# State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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| **IN RE:** | ) | |
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| **CHRISTOPHER CONLON,** | ) | **Case No. 150213088C** |
| | ) | |
| **Applicant.** | ) | |

## ORDER REFUSING TO ISSUE A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On June 9, 2015, 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 Christopher Conlon. 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. Christopher Conlon ("Conlon") is a Missouri resident with a residential and mailing address of 3016 West Adams, St. Charles, Missouri 63301 and a business address of 1529 South Old Highway 94, St. Charles, Missouri 63303.

2. On December 8, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Conlon's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. The "Attestation" section of the Application, states, in relevant part:

    1. 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. Conlon signed the "Applicant's Certification and Attestation" section of the Application under oath before a notary public.

5. Background Question No. 1 of the Application asks the following:

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?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude any of the following if they are/were traffic citations or misdemeanors: driving under the influence (DUI), or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude misdemeanor juvenile convictions.

"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, having entered an Alford Plea or having been given probation, a suspended sentence or a fine.

"Had a judgment 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").

Unless excluded by the language above, you must disclose convictions that have been expunged.

If you answer yes, you must attach to this application:
a) a written statement explaining the circumstances of each incident,
b) a certified copy of the charging document, and
c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgement[.]

6. Conlon answered "No" in response to Background Question No. 1.

7. During its investigation, the Consumer Affairs Division ("Division") discovered the following information regarding Conlon's criminal history that he failed to disclose on his Application:

   a. On March 25, 2013, Conlon pled no contest to one (1) count of Possession of Paraphernalia, a Class A Misdemeanor, in violation of Fla. Stat. § 893.147(1) and one (1) count of Possession of Synthetic Marijuana, a Class A Misdemeanor, in violation of Fla. Stat. § 893.13. The court withheld adjudication of guilt pending completion of six (6) months supervised probation. The court ordered Conlon to pay $550.00 in fines and costs, perform 20 hours community service, and complete a substance abuse awareness course. *Florida v. Christopher Conlon*, Bay Co. Cir. Ct., Case No. 13-2485MMMA.

b. On April 9, 2014, Conlon pled guilty to Trespassing, a Class B Misdemeanor, in violation of § 569.140 RSMo. The court sentenced Conlon to thirty (30) days confinement. *State v. Christopher Conlon*, St. Charles Co. Cir. Ct., Case No. 1411-CR01077.

8. After reviewing Conlon's Application and his criminal record, Special Investigator Andrew Engler ("Special Investigator Engler") of the Division sent an inquiry letter to Conlon dated December 10, 2014. Said inquiry letter requested additional documentation and information about Conlon's criminal background. The inquiry letter further requested a response by December 30, 2014, and warned Conlon that a failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract ("MVESC") producer license.

9. The United States Postal Service did not return the December 10, 2014 inquiry letter to the Division, and therefore it is presumed received by Conlon.

10. Conlon failed to provide a written response to the Division's December 10, 2014 inquiry letter by December 30, 2014 and failed to demonstrate a reasonable justification for the delay.

11. Special Investigator Engler sent a second inquiry letter to Conlon dated December 30, 2014. Said inquiry letter requested additional documentation and information about Conlon's criminal background. The inquiry letter further requested a response by January 19, 2015, and warned Conlon that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

12. The United States Postal Service did not return the December 30, 2014 inquiry letter to the Division, and therefore it is presumed received by Conlon.

13. Conlon failed to provide a written response to the Division's December 30, 2014 inquiry letter by January 19, 2015, and failed to demonstrate a reasonable justification for the delay.

14. It is inferable and hereby found as fact, that Conlon falsely answered "No" to Background Question No. 1 and failed to disclose his criminal history on his Application in order to misrepresent that he had no criminal history, and accordingly, in order to improve the chances that his Application request for a MVESC producer license would be approved.

## CONCLUSIONS OF LAW

15. Section 385.209 RSMo. (Supp. 2013)[1] provides, in part:

[1] All statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement unless otherwise noted

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[.]

16. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

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.

17. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

18. 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 MVESC producer license, but to protect the public.

19. The Director may refuse to issue a MVESC producer license to Conlon under § 385.209.1(2) because Conlon failed to adequately respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a department regulation.

20. Each violation of a rule of the Director is a separate and sufficient ground for refusal under § 385.209.1(2).

21. The Director may refuse to issue a MVESC producer license to Conlon under § 385.209.1(3) because Conlon attempted to obtain a MVESC producer license through material misrepresentation or fraud by failing to disclose the following criminal history on his Application:

a. Possession of Paraphernalia, a Class A Misdemeanor. *Florida v. Christopher Conlon*, Bay Co. Cir. Ct, Case No. 13-2485MMMA.

b. Possession of Synthetic Marijuana, a Class A Misdemeanor. *Id.*

c. Trespassing, a Class B Misdemeanor. *State v. Christopher Conlon*, St. Charles Co. Cir. Ct., Case No. 1411-CR01077.

22. Each attempt to obtain a MVESC producer license through material misrepresentation or fraud is a separate and sufficient ground for refusal under § 385.209.1(3).

23. Issuing a MVESC producer license to Conlon is not in the public's interest. Conlon has failed to respond to inquiry letters from the Division and failed to disclose his criminal history on his Application.

24. The Director has considered Conlon's history and all of the circumstances surrounding Conlon's Application. Granting Conlon a 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 Conlon.

25. This order is in the public interest.

## ORDER

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

**SO ORDERED.**

**WITNESS MY HAND THIS** 9th **DAY OF** June, **2015.**

**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 11th day of June, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, prepaid signature required, at the following address:

Christopher Conlon
3016 West Adams
St. Charles, Missouri 63301

Tracking No. 1Z0R15W84295986781

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