# State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

| | | |
|---|---|---|
| **IN RE:** | ) | |
| | ) | |
| **ALEXANDRIA A. ARCOBASSO,** | ) | **Case No. 207021** |
| | ) | |
| **Applicant.** | ) | |

## ORDER REFUSING TO RENEW MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On March 21, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the motor vehicle extended service contract (MVESC) producer license of Alexandria A. Arcobasso. 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. Alexandria A. Arcobasso ("Arcobasso") is a Missouri resident with a residential address of record of 972 Pine St., St. Charles, Missouri, 63301.

2. On December 14, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Arcobasso's original Application for Motor Vehicle Extended Service Contract Producer License ("2011 Application").

3. Background Question No. 4 of the 2011 Application asked the following:

   Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

   If you answer yes, identify the jurisdiction(s): _____

4. Arcobasso marked "No" to Background Question No. 4.

5. On January 1, 2012, the Director issued Arcobasso an MVESC producer license, which license expired on January 1, 2014.

6. On September 12, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Arcobasso's Application for Motor Vehicle Extended Service Contract Producer License ("2013 Application").

7. Because Arcobasso already held an MVESC producer license when she submitted the Application, her Application was for renewal of her MVESC producer license.

8. By signing the 2013 Application, Arcobasso attested that "all of the information submitted in this application and attachments is true and complete."

9. Background Question No. 4 of the Application asked the following:

   Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

   If you answer yes, identify the jurisdiction(s): _____

10. Arcobasso marked "No" to Background Question No. 4.

11. Arcobasso did not disclose any delinquent tax obligation in her Application.

12. At no time between December 14, 2011, and January 28, 2014, did Arcobasso disclose any delinquent tax obligation to the Director.

13. On January 28, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Arcobasso's Application for Motor Vehicle Extended Service Contract Producer License Renewal ("2014 Application").

14. By signing the 2014 Application, Arcobasso attested that "all of the information submitted in this application and attachments is true and complete."

15. Background Question No. 4 of the 2014 Application asked the following:

    Have you failed to pay state or federal income tax, which has not been previously reported to this insurance department?

    Have you failed to comply with an administrative or court order directing payment of state or federal income tax, which has not been previously reported to this insurance department?

    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.).

16. Arcobasso marked "No" to Background Question No. 4 of the 2014 Application.

17. Arcobasso did not disclose any delinquent tax obligation in her 2014 Application.

18. Contrary to Arcobasso's "No" answers to Question No. 4 in the 2013 Application and the 2014 Application, the Consumer Affairs Division's investigation revealed information indicating that Arcobasso owed a delinquent tax obligation, of which she had been notified:

    a. On December 7, 2012, the Director of the Missouri Department of Revenue filed a Certificate of Tax Lien – Individual Income Tax in the St. Charles County Circuit Court, certifying that Arcobasso owed $1,283.12 in delinquent taxes, interest and fees, which, upon filing, became the judgment of the court under § 143.902. The judgment remains unsatisfied.[1]

19. It is inferable, and is hereby found as fact, that in both the 2013 Application and the 2014 Application, Arcobasso falsely answered no to Question No. 4 and failed to disclose her delinquent tax obligation, in order to misrepresent to the Director that she had no delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve her Application and renew her MVESC producer license.

20. On September 18, 2013, Consumer Affairs Division investigator Andrew Engler mailed an inquiry letter to Arcobasso requesting information about the current status of her Missouri state tax lien and a copy of any repayment schedule.

21. Engler mailed the September 18, 2013 letter by first class mail to Arcobasso's address of record, with sufficient postage attached.

22. The September 18, 2013 letter was not returned as undeliverable.

23. Arcobasso never responded to the September 18, 2013 letter and has not demonstrated any justification for her failure to respond.

24. On October 9, 2013, Engler mailed a second inquiry letter to Arcobasso, again requesting information about the current status of her Missouri state tax lien and a copy of any

[1] *Department of Revenue v. Alexandria A. Arcobasso*, St. Charles Co. Cir. Ct., No. 1211-MC06770.

repayment schedule.

25. Engler mailed the October 9, 2013 letter by first class mail to Arcobasso's address of record, with sufficient postage attached.

26. The October 9, 2013 letter was not returned as undeliverable.

27. Arcobasso never responded to the October 9, 2013 letter and has not demonstrated any justification for her failure to respond.

28. On December 5, 2013, the Missouri Department of Revenue provided an affidavit showing that, as of that date, Arcobasso owed $722.66 in delinquent Missouri state income taxes, with interest updated to December 31, 2013.

## CONCLUSIONS OF LAW

29. Section 385.209 RSMo, Supp. 2013, 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;
>
> * * *
>
> (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

30. 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.

31. 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.

32. The Director may refuse to renew Arcobasso's MVESC producer license pursuant to § 385.209.1(13) because Arcobasso failed to comply with an administrative and court order directing payment of state income tax. The Certificate of Tax Lien – Individual Income Tax, filed on December 7, 2012, by the Director of Revenue in *Department of Revenue v. Alexandria A. Arcobasso*, St. Charles Co. Cir. Ct., No. 1211-MC06770, which became the judgment of the court upon its filing, remains unsatisfied.

33. The Director also may refuse to renew Arcobasso's MVESC producer license under § 385.209.1(3) because Arcobasso falsely answered no to Question No. 4 and failed to disclose her delinquent tax obligation in her Application, in order to misrepresent to the Director that she had no delinquent tax obligations and, accordingly, in order to improve the chances that the Director would approve her Application and issue her an MVESC producer license.

34. The Director also may refuse to renew Arcobasso's MVESC producer license under § 385.209.1(2) because Arcobasso violated a rule of the Director, in that Arcobasso failed to respond to two written inquiries from the Consumer Affairs Division—on September 18, 2013, and October 9, 2013—without demonstrating reasonable justification for either of her failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.

35. When the Consumer Affairs Division's inquiries afforded Arcobasso the opportunity to explain her false answer to Question No. 4 and her failure to disclose her tax delinquency in her 2013 Application, Arcobasso twice failed to respond. When Arcobasso filed her 2014 Application on January 28, 2014, she could have taken the opportunity to truthfully answer Question No. 4 and to disclose her tax delinquency, but she failed to do so again.

36. The Director has considered Arcobasso's history and all of the circumstances surrounding Arcobasso's Application. Renewing Arcobasso's MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Arcobasso's MVESC producer license.

37. This order is in the public interest.

## ORDER

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license application of **Alexandria A. Arcobasso** received on January 28, 2014, is hereby **REFUSED**.

**SO ORDERED.**

**WITNESS MY HAND THIS** 3RD **DAY OF** APRIL**, 2014.**

**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 4th day of April, 2014, a copy of the foregoing Order and Notice was served upon the applicant in this matter by certified mail at the following address:

Alexandria A. Arcobasso
972 Pine St.
St. Charles, Missouri 63301

Certified No. 7009 3410 0001 9254 7325

Angie Gross

Angie Gross
Investigations Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: angie.gross@insurance.mo.gov