federal income taxes:
- a. *Department of Revenue v. Jacob A. Bowman*, Lincoln Co. Cir. Ct., Case No. 13L6-MC00726 (Judgment in the amount of \$2,003.31 for unpaid taxes in the 2010 and 2011 filing years).
24. The Director has considered Bowman's history and all of the circumstances surrounding Bowman's Renewal Application. Renewing Bowman's MVESC producer license is not in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Bowman's MVESC producer license.
25. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Jacob Anthony Bowman's** Application for Motor Vehicle Extended Service Contract Producer License Renewal is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 1st DAY OF MAY 2015.




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 5th day of May 2015 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Jacob Anthony Bowman
150 Pleasant View Road
Foley, Missouri 63347

Tracking No.: 1Z0R15W84291967611



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