



**State of Missouri**

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION

IN RE:

BRANDON J. CARTER,

Applicant.

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Case No. 203322

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

On February 27, 2014, 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 Brandon J. Carter. 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. Brandon J. Carter ("Carter") is a Missouri resident with a residential address of record of 6530 Bartmer Avenue, St. Louis, Missouri, 63130.
2. On August 13, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Carter's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Carter attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "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, or having been

given probation, a suspended sentence or a fine.

“Had a judgement withheld or deferred” includes circumstances in which a guilty plea was entered and/or a finding of guilt is 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”).

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) a copy of the charging document, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgement[.]

5. Carter answered “No” to Question No. 1.
6. Contrary to Carter’s “No” answer to Question No. 1, investigation by the Consumer Affairs Division revealed that Carter had been convicted of a felony and had a judgment withheld or deferred (a suspended imposition of sentence) after pleading guilty to a second felony:
  - a. On January 24, 2013, Carter pleaded guilty in the St. Louis County Circuit Court to the Class C Felony of Stealing (Over \$500), in violation of § 570.030. The court sentenced Carter to five years’ imprisonment, but suspended execution of the sentence, placed Carter on 120 days’ home detention, and placed Carter on five years’ probation;<sup>1</sup> and
  - b. On June 24, 2011, Carter pleaded guilty in the St. Louis County Circuit Court to the Class C Felony of Forgery, in violation of § 570.090. The court suspended the imposition of sentence and placed Carter on five years’ probation. The court also ordered Carter to pay \$4,379.19 in restitution. The Indictment in this matter alleged that Carter “with purpose to defraud, made telephone calls authorizing payment from an account so that they purported to have a genuineness that they did not possess.”<sup>2</sup>
7. Background Question No. 7 of the Application asks the following:

7. Do you have a child support obligation in arrearage?

If you answer yes:

- a) by how many months are you in arrearage? \_\_\_\_\_ months
- b) are you currently subject to and in compliance with any repayment agreement?
- c) are you the subject of a child support related subpoena/warrant? (If you answer yes,

<sup>1</sup> *State of Missouri v. Brandon J. Carter*, St. Louis Co. Cir. Ct., No. 12SL-CR00550-01.

<sup>2</sup> *State of Missouri v. Brandon J. Carter*, St. Louis Co. Cir. Ct., No. 08SL-CR00809-01.

provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)

8. Carter answered "Yes" to Background Question No. 7, indicated that he was four months in arrearage and that he was subject to and in compliance with a repayment agreement.
9. Contrary to Carter's answer to Question No. 7, as of the date of the Application Carter owed a total of \$32,295.77 in arrearages on three separate child support obligations. The total child support payment Carter was obligated to pay each month as of August 13, 2013, was \$547.00. At that monthly rate, Carter's arrearage represented approximately 59 unpaid months. At no time has Carter provided any evidence of a repayment agreement or of compliance with any repayment agreement.
10. As of February 18, 2014, Carter owed a total of \$35,356.92 in child support arrearages.
11. On April 25, 2005, the St. Louis County Circuit Court, in a paternity action, entered a judgment ordering Carter to pay \$50.00 per month in child support to T.H.<sup>3</sup>
12. As of the date of the Application, Carter was \$410.79 in arrearage on his child support obligation to T.H. As of February 18, 2014, Carter was \$690.61 in arrearage on his child support obligation to T.H.
13. July 20, 2007, the St. Louis County Circuit Court, in a paternity action, entered a judgment ordering Carter to pay \$228.00 per month in child support to L.T. and to reimburse the State of Missouri \$3,600 for public assistance payments made to L.T. for the benefit of the child.<sup>4</sup>
14. As of the date of the Application, Carter was \$17,751.36 in arrearage on his child support obligation to L.T. As of February 18, 2014, Carter was \$19,027.31 in arrearage on his child support obligation to L.T.
15. On July 31, 2008, the State of Missouri Division of Child Support Enforcement filed its order directing Carter to pay \$269.00 per month in child support to L.R., which became the judgment of the court.<sup>5</sup>
16. As of the date of the Application, Carter was \$14,133.62 in arrearage on his child support obligation to L.R. As of February 18, 2014, Carter was \$15,639.00 in arrearage on his child support obligation to L.R.

