



FINAL ORDER
EFFECTIVE
01-15-2018

State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

In Re:

MAURICE ANTHONY TENNIAL II,
Applicant.

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Case No. 170123103C

**ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE
CONTRACT PRODUCER LICENSE**

On June 20, 2017, 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 Maurice Anthony Tennial II. After reviewing the Petition, and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Maurice Anthony Tennial II ("Tennial") is a Missouri resident with a residential and mailing address of 3509 Wismer Road, St. Ann, Missouri, 63074.
2. On September 26, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Tennial's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. The "Applicant's Certification and Attestation" section of the 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. Tennial signed the "Applicant's Certification and Attestation" section of the Application under oath before a notary public.

5. Background Question No. 1 of the Application asked the following:

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 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.

"Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, having entered an Alford Plea, or having been given probation, a suspended sentence, or a fine.

"Had a judgment withheld or differed" includes circumstances in which a guilty plea was entered and/or a finding of guilt was made, but imposition or execution of the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence – sometimes called an "SIS" or "SES").

Unless excluded by the language above, you must disclose convictions that have been expunged.

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

- a) a written statement explaining the circumstances of each incident,
- b) a certified copy of the charging document, and
- c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Tennial answered "No" in response to Background Question No. 1 on his Application.

7. Contrary to Tennial's response to Background Question No. 1, an investigation conducted by the Consumer Affairs Division ("Division") of the Department revealed the following criminal history which Tennial failed to disclose:

- a. On February 17, 2010, Tennial pled guilty to and was convicted of Armed Robbery, a Class 2 Felony, in violation of Ariz. Rev. Stat. § 13-1904.¹ *State of Arizona v. Maurice Anthony Tennial II*, Maricopa Co. Super. Ct., Case No. CR2009-154662-

¹ All criminal statutory references are to those contained in the version of the Arizona Revised Statutes under which the court rendered judgment.

001. The court sentenced Tennial to 4 years' confinement with Arizona Department of Corrections. *Id.*

- b. In the same action, Tennial pled guilty to Theft, a Class 6 Felony, in violation of Ariz. Rev. Stat. § 13-1802. *Id.* The court suspended imposition of Tennial's sentence, and ordered Tennial complete three years' probation following his discharge from prison. *Id.*
- c. On February 17, 2010, Tennial pled guilty to Possession or Use of Marijuana, a Class 1 Misdemeanor, in violation of Ariz. Rev. Stat. § 13-3405. *State of Arizona v. Maurice Anthony Tennial II*, Maricopa Co. Super. Ct., Case No. CR2009-169895-001. The court suspended imposition of Tennial's sentence, and ordered Tennial complete one years' probation to run concurrent with probation ordered in Case No. CR2009-154662-001. *Id.*

- 8. On September 29, 2016, the Division sent an inquiry letter by first class mail to Tennial at his address of record. The Division's inquiry letter requested that Tennial explain his failure to disclose his criminal history and provide certified copies of relevant court records. The Division's inquiry letter cited 20 CSR 100-4.100, notified Tennial that his response was due within twenty (20) days, and warned that failure to respond could result in refusal to issue Tennial a Motor Vehicle Extended Service Contract ("MVESC") producer license.
- 9. The United States Postal Service did not return the Division's September 29, 2016 inquiry letter as undeliverable and therefore, Tennial is presumed to have received it.
- 10. Tennial did not respond to the Division's September 29, 2016 inquiry letter, nor did he demonstrate a reasonable justification for the delay.
- 11. On October 26, 2016, the Division sent a second inquiry letter by first class mail to Tennial at his address of record. The Division's second inquiry letter requested the same information and documents requested in the first inquiry letter, and again cited 20 CSR 100-4.100. The October 26, 2016 inquiry letter notified Tennial that his response was due within twenty (20) days, and warned that failure to respond could result in refusal to issue him an MVESC producer license.
- 12. The United States Postal Service did not return the Division's October 26, 2016 inquiry letter as undeliverable and therefore, Tennial is presumed to have received it.
- 13. Tennial did not respond to the Division's October 26, 2016 inquiry letter, nor did he demonstrate a reasonable justification for the delay.
- 14. It is inferable, and hereby found as fact, that Tennial failed to disclose his criminal history in response to Background Question No. 1 of his Application in order to misrepresent to the Director that he has never been convicted of a felony and thereby improve the likelihood that the Director would issue him an MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013) 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:

* * *

(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]

* * *

(5) Been convicted of any felony[.]

