



State of Missouri

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

IN RE:

JOHN KENNEDY BRISON, JR.,

Applicant.

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Case No. 160823399C

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

On December 7, 2016, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to John Kennedy Brison, Jr. 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. John Kennedy Brison, Jr. ("Brison") is a Missouri resident with a residential address of record of 1224 Tamm Ave., St. Louis, Missouri 63139.
2. On April 14, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Brison'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. I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state or federal income tax obligation and I have provided all information and

documentation requested in Background Information Question 36.4.

4. Brison accepted the "Applicant's Certification and Attestation" section by signing the Application under oath before a notary public.
5. Brison answered "No" to Background Information Question No. 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. tax compliance letter, etc.).
6. The Consumer Affairs Division ("Division") of the Department conducted an investigation and discovered that, contrary to Brison's sworn representation on his Application, on or about February 19, 2010, the St. Louis City Circuit Court entered a judgment against Brison in the amount of \$774.41 for unpaid Missouri individual income tax for the 2007 filing year. The judgment remains unsatisfied. *Dep't of Revenue v. John K. Brison*, St. Louis City Cir. Ct., Case No. 1022-MC01099.
 7. On May 19, 2016, Andrew Engler, a Special Investigator with the Division ("Special Investigator Engler"), sent an inquiry letter to Brison by first-class mail, postage prepaid, that requested documentation regarding Brison's tax delinquency. The inquiry letter further advised Brison that pursuant to 20 CSR 100-4.100, his response was due within twenty days and that failure to respond could result in a refusal to issue a motor vehicle extended service contract ("MVESC") producer license to Brison.
 8. The May 19, 2016 inquiry letter was not returned to the Division as undeliverable; therefore, Brison is presumed to have received it.
 9. The Division never received any communication from Brison regarding the May 19, 2016 inquiry letter, nor did Brison demonstrate a reasonable justification for the delay.

10. On June 9, 2016, Special Investigator Engler mailed a second inquiry letter to Brison by first-class mail, postage prepaid, that asked for the same documentation previously requested in the May 19, 2016 inquiry letter. The second inquiry letter further advised Brison that pursuant to 20 CSR 100-4.100, his response was due within twenty days and that failure to respond could result in an administrative action.
11. The June 9, 2016 inquiry letter was not returned to the Division as undeliverable; therefore, Brison is presumed to have received it.
12. The Division never received any communication from Brison regarding the June 9, 2016 inquiry letter, nor did Brison demonstrate a reasonable justification for the delay.
13. It is inferable, and hereby found as fact, that Brison answered "No" to Background Information Question No. 36.4 of the Application in order to misrepresent to the Director that he had not failed to pay state income tax and, accordingly, to improve the chance that the Director would act favorably on his Application and issue Brison a MVESC producer license.
14. During its investigation, the Division also discovered a child support obligation that was established after Brison submitted his Application.
15. On May 24, 2016, a child support obligation was established and Brison was ordered to pay \$269.00 per month to B.B. for the support of one minor child. As of December 2016, Brison's arrearage totals \$1,883.00. *Missouri Family Servs. Div. – Child Support Enforcement, et al v. John Brison, Jr*, St. Louis Co. Cir. Ct., Case No. 15SL-DR03066.

CONCLUSIONS OF LAW

16. 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 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;

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

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

* * *

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

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

17. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division 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.

18. "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).
19. The Director may refuse to issue a MVESC producer license to Brison pursuant to § 385.209.1(2) because Brison twice violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), when he failed to mail adequate responses to two inquiry letters and failed to demonstrate reasonable justification for the delays.
20. Each violation of a rule of the Director is a separate and sufficient cause for refusal pursuant to § 385.209.1(2).
21. The Director may refuse to issue a MVESC producer license to Brison pursuant to § 385.209.1(3) because Brison attempted to obtain a MVESC producer license through material misrepresentation or fraud by his false answer to Background Information Question No. 36.4 of the Application, claiming that he had never failed to pay state income tax and never failed to comply with an administrative or court order directing payment of state income tax. *Dep't of Revenue v. John K. Brison*, St. Louis City Cir. Ct., Case No. 1022-MC01099.
22. The Director may refuse to issue a MVESC producer license to Brison pursuant to § 385.209.1(12) because Brison has failed to comply with an administrative or court order imposing a child support obligation, as evidenced by the arrearage he owes in

Missouri Family Servs. Div. – Child Support Enforcement, et al v. John Brison, Jr, St. Louis Co. Cir. Ct., Case No. 15SL-DR03066.

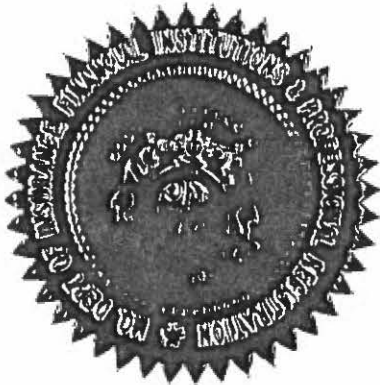
23. The Director may refuse to issue a MVEESC producer license to Brison pursuant to § 385.209.1(13) because Brison has failed to comply with an administrative or court order directing payment of state income tax, as evidenced by the unsatisfied judgment against him in *Dep't of Revenue v. John K. Brison*, St. Louis City Cir. Ct., Case No. 1022-MC01099.
24. The Director has considered Brison's history and all of the circumstances surrounding Brison's Application. Granting Brison a MVEESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue a MVEESC producer license to Brison.
25. This Order is in the public interest.


ORDER

IT IS THEREFORE ORDERED that **John Kennedy Brison, Jr.'s** motor vehicle extended service contract producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 7th DAY OF DECEMBER, 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:

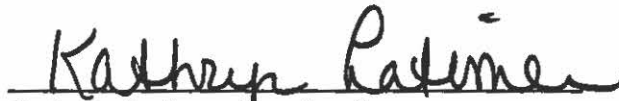
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

John Kennedy Brison, Jr.
1224 Tamm Ave.
St. Louis, Missouri 63139

Tracking No. 1Z0R15W84290092237

A handwritten signature in black ink, reading "Kathryn Latimer", written over a horizontal line.


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 28th day of December 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:

John Kennedy Brison, Jr.
1224 Tamm Ave.
St. Louis, Missouri 63139

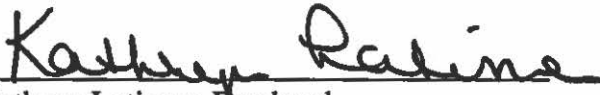
Certified No. 7013 2250 0000 4609 6562


Kathryn Latimer, Paralegal
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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 18th day of January 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

John Kennedy Brison, Jr.
1224 Tamm Ave.
St. Louis, Missouri 63139


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 31st day of January 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

John Kennedy Brison, Jr.
4134 Pennsylvania Ave.
St. Louis, Missouri 63118

Tracking No. 1Z0R15W84293818493


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