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<sup>3</sup> *State of Missouri, Div. of Child Support Enforcement, et al. v. Brandon J. Carter et al.*, St. Louis Co. Cir. Ct., No. 2105FC-01395.

<sup>4</sup> *State of Missouri, Family Support Div. v. Brandon J. Carter*, St. Louis City Cir. Ct., No. 0722-FC00696.

<sup>5</sup> *State of Missouri, Div. of Family Services, et al. v. Brandon J. Carter*, St. Louis Co. Cir. Ct., No. 08SL-DR04925.

17. On December 23, 2013, Carter was charged in the St. Louis County Circuit Court with the Class D Felony of Criminal Non-Support.<sup>6</sup>
18. On August 21, 2013, Consumer Affairs Division investigator Andrew Engler mailed Carter a written inquiry, noting Carter's "Yes" answer to Background Question No. 7, and requesting that Carter provide the current status of his child support arrearage and any evidence of a repayment arrangement and his payment history.
19. Engler mailed the August 21, 2013 letter by first class mail, to Carter's address of record, with sufficient postage attached.
20. The August 21, 2013 letter was not returned as undeliverable.
21. Carter never adequately responded to the August 21, 2013 letter and has not demonstrated any justification for his failure to adequately respond.
22. On September 10, 2013, Consumer Affairs Division investigator Andrew Engler mailed Carter a second written inquiry, again noting Carter's "Yes" answer to Background Question No. 7, and requesting that Carter provide the current status of his child support arrearage and any evidence of a repayment arrangement and his payment history. In this written inquiry, Engler also noted Carter's "No" answer to Background Question No. 1 and informed Carter that Engler's investigation had revealed Carter's felony Forgery suspended imposition of sentence and felony Stealing conviction. Engler requested a statement explaining the circumstances surrounding the felony charges and of Carter's failure to disclose them in his Application.
23. Engler mailed the September 10, 2013 letter by first class mail, to Carter's address of record, with sufficient postage attached.
24. The September 10, 2013 letter was not returned as undeliverable.
25. Carter never adequately responded to the September 10, 2013 letter and has not demonstrated any justification for his failure to adequately respond.
26. On September 24, 2013, Consumer Affairs Division investigator Andrew Engler mailed Carter a third written inquiry, again noting Carter's "Yes" answer to Background Question No. 7, and requesting that Carter provide the current status of his child support arrearage and any evidence of a repayment arrangement and his payment history. In this written inquiry, Engler again noted Carter's "No" answer to Background Question No. 1 and informed Carter that Engler's investigation had revealed Carter's felony Forgery suspended imposition of sentence and felony Stealing conviction. Engler again requested a statement explaining the circumstances surrounding the felony charges and of Carter's failure to disclose them in his Application.

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<sup>6</sup> *State of Missouri v. Brandon J. Carter*, St. Louis Co. Cir. Ct., No. 13SL-CR12679.

27. Engler mailed the September 24, 2013 letter by first class mail, to a second mailing address provided by Carter—P.O. Box 300464, St. Louis, Missouri, 63130—with sufficient postage attached.
28. The September 24, 2013 letter was not returned as undeliverable.
29. Carter never responded to the September 24, 2013 letter and has not demonstrated any justification for his failure to respond.
30. It is inferable, and hereby found as fact, that Carter falsely answered “No” to Question No. 1 and failed to disclose his conviction of the Class C Felony of Stealing (Over \$500) and his suspended imposition of sentence for the Class C Felony of Forgery, in order to falsely represent to the Director that he had no criminal history and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
31. It is inferable, and hereby found as fact, that in response to Question No. 7 of the Application, Carter falsely indicated that he owed only four months’ worth of child support arrearages and that he was in compliance with a child support payment agreement in order to falsely minimize to the Director the extent of his failure to comply with administrative and court orders imposing child support obligations and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

### CONCLUSIONS OF LAW

32. 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;

\* \* \*
  - (5) Been convicted of any felony;

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

33. 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.