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

17. "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).

18. The Director may refuse to issue Tennial an MVESC producer license pursuant to § 385.209.1(2) because Tennial violated 20 CSR 100-4.100(2)(A), a rule of the Director, when he failed to respond to two inquiry letters from the Division within twenty days or at all and failed to demonstrate a reasonable justification for the delay.

19. Each instance in which Tennial violated 20 CSR 100-4.100(2)(A), a rule of the Director, constitutes a separate and sufficient cause for refusal pursuant to § 385.209.1(2).

20. The Director may refuse to issue Tennial an MVESC producer license pursuant to § 385.209.1(3) because Tennial attempted to obtain a license through material

misrepresentation or fraud when he answered "No" to Background Question No. 1 of his Application and failed to disclose his criminal history to the Director. Specifically, Tennial failed to disclose:

- a. That on February 17, 2010, he was convicted of Armed Robbery, a Class 2 Felony. *State of Arizona v. Maurice Anthony Tennial II*, Maricopa Co. Super. Ct., Case No. CR2009-154662-001.
 - b. That on February 17, 2010, he pled guilty to and received a suspended imposition of sentence for Theft, a Class 6 Felony. *Id.*
 - c. That on February 17, 2010, he pled guilty to and received a suspended imposition of sentence for Possession or Use of Marijuana, a Class 1 Misdemeanor. *State of Arizona v. Maurice Anthony Tennial II*, Maricopa Co. Super. Ct., Case No. CR2009-169895-001.
21. The Director may refuse to issue Tennial an MVESC producer license pursuant to § 385.209.1(5) because Tennial has been convicted of a felony, namely Armed Robbery, a Class 2 Felony in violation of Ariz. Rev. Stat. § 13-1904. *State of Arizona v. Maurice Anthony Tennial II*, Maricopa Co. Super. Ct., Case No. CR2009-154662-001.
 22. The Director has considered Tennial's history and all of the circumstances surrounding his Application and exercises her discretion to refuse to issue Tennial an MVESC producer license.
 23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that Maurice Anthony Tennial II's Motor Vehicle Extended Service Contract producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20 DAY OF September, 2017.



Chlora Lindley-Myers
CHLORA LINDLEY-MYERS
DIRECTOR

NOTICE

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

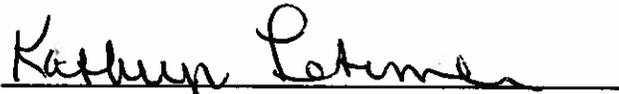
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 this 20th day of September, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, to the following address:

Maurice Anthony Tennial II
3509 Wismer Road,
St. Ann, Missouri, 63074

Tracking No. 1Z0R15W84290681574



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

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of October, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, to the following address:

Maurice Anthony Tennial II
3509 Wismer Road,
St. Ann, Missouri, 63074

Certified No. 7016 3010 0000 4563 1472



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

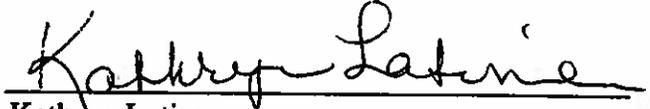
Facsimile: 573.526.5492

Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, to the following address:

Maurice Anthony Tennial II
3509 Wismer Road,
St. Ann, Missouri, 63074



Kathryn Latimer

Paralegal

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