



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

RYAN J. McFERRON,

Applicant.

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Case No. 188157

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

On June 21, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Ryan J. McFerron. 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. Ryan J. McFerron ("McFerron") is a Missouri resident with a residential address of record of 78 Lexie Court, Wentzville, Missouri, 63385.
2. On December 19, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received McFerron's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. McFerron signed the Application under oath before a notary, thereby attesting that all of the information submitted in the Application and its attachments was "true and complete" and acknowledging that omitting pertinent or material information in connection with the Application was grounds for refusal of the Application and could subject McFerron to civil or criminal penalties.
4. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless

driving, or driving with a suspended or revoked license or juvenile offenses. "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, or having been given probation, a suspended sentence or a fine.

"Had a judgement withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt is 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").

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

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

5. McFerron marked "No" to Question No. 1.
6. McFerron did not disclose any criminal history in his Application.
7. The Department's Consumer Affairs Division investigated McFerron's Application, revealing that McFerron has been convicted of four misdemeanors:
 - a. On or about May 22, 2012, McFerron was convicted upon a plea of guilty in the St. Charles County Circuit Court of the Class A Misdemeanors of Possession of a Controlled Substance and Possession of Drug Paraphernalia with Intent to Use and was sentenced to pay a fine of \$400.¹
 - b. On or about May 12, 2011, McFerron pled guilty in the St. Charles County Circuit Court to the Class A Misdemeanor of Assault in the Third Degree and was given a suspended imposition of sentence.²
 - c. On or about May 22, 2012, McFerron's probation was revoked in Case No. 1011-CR06118 and the court sentenced McFerron to a \$350 fine.
 - d. On or about January 10, 2008, McFerron was convicted in the Crawford County Circuit Court of the unclassified misdemeanor of Possession of an Intoxicating Liquor by a Minor.³

¹ In violation of §§ 195.202 and 195.233, RSMo. *State of Missouri v. Ryan Joseph McFerron*, St. Charles Co. Cir. Ct., 1111-CR06747.

² A violation of § 565.070, RSMo. *State of Missouri v. Ryan Joseph McFerron*, St. Charles Co. Cir. Ct., 1011-CR06118.

³ A violation of § 311.325, RSMo. *State of Missouri v. Ryan Joseph McFerron*, St. Charles Co. Cir. Ct., 07A9-CR00850.

8. On January 25, 2013, the Consumer Affairs Division's investigator, Karen Crutchfield, mailed a written inquiry to McFerron, requiring that McFerron explain his failure to disclose his criminal history on his Application and provide certified copies of court records in those criminal cases.
9. Crutchfield mailed the January 25, 2013 inquiry letter by first-class mail to McFerron's address of record, with sufficient postage attached.
10. The January 25, 2013 letter was not returned as undeliverable.
11. McFerron failed ever to respond to the January 25, 2013 inquiry letter from the Consumer Affairs Division.
12. McFerron has not demonstrated a reasonable justification for his failure to respond to the January 25, 2013 inquiry letter.
13. On February 19, 2013, having received no response from McFerron, Crutchfield mailed a second letter of inquiry to McFerron, again requiring that McFerron explain his failure to disclose his criminal history on his Application and that McFerron provide certified copies of court records in those criminal cases.
14. Crutchfield mailed the February 19, 2013 letter by certified mail and by first-class mail, with sufficient postage attached, to McFerron at his address of record and at 2544 Highway K, O'Fallon, Missouri, 63368.
15. The Post Office Form 3811 (the "Green Card") was returned signed for both copies of the February 19, 2013 letter that were sent by certified mail, though it appeared that they were signed for by individuals other than McFerron.
16. Neither copy of the February 19, 2013 letter mailed by first-class mail was returned as undeliverable.
17. McFerron failed ever to respond to the February 19, 2013 inquiry letter from the Consumer Affairs Division.
18. McFerron has not demonstrated a reasonable justification for his failure to respond to the February 19, 2013 inquiry letter.

CONCLUSIONS OF LAW

19. Section 385.209 RSMo, Supp. 2012, 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:

* * *

(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[.]

20. Regulation 20 CSR 100-4.100(2) states:

(2) Except as required under subsection (2)(B)—

(A) 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.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

21. 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.

**CAUSE FOR ORDER TO REFUSE TO ISSUE A
MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE**

22. McFerron may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation, in that he misrepresented his criminal history on his Application when he falsely answered "No" to Background Question No. 1, thereby indicating that he had no criminal history, and otherwise concealed his criminal history by failing to disclose it on the Application. This misrepresentation is material to the Director's licensing decision.
23. McFerron also may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(2) because McFerron violated a rule of the Director, in that he failed to respond to the Consumer Affairs Division's written inquiries mailed on January 25, 2013 and February 19, 2013 and failed to demonstrate any reasonable justification for his failure to respond, and thereby violated 20 CSR 100-4.100(2), which is a rule of the Director.
24. The Director has considered McFerron's history and all of the circumstances surrounding McFerron's Application. Granting McFerron a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to McFerron.
25. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Ryan J. McFerron** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 24TH DAY OF JUNE, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

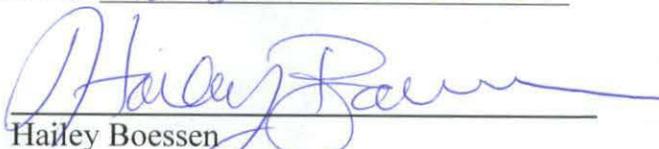
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 24 day of June, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

Ryan J. McFerron
78 Lexie Court
Wentzville, Missouri 63385

Certified No. 70093410000192550967



Hailey Boessen
Senior Office Support Assistant
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