34. 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.

35. The Director may refuse to issue an MVESC producer license to Carter under § 385.209.1(5) because Carter has been convicted of a felony:

a. The Class C Felony of Stealing (Over \$500), in violation of § 570.030.

36. The Director also may refuse to issue an MVESC producer license to Carter under § 385.209.1(3) because Carter attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Question No. 1 and failed to disclose his conviction of the Class C Felony of Stealing (Over \$500) and his suspended imposition of sentence for the Class C Felony of Forgery, in order to falsely represent to the Director that he had no criminal history and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

37. The Director also may refuse to issue an MVESC producer license to Carter under § 385.209.1(3) because Carter attempted to obtain an MVESC producer license through

material misrepresentation or fraud when he falsely indicated in his Application that he owed only four months' worth of child support arrearages and that he was in compliance with a child support payment agreement in order to falsely minimize to the Director the extent of his failure to comply with administrative and court orders imposing child support obligations and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

38. The Director also may refuse to issue Carter an MVESC producer license under § 385.209.1(12) because Carter has failed to comply with administrative and court orders imposing child support obligations:
- a. As of the date of the Application Carter owed a total of \$32,295.77 in arrearages on three separate child support obligations. The total child support payment Carter was obligated to pay each month as of August 13, 2013, was \$547.00. At that monthly rate, Carter's arrearage represented approximately 59 unpaid months.
  - b. As of February 18, 2014, Carter owed a total of \$35,356.92 in child support arrearages.
  - c. On April 25, 2005, the St. Louis County Circuit Court, in a paternity action, entered a judgment ordering Carter to pay \$50.00 per month in child support to T.H.
  - d. As of the date of the Application, Carter was \$410.79 in arrearage on his child support obligation to T.H. As of February 18, 2014, Carter was \$690.61 in arrearage on his child support obligation to T.H.
  - e. July 20, 2007, the St. Louis County Circuit Court, in a paternity action, entered a judgment ordering Carter to pay \$228.00 per month in child support to L.T. and to reimburse the State of Missouri \$3,600 for public assistance payments made to L.T. for the benefit of the child.
  - f. As of the date of the Application, Carter was \$17,751.36 in arrearage on his child support obligation to L.T. As of February 18, 2014, Carter was \$19,027.31 in arrearage on his child support obligation to L.T.
  - g. On July 31, 2008, the State of Missouri Division of Child Support Enforcement filed its order directing Carter to pay \$269.00 per month in child support to L.R., which became the judgment of the court.
  - h. As of the date of the Application, Carter was \$14,133.62 in arrearage on his child support obligation to L.R. As of February 18, 2014, Carter was \$15,639.00 in arrearage on his child support obligation to L.R.
39. The Director also may refuse to issue an MVESC producer license to Carter under

§ 385.209.1(2) because Carter violated a rule of the Director, in that he failed to adequately respond to three written inquiries from the Consumer Affairs Division—on August 21, 2013, September 10, 2013, and September 24, 2013—without demonstrating reasonable justification for any of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.

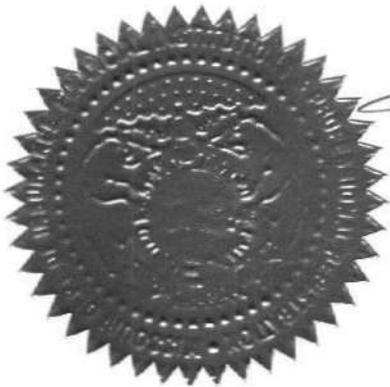
40. The Director has considered Carter's history and all of the circumstances surrounding Carter's Application. Granting Carter an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Carter.
41. This order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license application of **Brandon J. Carter** is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 3<sup>RD</sup> DAY OF MARCH, 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 4<sup>th</sup> day of March, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Brandon J. Carter  
6530 Bartmer Avenue  
St. Louis, Missouri 63130

Certified No. 7009 3410 0001 9254 7172

Brandon J. Carter  
P.O. Box 300464  
St. Louis, Missouri 63130

Certified No. 7009 3410 0001 9254 7165



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