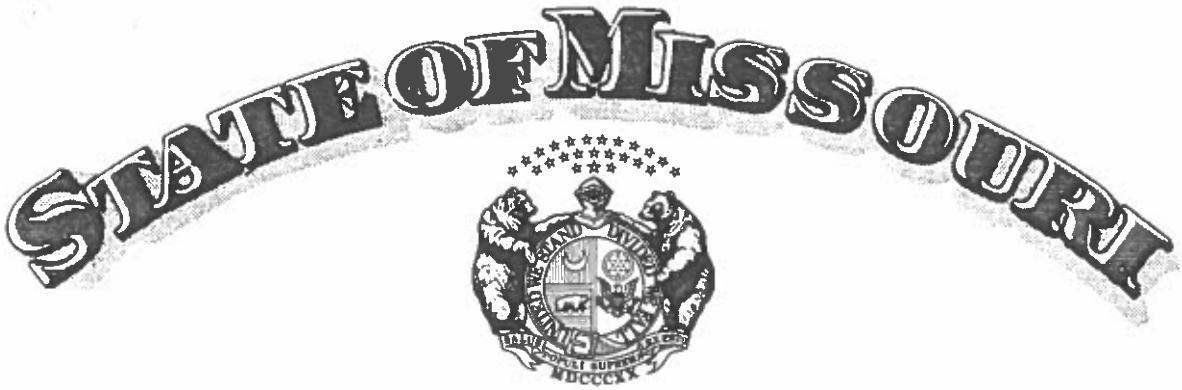

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:	)	
	)	
BEAU ROBERT GIESSMAN,	)	**Case No. 160720356C**
	)	
Applicant.	)	

CONSENT ORDER

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Mark J. Rachel, and Beau Robert Giessman have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director" of the "Department") whose duties, pursuant to Chapters 374 through 385 RSMo[1] include the licensure, supervision, and discipline of motor vehicle extended service contract ("MVESC") producers in the State of Missouri.

2. The Consumer Affairs Division of the Department (the "Division") has the duty of conducting investigations into the qualifications of MVESC producer license applicants and

[1] All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement.

has been authorized by the Director to initiate actions before the Director to enforce the MVESC laws of Missouri, including MVESC producer license application refusal.

3. On or about May 26, 2000, Beau Robert Giessman ("Giessman") pled guilty to two counts of Stealing, a Class C Felony, in violation of § 570.030 RSMo;[2] the court suspended imposition of sentence and ordered Giessman to complete five years of supervised probation. *State v. Beau R. Giessman*, St. Charles Co. Cir. Ct., Case No. 11R019903065-01.

4. On or about February 3, 2005, the court revoked Giessman's probation and convicted him, sentencing him to five years' incarceration, but suspended execution of the sentence and ordered Giessman to complete a new five-year term of probation, which he did. *Id.*

5. Since 2004, Giessman has been the subject of a domestic support order with which he has complied. *See* Missouri Dep't of Soc. Servs., Family Support Div., Case No. 41052624.

6. On June 13, 2016, the Department received Giessman's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

7. Giessman answered "No" to Background Information Question 36.1 of the Application which asked, in relevant part: "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?"

8. Giessman also answered "No" to Background Information Question 36.7 of the Application and its various subparts which asked, in relevant part: "Do you currently have or have you had a child support obligation?"

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[2] All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri pursuant to which the judgment was rendered.

9. Giessman signed the Application before a notary public, and by doing so accepted the Application's certification provision which stated, 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.

10. Giessman understands and agrees that pursuant to § 385.209.1(3) the Director may refuse to issue a MVESC producer license to Giessman because he attempted to obtain a license through material misrepresentation by his false answers to Background Questions 36.1 and 36.7 of his Application. *See* Missouri Dep't of Soc. Servs., Family Support Div., Case No. 41052624; *State v. Beau R. Giessman*, St. Charles Co. Cir. Ct., Case No. 11R019903065-01.

