



STATE OF MISSOURI

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ROBERTO ALESANDRO SIOTA, JR.,)

Renewal Applicant.)

) Case No. 141231840C
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)
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)

ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On March 23, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew Roberto Alesandro Siota, Jr.'s motor vehicle extended service contract producer license. 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. Roberto Alesandro Siota, Jr. ("Siota") is a Missouri resident with a residential address of 251 Golden Crest, House Springs, MO 63051.
2. On September 7, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Siota's motor vehicle extended service contract ("MVESC") producer license application ("Initial Application").
3. The "Applicant's Certification and Attestation" section of the Initial 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. Siota signed the "Applicant's Certification and Attestation" section under oath before a notary public.
5. Background Question No. 1 of the Initial 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 and 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 judgement.

6. Siota answered “No” to Background Question No. 1 on the Initial Application.
7. Relying on Siota’s representation on his Initial Application, the Department issued Siota a MVEESC producer license (#8213587) on September 12, 2012. That license expired on September 12, 2014.
8. On September 8, 2014, the Department received Siota’s Application for Motor Vehicle Extended Service Contract Producer License Renewal (“Renewal Application”).
9. 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.
10. On June 13, 2014, Siota signed the “Applicant’s Certification and Attestation” section under oath before a notary public.

11. Background Question No. 1 of the Renewal Application asks 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 a 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 deferred” 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.

12. Siota answered “No” to Background Question No. 1 on the Renewal Application.
13. Contrary to Siota’s “No” answer to Background Question No. 1, the Division’s investigation revealed that on July 26, 2001, Siota pled guilty to Aggravated Driving Under the Influence of Alcohol, a Class 3 Felony, in violation of 625 ILCS 5/11-501. The court sentenced Siota to 90 days’ in jail with credit for 33 days actually served, ordered Siota to pay a \$100.00 fine, and sentenced Siota to 24 months’ probation. *Illinois v. Roberto Siota*, Du Page Co. Cir. Ct., Case No. 01-CF-1449.
14. On September 22, 2014, Special Investigator Andrew Engler (“Engler”), with the Division, sent an inquiry letter to Siota, by first class mail, asking for a statement explaining the circumstances surrounding his conviction and why he failed to disclose it on both of his applications. Engler also asked Siota to provide a certified copy of the

Information, Complaint or other charging documents in the criminal matter. The inquiry letter requested a response by October 12, 2014, and warned Siota that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

15. The inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Siota.
16. Siota did not respond to the Division's September 22, 2014 inquiry letter nor did he demonstrate a reasonable justification for the delay. Siota never responded to the inquiry.
17. On October 14, 2014, Special Investigator Engler sent a second inquiry letter to Siota via first class mail asking for the same information previously requested in the September 22, 2014 inquiry letter. The inquiry letter requested a response by November 3, 2014, and warned Siota that a failure to respond could result in the Department refusing to issue him a MVESC producer license.
18. The inquiry letter sent by first class mail was not returned as undeliverable, and is therefore presumed received by Siota.
19. Siota did not respond to the Division's October 14, 2014 inquiry letter nor did he demonstrate a reasonable justification for the delay. Siota never responded to the inquiry.
20. To date, Siota has not submitted any documentation to the Division and has not contacted the Department.
21. It is inferable, and is hereby found as fact, that Siota falsely answered "No" to Background Question No. 1 and failed to disclose his felony conviction on his Initial Application and Renewal Application in order to misrepresent to the Director that he had no criminal history, and accordingly, in order to improve the chances that the Director would approve his Application and renew his MVESC producer license.

CONCLUSIONS OF LAW

22. Section 385.209 RSMo (Supp. 2013) provides, 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, 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;

* * *

(5) Been convicted of any felony[.]

23. Title 20 CSR 100-4.100(2)(A) states, in relevant part,

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.

24. "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).

25. 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.

26. Renewal of Siota's MVESC producer license may be refused pursuant to § 385.209.1(1) because Siota 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 a material respect or contained incorrect, misleading, or untrue information. Siota's "No" answer to Background Question No. 1 on his Initial Application constitutes incorrect, misleading and untrue information, and rendered his Application incomplete in material respects.

27. Renewal of Siota's MVESC producer license may be refused pursuant to § 385.209.1(2) because Siota violated a rule of the Director, namely 20 CSR 100-4.100(2)(A), in that Siota failed to respond to two written inquiry letters from the Division and failed to demonstrate reasonable justifications for the delays.

28. Each violation of a rule of the Director is a separate and sufficient ground for the Director to refuse to renew Siota's MVESC producer license pursuant to § 385.209.1(2).

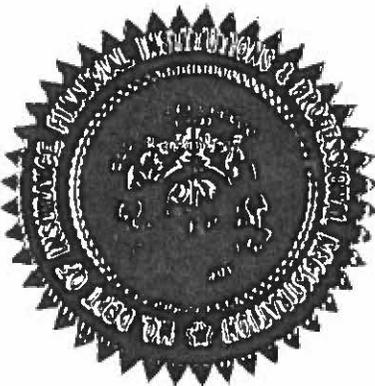
29. Renewal may be refused pursuant § 385.209.1(3) because Siota obtained a license through material misrepresentation or fraud when Siota failed to disclose his felony conviction on his Initial Application.
30. Renewal of Siota's MVESC producer license may be refused pursuant to § 385.209.1(3) because Siota attempted to obtain a MVESC producer license through material misrepresentation or fraud when Siota failed to disclose his felony conviction on his Renewal Application.
31. Each time Siota obtained or attempted to obtain a MVESC producer license through material misrepresentation or fraud is a separate and sufficient ground for the Director to refuse to renew Siota's MVESC producer license pursuant to § 385.209.1(3).
32. Renewal of Siota's MVESC producer license may be refused pursuant to § 385.209.1(5) because Siota has been convicted of a felony. *Illinois v. Roberto Siota*, Du Page Co. Cir. Ct., Case No. 01-CF-1449.
33. The Director has considered Siota's history and all of the circumstances surrounding Siota's Renewal Application. Renewing Siota's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Siota's MVESC producer license.
34. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that Roberto Alesandro Siota, Jr.'s motor vehicle extended service contract producer license renewal application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th DAY OF MARCH, 2015.




JOHN M. HUFF
DIRECTOR

NOTICE

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

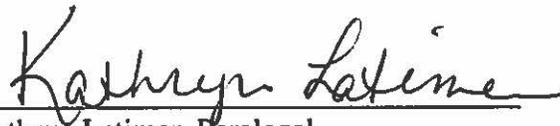
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 26th day of March, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Roberto Alesandro Siota, Jr.
251 Golden Crest
House Springs, Missouri 63051

Tracking No. 1Z0R15W84290977022



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