

State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

WILLIAM AARON SANDS,

Applicant.

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Case No. 141027697C

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

On November 20, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license application of William Aaron Sands. After reviewing the Petition, 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. William Aaron Sands ("Sands") is a Missouri resident with a mailing address of record of 29 Westbrook Dr, O'Fallon, MO 63366.
2. On July 22, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Sands's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Sands answered "No" to Background Information question 36.3 of the Application which asked, in relevant part:

Have you or any business of which you are or were an owner, partner, officer or director, or member or manager of a Limited Liability Company ever been subject to a bankruptcy proceeding?

* * *

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

- a) a written statement explaining the circumstances of the demand or judgment,
- b) a certified copy of the judgment, a copy of the demand, and copies of any other relevant documents,

- c) a certified copy of the official document which demonstrates the resolution of the demand or judgment,
- d) a written statement detailing the case number, type of bankruptcy, the court it was filed before and summarizing the details of the indebtedness and arrangements for repayment,
- e) a certified copy of the "Notice of Bankruptcy" or its equivalent, and
- f) a certified copy of the "Order Discharging Debtor" or its equivalent.

4. Sands answered "No" to Background Information question 36.4 of the Application which asked:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

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. a tax compliance letter, etc.).

5. The Applicant's Certification and Attestation section of the Application, which Sands accepted by his signature notarized July 18, 2014, provides, in relevant part:

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.

6. The Consumer Affairs Division ("Division") of the Department conducted an investigation and discovered, contrary to Sands's sworn representation on his Application, that Sands had filed bankruptcy twice:

- a. *In re William A. Sands and Kristen R. Sands*, S.D. Ill. Bankr. Ct., Case No. 97-33473; and

b. *In re William A. Sands and Melisa E. Sands*, S.D. Ill. Bankr. Ct., Case No. 08-32764.

7. The Division's investigation also discovered, contrary to Sands's sworn representation on his Application, that on April 4, 2014, the St. Charles County Circuit Court entered a judgment against Sands for unpaid Missouri individual income tax for the years 2011 and 2012. The judgment remains unsatisfied and provides that a \$5,581.56 "assessment of tax, interest, additions to tax, penalties, and fees have been made and become final. Interest continues to accrue as provided by law until the full amount of the tax liability has been paid." *Dep't of Revenue v. William A. Sands, et al.*, St. Charles Co. Cir. Ct., Case No. 1411-MC01876.
8. Andrew Engler, a Special Investigator with the Division, mailed Sands an inquiry letter on July 28, 2014 by first-class mail, postage prepaid, requesting information about Sands's tax delinquency and "the current status of the lien along with evidence of a repayment arrangement or a letter of compliance" ("inquiry letter"). The inquiry letter further advised Sands that his response was due "on or before August 17, 2014" and that "[f]ailure to respond could result in a refusal to issue your [motor vehicle extended service contract producer] license."
9. The inquiry letter was not returned to the Division as undeliverable; therefore, Sands is presumed to have received it.
10. The Division did not receive any correspondence or communication from Sands regarding the inquiry letter on or before August 17, 2014, nor did Sands demonstrate a reasonable justification for that delay.
11. It is inferable, and hereby found as fact, that Sands answered "No" to Background Information questions 36.3 and 36.4 of the Application in order to misrepresent to the Director that he had no prior bankruptcies or delinquent state or federal income tax obligations and, accordingly, to improve the chance that the Director would act favorably on the Application and issue Sands a motor vehicle extended service contract ("MVESC") producer license.

CONCLUSIONS OF LAW

12. Section 385.209.1, RSMo (Supp. 2013),¹ provides, in relevant part:

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

¹ All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

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;

* * *

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

(14) Has within the last fifteen years been declared insolvent by the director or a motor vehicle extended service contract regulator of another state or has been the subject of a bankruptcy petition.

13. Title 20 CSR 100-4.100(2)(A) 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.

14. "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. E.D. 2000) (internal citation omitted).
15. 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 MVEESC producer licensure, but to protect the public.
16. The Director may refuse to issue a MVEESC producer license to Sands pursuant to § 385.209.1(2) because Sands violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), when he did not respond to the Division's inquiry letter within twenty days and did not demonstrate reasonable justification for that delay.

17. The Director may refuse to issue a MVEESC producer license to Sands pursuant to § 385.209.1(3) because Sands has attempted to obtain a MVEESC producer license through material misrepresentation or fraud, specifically by his sworn false answers to Background Information questions 36.3 and 36.4 of the Application, claiming that he had no prior bankruptcies or state or federal income tax delinquencies.
18. The Director may refuse to issue a MVEESC producer license to Sands pursuant to § 385.209.1(13) because Sands has failed to comply with an administrative or court order directing payment of Missouri individual income tax, as evinced by the unsatisfied judgment against him in *Dep't of Revenue v. William A. Sands, et al.*, St. Charles Co. Cir. Ct., Case No. 1411-MC01876.
19. The Director may refuse to issue a MVEESC producer license to Sands pursuant to § 385.209.1(14) because Sands has been the subject of a bankruptcy petition within the last fifteen years. *In re William A. Sands and Melisa E. Sands*, S.D. Ill. Bankr. Ct., Case No. 08-32764 (filed Dec. 10, 2008).
20. The Director has considered Sands's history and all of the circumstances surrounding Sands's Application. Issuing Sands a MVEESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Sands a MVEESC producer license.
21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **William Aaron Sands** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 24 DAY OF November, 2014.



A handwritten signature in black ink, appearing to read "John M. Huff", is written over a horizontal line.

JOHN M. HUFF
DIRECTOR

NOTICE

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

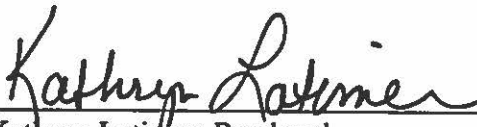
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 25th day of November, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

William Aaron Sands
29 Westbrook Drive
O'Fallon, Missouri 63366-2433

No. 1Z0R15W84295208291



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