State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Joshua J. Bradsher,	)	**Case No. 120305268C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On March 28, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Joshua J. Bradsher. 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. Upon information and belief, Joshua J. Bradsher, ("Bradsher") is currently a Utah resident with a residential address of 902 Churrea Dr., Washington, Utah 84780. At the time he completed the Application at issue in this proceeding, Bradsher was a Missouri resident with a residential address of 6 Laura Hill Road, St. Peters, Missouri 63376.

2. On December 5, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Bradsher'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:

> 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. Bradsher signed the Application in the "Applicant's Certification and Attestation" section.

5. 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 excluded 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[.]

6. Bradsher marked "Yes" to Question No. 1, and reported the following:

   a. On or about November 16, 1994, Bradsher was charged by Information with the class B misdemeanor of Trespass in the First Degree, in violation of §§569.140, 562.036, and 562.041 RSMo, and the class A misdemeanor of Stealing, in violation of §§570.030, 562.036, and 562.041 RSMo. *State v. Joshua J. Bradsher*, Circuit Court of St. Charles County, No. CR194-2265M. The Court suspended the imposition of sentence and ordered that Bradsher complete two years unsupervised probation. On July 14, 1995, Bradsher confessed that he violated probation. The Court revoked the suspended imposition of sentence and suspended the execution of a one-year sentence. On September 4, 1996, Bradsher again confessed that he violated probation. After the second probation violation, the Court ordered that Bradsher serve a 30 day sentence with credit for time served.

   b. On February 22, 2000, Bradsher was charged by Information with the class A misdemeanor of Third Degree Assault, in violation of §565.070 RSMo. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR100-573M. On July 6, 2000, Bradsher pleaded guilty to the class A misdemeanor of Third Degree Assault, and the Court sentenced him to 30 days in the St. Charles County Detention Center, to run concurrently with the sentences imposed in Case Nos. CR197-794FX and CR196-2290FX.

7. Bradsher failed to disclose on his Application the following matters responsive to Background Question No. 1:

a. On June 4, 1997, Bradsher was charged by Information with the class C felony of Stealing a Motor Vehicle in violation of §570.030 RSMo, and the class C felony of First Degree Tampering in violation of §569.080.1(2) RSMo. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR197-794FX. On July 10, 1997, the Court declined the prosecute the stealing charge and upon Bradsher's plea of guilty to First Degree Tampering, sentenced Bradsher to four years confinement with the Missouri Department of Corrections, sentence to be served concurrently with the sentence imposed in Case No. CR196-2290FX, and 120 days shock incarceration in accordance with §559.115 RSMo.

b. On November 13, 1996, Bradsher was charged by Information with the class C felony of stealing in violation of §§570.030, 562.036, and 562.041 RSMo. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR196-2290FX. The Court suspended the imposition of sentence and ordered that Bradsher complete five years probation. On July 6, 2006, the Court revoked Bradsher's probation and sentenced Bradsher to four years confinement with the Missouri Department of Corrections, sentence to be served concurrently with the sentence imposed in Case No. CR197-794FX, and 120 days shock incarceration in accordance with §559.115 RSMo.

c. On May 24, 2005, Bradsher was charged by Information with the class A misdemeanor of Passing Bad Checks, in violation of §570.120 RSMo. *State v. Joshua J. Bradsher*, Circuit Court of St. Charles County, Case No. 0511-CR03089. On February 15, 2001, Bradsher pleaded guilty and the Court sentenced Bradsher to pay a $100.00 fine and court costs.

d. On December 18, 2006, Bradsher was charged by Information with the class A misdemeanor of Third Degree Domestic Assault, in violation of §565.074 RSMo. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. 0611-CR08675. On December 20, 2006, the Court suspended the imposition of sentence and ordered that Bradsher complete two years probation.

e. On August 13, 2010, Bradsher was charged by Information with the class A misdemeanor of Endangering the Welfare of a Child in the Second Degree, in violation of §568.050 RSMo, when he operated a motor vehicle under the influence of alcohol knowing that a minor was present in the vehicle. *State v. Joshua Jack Bradsher*, 11th Judicial Circuit, St. Charles County, Case No. 1011-CR04429. On November 29, 2011, the Court sentenced Bradsher to six months in jail,

suspending all but four days of the sentence, and order Bradsher to complete 2 years probation. As of January 26, 2012, the Court authorized Bradsher to serve the remainder of his probation St. George, Utah.

CONCLUSIONS OF LAW

8. Section 385.209 RSMo Supp. 2011 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:

* * *

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

* * *

(5) Been convicted of any felony[.]

9. 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.

10. Bradsher may be refused a motor vehicle extended service contract ("MVESC") producer license pursuant to §385.209.1(3) for attempting to obtain a license through material misrepresentation or fraud. By signing the Application, Bradsher certified that all of the information submitted was true and complete. However, Bradsher provided false information or omitted pertinent or material information. Each of the following instances of material misrepresentation or fraud by Bradsher on his Application is a separate and sufficient ground for the Director to exercise his discretion to refuse the license:

    a. Bradsher failed to disclose his conviction for First Degree Tampering, a Class C Felony. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR197-794FX.

    b. Bradsher failed to disclose his conviction for Stealing, a Class C Felony. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR196-2290FX.

c. Bradsher failed to disclose his conviction for Passing Bad Checks, a Class A Misdemeanor. *State v. Joshua J. Bradsher*, Circuit Court of St. Charles County, Case No. 0511-CR03089.

d. Bradsher failed to disclose that he received a suspended imposition of sentence for Third Degree Domestic Assault, a Class A Misdemeanor. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. 0611-CR08675.

e. Bradsher failed to disclose his conviction for Endangering the Welfare of a Child in the Second Degree, a Class A Misdemeanor. *State v. Joshua Jack Bradsher*, 11th Judicial Circuit, Case No. 1011-CR04429.

Bradsher's omitted information is material because such information would affect the Director's decision to issue a license. Bradsher is trying to conceal the information in an attempt to induce the Director to rely on Bradsher's Application to issue a MVESC producer license.

11. Bradsher may be refused a MVESC producer license pursuant to §385.209.1(5) because he has been convicted of two felonies:

a. First Degree Tampering, a Class C Felony. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR197-794FX.

b. Stealing, a Class C Felony. *State v. Joshua Jack Bradsher*, Circuit Court of St. Charles County, Case No. CR196-2290FX.

12. Bradsher failed to disclose or misrepresented material facts on his Application that would impact his request for licensure; namely, two felony convictions, two misdemeanor convictions, and a misdemeanor suspended imposition of sentence. Finally, Bradsher has been convicted of two felonies.

13. The Director has considered Bradsher's history and all of the circumstances surrounding Bradsher's Application. Granting Bradsher a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Bradsher's MVESC producer license.

14. This order is in the public interest.

ORDER

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

SO ORDERED.

WITNESS MY HAND THIS 2ND **DAY OF** APRIL**, 2012.**

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, 2012 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

Joshua J. Bradsher
902 Churrea Dr.
Washington, Utah 84780

Certified No. 7009 3410 0001 8931 2899

Joshua J. Bradsher
6 Laura Hill Road
St. Peters, Missouri 63376

Certified No. 7009 3410 0001 8931 2905

Kathryn Randolph

Kathryn Randolph
Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.randolph@insurance.mo.gov