



FINAL ORDER
EFFECTIVE
10-12-16

State of Missouri

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

IN RE:

BOBBY JAMES BLACK,

Applicant.

Case No. 160524289C

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

On September 1, 2016, 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 Bobby James Black. 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. Bobby James Black ("Black") is a Missouri resident with a residential and mailing address of 3029 Westminister, St. Charles, Missouri 63301.
 2. On November 16, 2015, the Department of Insurance, Financial Institutions and Professional Registration received Black's completed 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.
- * * *
5. I further certify, under penalty of perjury, that a) I have no child support obligation, b) I have a child support obligation and I am currently in

compliance with that obligation, or c) I have a child support obligation that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Information Question []7.

4. Black accepted the "Applicant's Certification and Attestation" section by signing the Application before a notary public.
5. Background Question No. 1 of the 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.

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

7. Contrary to Black's answer to Background Question No. 1, the Consumer Affairs Division ("Division") discovered that on May 19, 2014, Black pled guilty to, and was convicted of, Possession Of Up To 35 Grams Marijuana, a Class A Misdemeanor, in violation of § 195.202 RSMo¹ and Unlawful Use Of Drug Paraphernalia, a Class A Misdemeanor, in violation of § 195.233. The court ordered Black to pay court costs and a fine in the amount of \$100.00 for each count. *State v. Bobby James Black*, St. Charles Co. Cir. Ct., Case No. 1311-CR06126.
8. Background Question No. 7 of the Application asks the following:
- Do you currently have or have you had a child support obligation?
- If you answer yes:
- a) are you in arrearage?
 - b) by how many months are you in arrearage? _____ months
 - c) what is the total amount of your arrearage? _____
 - d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
 - e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)
 - f) are you the subject of a child support related subpoena/warrant? (If you answer yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)
 - g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?
9. In response to Background Question No. 7 on his Application, Black answered that he does have a child support obligation but indicated he is not in arrears, does not have a repayment plan, is not the subject of a child support related subpoena or warrant, and has never been convicted of a felony or misdemeanor for failure to pay child support.
10. During its investigation, the Division confirmed the existence of Black's child support obligation, but discovered that Black has an arrearage that he did not disclose. On February 23, 2015, the St. Charles County Circuit Court entered an order directing Black to pay \$4,000.00 for retroactive child support at the rate of at least \$300.00 per month until paid in full. In addition, the court ordered Black to pay \$2,666.00 for outstanding medical costs incurred by his children. The court did not order any ongoing child support. As of November 2015 when Black signed his Application, his arrearage totaled \$2,666.00. As of September, Black's arrearage totals \$6,666.00. *See Ashley C. Black v. Bobby J. Black*, St. Charles Co. Cir. Ct., Case No. 1311-FC02000; Missouri Dep't of Soc. Servs., Family Support Div., Case No. 61501206.

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

11. On November 19, 2015, after reviewing Black's Application and his criminal record, Special Investigator Andrew Engler of the Division sent an inquiry letter to Black. Said inquiry letter requested an explanation of the circumstances surrounding Black's misdemeanor charges and why he failed to disclose them on his Application.
12. In response, on December 11, 2015, Black submitted a letter and a copy of the Information and Plea of Guilty filed in case number 1311-CR06126. In his letter Black stated, verbatim: "I assumed the section about my criminal history was referring to felonies only. My apologies"
13. It is inferable, and hereby found as fact, that Black failed to disclose his criminal history on his Application in order to misrepresent his criminal history to the Director, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a motor vehicle extended service contract ("MVESC") producer license.
14. It is also inferable, and hereby found as fact, that Black failed to disclose his child support arrearage on his Application in order to misrepresent to the Director that he is compliant with his child support order, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)² 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:

* * *

- (3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]

* * *

- (12) Failed to comply with an administrative or court order imposing a child support obligation[.]

² All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement.

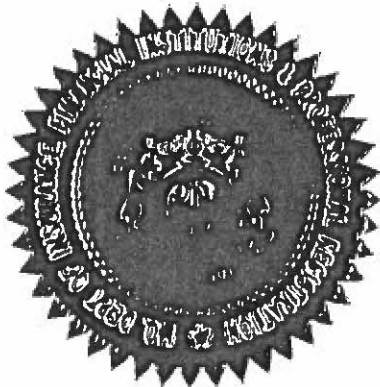
16. The Director may refuse to issue a MVESC producer license to Black pursuant to § 385.209.1(3) because Black attempted to obtain a MVESC producer license through material misrepresentation or fraud in that he failed to disclose the following convictions in response to Background Question No. 1 on his Application:
 - a. Possession Of Up To 35 Grams Marijuana, a Class A Misdemeanor. *State v. Bobby James Black*, St. Charles Co. Cir. Ct., Case No. 1311-CR06126.
 - b. Unlawful Use Of Drug Paraphernalia, a Class A Misdemeanor. *Id.*
17. The Director may refuse to issue a MVESC producer license to Black pursuant to § 385.209.1(3) because Black attempted to obtain a MVESC producer license through material misrepresentation or fraud in that he failed to disclose his child support arrearage. *See Ashley C. Black v. Bobby J. Black*, St. Charles Co. Cir. Ct., Case No. 1311-FC02000; Missouri Dep't of Soc. Servs., Family Support Div., Case No. 61501206.
18. The Director may refuse to issue a MVESC producer license to Black pursuant to § 385.209.1(12) because Black has failed to comply with an administrative or court order imposing a child support obligation and, as a result, currently owes \$6,666.00 in arrears. *See id.*
19. The Director has considered Black's history and all of the circumstances surrounding Black's Application. Issuing Black a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Black a MVESC producer license.
20. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Bobby James Black** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 6th DAY OF SEPTEMBER, 2016.



JOHN M. HUFF
DIRECTOR, Missouri Department of Insurance,
Financial Institutions and Professional Registration

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.


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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2016, 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:

Bobby James Black
3029 Westminister Drive
Saint Charles, Missouri 63301-0656

No. 1Z0R15W84298643743

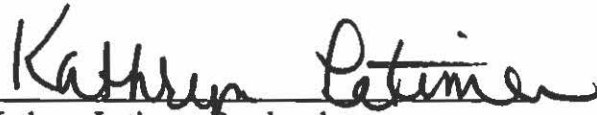

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of September, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

Bobby James Black
3029 Westminister Drive
Saint Charles, Missouri 63301-0656

Certified No. 7013 2250 0000 4609 6418

A handwritten signature in black ink, reading "Kathryn Latimer". The signature is fluid and cursive, with the first name "Kathryn" and last name "Latimer" clearly distinguishable.

Kathryn Latimer, Paralegal
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Institutions and Professional Registration
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