State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Kyle R. Bufford,	)	**Case No. 12-0224227C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 4, 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 Kyle R. Bufford. 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. Kyle R. Bufford, ("Bufford") is a Missouri resident with a residential address of 3009 Remington Blvd., St. Charles, Missouri 63303 and a business address of 4800 Mexico Rd., St. Peters, Missouri 63376.

2. On January 9, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Bufford's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. Background Question No. 1 of the Application asks, in relevant part: "Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?"

4. Bufford marked "Yes" to Question No. 1.

5. On July 5, 2006, Buford pled guilty to the Class C felony of Assault 2nd Degree, in violation of § 565.060, RSMo (2000).[1] On the same date, the court suspended the imposition of sentence and placed Bufford on probation for three years. The court also ordered Bufford to have no contact with the victim, pay $3,202.08 to the Crime Victim's Compensation Fund, obtain his high school diploma or G.E.D., perform 80 hours of

[1] All statutory references are to RSMo (Supp. 2011), unless otherwise specified.

community service, and complete an "Aggressive Offenders Program." *State v. Kyle Bufford*, St. Louis Co. Cir. Ct. No. 05CR-002772-01.

6. On July 5, 2006, Buford also pled guilty to the following class A misdemeanors:

   a. Possession of a controlled substance, in violation of § 195.202, RSMo (2000);

   b. Resisting an arrest, in violation of § 575.150 RSMo (2000); and

   c. Assault of a law enforcement officer, in violation of § 565.083 RSMo (2000).

   State v. Kyle R. Bufford, St. Louis Co. Cir. Ct., No. 2105R-03101-01. On the same date, the court suspended the imposition of sentence on all three counts and placed Bufford on probation for two years. It also ordered Bufford to complete the Missouri DOC's Required Educational Assessment and Community Treatment Program. *Id.*

7. On March 13, 2008, the court entered a Sentence and Judgment in *State v. Kyle Bufford*, St. Louis Co. Cir. Ct. No. 05CR-002772-01, revoking his probation and sentencing Bufford to five years' incarceration in the Missouri Department of Corrections ("DOC"); said sentence to run concurrently with 2105R-03101.

8. On March 13, 2008, the court entered a Sentence and Judgment in *State v. Kyle Bufford*, St. Louis Co. Cir. Ct., No. 2105CR-03101-01, revoking his probation on all three counts and sentencing Bufford to 90 days' incarceration in the St. Louis County jail; said sentence to run concurrently with 2105R-002772-01.

9. On June 12, 2008, Bufford pled guilty to the Class D felony of Resisting a Lawful Stop by Fleeing, in violation of § 575.150, RSMo (Supp. 2008). On the same date, the court sentenced Bufford to four years' incarceration in the Missouri DOC, with the sentence to run concurrently with 2105R02772-01 and 2105R-03101.

10. On June 30, 2008, the court suspended the imposition of Bufford's remaining sentence and placed him on supervised probation for five years, beginning July 17, 2008. *State v. Kyle R. Bufford*, St. Louis Co. Cir. Ct. No. 08SL-CR02823-01.

11. On January 7, 2010, the court revoked Bufford's probation in *State v. Kyle Bufford*, St. Louis Co. Cir. Ct. No. 05CR-002772-01 for violating a condition of his probation. The court ordered that its previously imposed five-year sentence be executed, but granted Bufford "credit for any time served."

12. On January 7, 2010, the court also revoked Bufford's probation in *State v. Kyle R. Bufford*, St. Louis Co. Cir. Ct. No. 08SL-CR02823-01. The court ordered that its previously imposed four-year sentence be executed, but granted Bufford "credit for any time served."

13. On July 19, 2010, Bufford pled guilty to the Class D felony of Driving While Intoxicated

("DWI"), in violation of § 577.010, RSMo (Supp. 2010) and the Class A misdemeanor of Driving While License Revoked, in violation of § 302.321, RSMo (Supp. 2005). *State v. Kyle Reinhold Bufford,* St. Charles Co. Cir. Ct. No. 0911-CR06013-01. The court sentenced Bufford to three years' incarceration in the custody of the Missouri DOC on the DWI conviction and one year incarceration in the custody of St. Charles County Jail on the Driving While Revoked conviction. The court ordered that the sentences on both counts run concurrently with the each other and with 2105R-02772-01.

14. On July 7, 2011, the court in *State v. Kyle Reinhold Bufford,* St. Charles Co. Cir. Ct. No. 0911-CR06013-01 released Bufford from the custody of the Missouri DOC, and placed him on parole, which is scheduled to end in 2013.

CONCLUSIONS OF LAW

15. 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:
>
> * * *
>
> (5) Been convicted of any felony[.]

16. 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.

17. Bufford ma y be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(5) because he has been convicted of three felonies. Each felony is a separate and sufficient ground to refuse his license Application:

    a. *State v. Raymond W. Bufford*, St. Charles Co. Cir. Ct. No. 0611-CR02360-01 (Class D felony of Resisting a Lawful Stop by Fleeing, in violation of § 575.150, RSMo (2008));

    b. *State v. Raymond W. Bufford,* St. Louis Co. Cir. Ct. No. 07SL-CR05936-01 (Class D felony of Driving While Intoxicated, in violation of § § 577.010, RSMo (Supp. 2010)); and

    c. *State v. Kyle Bufford*, St. Louis Co. Cir. Ct. No. 2105R-02772-01 (Class C felony of Assault 2nd degree, in violation of § 565.060, RSMo (2000)).

18. Bufford has been convicted of three felonies, all of which involved violence and/or a

disregard for the health and safety of others. Each felony is a sufficient ground to refuse Bufford a MVESC license. Granting Bufford a MVESC producer license would not be in the interest of the public. For all of the reasons given in this Petition, the Director should consider Bufford's history and all of the circumstances surrounding Bufford's Application and exercise his discretion to refuse Bufford's motor vehicle extended service contract producer license.

19. The order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license application of **Kyle R. Bufford,** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 7TH **DAY OF** MAY**, 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 10th day of May, 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:

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St. Charles, MO 63303
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