



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

In Re:

JEREMY WAYNE ARMSTRONG

Applicant.

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Case No. C171003384

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On August 21, 2018, the Consumer Affairs Division submitted a petition to the Director alleging cause to refuse to issue a Motor Vehicle Extended Service Contract Producer License to Jeremy Wayne Armstrong. 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. Jeremy Wayne Armstrong ("Armstrong") is a Missouri resident with a residential and mailing address of 678 W. Lincoln St., Hawk Point, Mo, 63349.
2. On June 27, 2017, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Armstrong's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Background Information Question No. 1 of the Application asked the following, in 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?
4. Armstrong answered "Yes" in response to Background Information Question No. 1 on his Application.
5. Along with his Application, Armstrong submitted a letter providing the following explanation of his response to Background Information Question No. 1:

Was in the military home on leave and about to deploy, wanted to try drugs before I wouldn't get a change. Got caught. 2 counts of possession of controlled substance[.]

6. Armstrong's Application also included court documents disclosing that on November 28, 2012, Armstrong pled guilty to two counts of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, each a Class C Felony in violation of § 195.202, RSMo.¹ On October 21, 2013, the Court sentenced Armstrong to five years' incarceration but suspended execution of the sentence, ordering Armstrong complete five years' probation. *State v. Jeremy Wayne Armstrong II, Lincoln Co. Cir. Ct., Case No. 12L6-CR00210-01*.
7. On July 31, 2017, the Division sent an inquiry letter by first class mail to Armstrong at his address of record. The Division's inquiry letter requested that Armstrong provide documents regarding the status of his probation. The Division's inquiry letter cited 20 CSR 100-4.100, notified Armstrong that his response was due within twenty (20) days, and warned that failure to respond could result in refusal to issue Armstrong a Motor Vehicle Extended Service Contract ("MVESC") producer license.
8. The United States Postal Service did not return the July 31, 2017, inquiry letter to the Division, and therefore it is presumed received by Armstrong.
9. Armstrong failed to provide a response to the Division's July 31, 2017, inquiry letter within twenty days or any time thereafter and failed to demonstrate a reasonable justification for the delay.
10. On August 24, 2017, the Division sent a second inquiry letter by first class mail to Armstrong at his address of record requesting the same information. The Division's inquiry letter cited 20 CSR 100-4.100, notified Armstrong that his response was due within twenty (20) days, and warned that failure to respond could result in an administrative action.
11. The United States Postal Service did not return the August 24, 2017, inquiry letter to the Division, and therefore it is presumed received by Armstrong.
12. Armstrong failed to provide a response to the Division's August 24, 2017, inquiry letter within twenty days or any time thereafter and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

13. Section 385.209 RSMo (2016) 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

¹ All criminal statutory references are to the version of the Revised Statutes of Missouri under which the court rendered its judgment.

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; [or]

* * *

(5) Been convicted of any felony [.]

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

15. "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).
16. The Director may refuse to issue Armstrong an MVESC producer license pursuant to § 385.209.1(2) because Armstrong violated 20 CSR 100-4.100(2)(A), a rule of the Director, when he failed to respond to two (2) inquiry letters from the Division from July 31, 2017 and August 24, 2017 within twenty (20) days and failed to demonstrate a reasonable justification for the delay.
17. Each failure to provide an adequate response without a reasonable justification for the delay is a separate and sufficient cause for refusal under § 385.209.1(2).
18. The Director may refuse to issue Armstrong an MVESC producer license pursuant to § 385.209.1(5) because Armstrong has been convicted of two felonies. Namely, Armstrong has been convicted of two counts of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, each a Class C Felony in violation of § 195.202, RSMo. *State v. Jeremy Wayne Armstrong II*, Lincoln Co. Cir. Ct., Case No. 12L6-CR00210-01.
19. Each felony conviction constitutes separate and sufficient cause for refusal under § 385.209.1(5).

- 20. The Director has considered Armstrong's history and all of the circumstances surrounding Armstrong's Application and exercises her discretion to refuse to issue Armstrong an MVESC producer license.
- 21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Jeremy Wayne Armstrong's** Motor Vehicle Extended Service Contract Producer license application is hereby **REFUSED**.

SO ORDERED.

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



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.

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter UPS, signature required, to the following address:

Jeremy Armstrong
678 W. Lincoln St.,
Hawk Point, Mo, 63349

Tracking No. 1Z0R15W84296475125



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