



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ALEEM R. JOHNSON,

Applicant.

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Case No. 200049

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On October 21, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Aleem R. Johnson. 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. Aleem R. Johnson ("Johnson") is a Missouri resident with a residential address of record of 2304 Firestone Court, St. Charles, Missouri, 63303.
2. On January 18, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Johnson's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. 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): _____
4. Johnson marked "No" to Background Question No. 4.
5. Johnson did not disclose any delinquent tax obligation in his Application.
6. Contrary to Johnson's "No" answer to Question No. 4, the Consumer Affairs Division's investigation revealed information indicating that Johnson owed a delinquent tax

obligation, of which he had been notified:

- a. On May 3, 2010, the Director of the Missouri Department of Revenue filed a Certificate of Tax Lien – Individual Income Tax in the St. Louis County Circuit Court, certifying that Johnson owed \$4,894.68 in delinquent taxes from 2003, interest and penalties, which, upon filing, became the judgment of the court under § 143.902. The judgment remains unsatisfied.¹
7. It is inferable, and is hereby found as fact, that Johnson failed to disclose his delinquent tax obligation in his Application in order to represent to the Director that he had no delinquent tax obligations, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVEESC producer license.
8. On January 25, 2013, Consumer Affairs Division investigator Dennis Fitzpatrick mailed an inquiry letter to Johnson requesting an explanation of his “No” answer to Background Question No. 4, in light of the information indicating that Johnson had delinquent tax obligations of which he had been notified, and requesting a copy of any repayment schedule.
9. Fitzpatrick mailed the January 25, 2013 letter by first class mail to Johnson’s address of record, with sufficient postage attached.
10. Neither copy of the January 25, 2013 letter was returned as undeliverable.
11. Johnson never responded to the January 25, 2013 letter and has not demonstrated any justification for his failure to respond.
12. On March 1, 2013, Fitzpatrick mailed a second inquiry letter to Johnson, again requesting an explanation of his “No” answer to Background Question No. 4, and again requesting a copy of any repayment schedule.
13. Fitzpatrick mailed the May 1, 2013 letter by first class mail to Johnson’s address of record, with sufficient postage attached.
14. Neither copy of the March 1, 2013 letter was returned as undeliverable.
15. Johnson never responded to the March 1, 2013 letter and has not demonstrated any justification for his failure to respond.
16. On August 21, 2013, the Missouri Department of Revenue provided an affidavit showing that, as of that date, Johnson owed \$5,266.38 in delinquent Missouri state income taxes, with interest updated to August 31, 2013.

¹ *Department of Revenue v. Aleem Johnson*, St. Louis Co. Cir. Ct., No. 10SL-MC04326.

CONCLUSIONS OF LAW

17. Section 385.209 RSMo, Supp. 2012, 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[.]

18. 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.

19. 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.

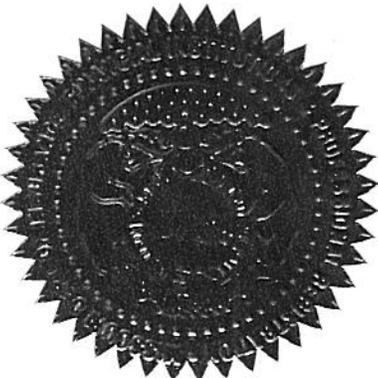
20. The Director may refuse to issue Johnson an MVESC producer license pursuant to § 385.209.1(13) because Johnson failed to comply with an administrative and court order directing payment of state income tax. The Certificate of Tax Lien – Individual Income Tax, filed on May 3, 2010 by the Director of Revenue in *Department of Revenue v. Aleem Johnson, St. Louis Co. Cir. Ct., No. 10SL-MC04326*, which became the judgment of the court upon its filing, remains unsatisfied.
21. The Director also may refuse to issue Johnson an MVESC producer license under § 385.209.1(3) because Johnson attempted to obtain a license through material misrepresentation or fraud when in his Application he failed to disclose his delinquent tax obligations, falsely answering “No” to Background Question No. 4.
22. The Director also may refuse to issue Johnson an MVESC producer license under § 385.209.1(2) because Johnson violated a rule of the Director, in that Johnson failed to respond to two written inquiries from the Consumer Affairs Division—on January 25, 2013, and March 1, 2013—without demonstrating reasonable justification for either of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
23. The Director has considered Johnson’s history and all of the circumstances surrounding Johnson’s Application. Granting Johnson an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue an MVESC producer license to Johnson.
24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Aleem R. Johnson** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th DAY OF OCTOBER, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

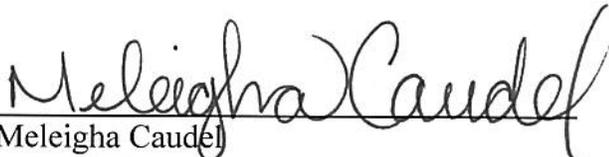
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 28th day of October, 2013, a copy of the foregoing Order and Notice was served upon the applicant in this matter by regular and certified mail at the following address:

Aleem R. Johnson
2304 Firestone Court
St. Charles, Missouri 63303

Certified No. 7009 341D 0001 9255 0356


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