11. Giessman understands and agrees that pursuant to § 385.209.1(5) the Director may refuse to issue a MVESC producer license to Giessman because he has been convicted of a Felony, specifically Stealing, a Class C Felony, in violation of § 570.030. *See id.*

12. Giessman stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order, and forever releases and holds harmless the Department, the Division, the Director, and his agents from all liability and claims arising out of, pertaining to, or relating to this matter.

13. Giessman acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other jurisdictions. Giessman further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications in this state and elsewhere, and that it is his responsibility to comply with the reporting requirements of each jurisdiction in which he may be licensed.

14. All signatories to this Consent Order certify by signing that they are fully authorized, in their own capacities, or by the named parties they represent, to accept the terms and provisions of this Consent Order in their entirety and agree, in their personal or representative capacities, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

15. Section 385.209.1 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:
>
> * * *
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]
>
> * * *
>
> (5) Been convicted of any felony[.]

16. The foregoing facts hereby admitted by Giessman constitute cause for the Director to refuse Giessman's Application pursuant to § 385.209.1(3) and (5).

17. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

18. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance of this Consent Order is in the public interest.

ORDER

IT IS ORDERED that the Department will issue a MVESC producer license to Beau Robert Giessman, subject to the conditions set forth herein and the following special conditions:

1. Beau Robert Giessman shall report to the Consumer Affairs Division any violation of or failure to comply with Missouri insurance laws and regulations, including those set forth in Chapters 374 through 385, within five (5) business days of such violation or failure to comply.

2. Beau Robert Giessman shall respond to all inquiries from the Consumer Affairs Division in accordance with 20 CSR 100-4.100.

3. If a consumer complaint is communicated directly to Beau Robert Giessman, he shall send the Consumer Affairs Division a copy of the complaint and a copy of his response to the consumer within five (5) business days of receipt of the consumer complaint.

4. Beau Robert Giessman shall report to the Consumer Affairs Division any administrative action taken against him by any other state or federal governmental agency in Missouri or any other jurisdiction within five (5) business days of the final disposition of such administrative action.

5. Beau Robert Giessman shall report to the Consumer Affairs Division any of the following incidents involving him: the first court hearing or appearance in any criminal proceeding, guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Beau Robert Giessman shall report all such incidents to the Consumer Affairs Division within five (5) business days of their occurrence.

6. Beau Robert Giessman shall voluntarily surrender his MVESC producer license to the Department within five (5) business days of any of the following incidents involving him:

guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor, regardless of whether any associated sentence is suspended or executed.

7. The special conditions listed in the preceding six (6) paragraphs will expire upon the expiration, lapse, termination, revocation, or renewal of Beau Robert Giessman's MVESC producer license, whichever occurs first.

IT IS FURTHER ORDERED that if Beau Robert Giessman fully complies with the terms and conditions of this Consent Order, he may apply to renew his MVESC producer license and the Director shall consider any renewal application in accordance with Chapters 374 through 385, but without regard to the Application or the prosecution of *State v. Beau R. Giessman*, St. Charles Co. Cir. Ct., Case No. 11R019903065-01.

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies as determined appropriate by the Director and without limitation, as authorized by Chapters 374 through 385, including remedies for violating or failing to comply with the terms and conditions of this Consent Order.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 13th DAY OF September, 2016.

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

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Beau Robert Giessman has the right to a hearing, but that Beau Robert Giessman has waived the hearing and agreed to the issuance of this Consent Order.

_____ 9/1/2016
Beau Robert Giessman, Applicant — Date
2844 Danube Way
Saint Charles, Missouri 63301-0380
(636) 352-5957

_____ _____
Date

_____
Counsel for Respondent

Missouri Bar #: _____

Address: _____

_____

_____

Telephone: _____

Facsimile: _____

E-mail: _____

_____ 12 Sept 2016
Mark J. Rachel, Missouri Bar #66167 — Date
Counsel for Consumer Affairs Division
Department of Insurance, Financial
Institutions and Professional Registration
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