



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

Clyde D. Orndorff, Jr.

Applicant.

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Case No. 14-0219227C

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

On March 13, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the motor vehicle extended service contract (MVESC) producer license of Clyde D. Orndorff, Jr. After reviewing the Petition and 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. Clyde D. Orndorff, Jr. ("Orndorff") is a Missouri resident with a residential address of 1319 Lanvale, Webster Groves, Missouri, 63119.
2. On February 6, 2012, the Department received Orndorff's Application for Motor Vehicle Extended Service Contract Producer License (the "2012 Application").
3. By signing the Application, Orndorff attested that "all of the information submitted in this application and attachments is true and complete."
4. Background Question No. 1 of the 2012 Application asked 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. Orndorff marked “No” to Question No. 1 of the 2012 Application and failed to disclose that he had pleaded guilty to the Class D Felony of Criminal Non-Support and that he had a judgment withheld or deferred in the form of the suspended imposition of sentence he received from the Franklin County Circuit Court in Case No. 09SL-CR09124-01.
6. On January 13, 2011, Orndorff pleaded guilty in the Circuit Court of St. Louis County to the Class D Felony of Criminal Non-Support, in violation of § 568.040, RSMo. The court suspended the imposition of sentence and placed Orndorff on five years’ probation. In a Supplemental Sentence, the court ordered Orndorff to pay \$650 per month in child support to J.O.¹
7. On March 16, 2005, as part of a dissolution action, the Franklin County Circuit Court issued a Judgment on Dissolution, in which the court ordered Orndorff to pay \$1,146.00 per month in child support to J.O.²
8. Orndorff’s failure to comply with the order to pay child support in Case No. 04AB-DR00562 was the basis of Orndorff’s guilty plea to the Class D Felony of Criminal Non-Support in Case No. 09SL-CR09124-01.
9. Background Question No. 7 of the 2012 Application asked 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, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support

¹ *State of Missouri v. Clyde D. Orndorff*, St. Louis Co. Cir. Ct., No. 09SL-CR09124-01.

² *J.O. v. Clyde Dovel Orndorff, Jr.*, Franklin Co. Cir. Ct., No. 04AB-DR00562.

agency.)

10. Orndorff answered "No" to Background Question No. 7 of the 2012 Application and failed to disclose that he owed any child support arrearage.
11. Contrary to Orndorff's answer to Question No. 7, at the time of his 2012 Application, he owed \$63,840.41 in child support arrearage.
12. On February 10, 2012, based on the information provided by Orndorff in his 2012 Application, which Orndorff attested was "true and complete," the Director issued Orndorff an MVESC producer license.
13. At no time between February 10, 2012, and December 2, 2013, did Orndorff disclose to the Department his suspended imposition of sentence for the Class D Felony of Criminal Non-Support or his child support obligation arrearage.
14. On December 2, 2013, the Department received Orndorff's Application for Motor Vehicle Extended Service Contract Producer License Renewal (the "Renewal Application").
15. Background Question No. 1 of the Renewal Application asked 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, which has not been previously reported to this insurance department?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude any of the following if they are/were misdemeanor traffic citations or misdemeanors: involving driving under the influence (DUI), 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 was 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 judgment.
16. Orndorff marked "No" to Question No. 1 of the Renewal Application and failed to disclose that he had pleaded guilty to the Class D Felony of Criminal Non-Support and had a judgment withheld or deferred in the form of the suspended imposition of sentence he received from the Franklin County Circuit Court in Case No. 09SL-CR09124-01.
17. Background Question No. 7 of the Renewal Application asked the following:
7. Do you currently have or have you had a child support obligation, which has not been previously reported to this insurance department?
- If you answer yes:
- a) are you in arrearage?
 - b) by how many months are you in arrearage? _____ months
 - c) what is the total amount of your arrearage? _____
 - d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
 - e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)
 - f) are you the subject of a child support related subpoena/warrant? (If you answer yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)
 - g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?
18. Orndorff answered "No" to Background Question No. 7 of the Renewal Application and failed to disclose that he owed any child support arrearage.
19. Contrary to Orndorff's answer to Question No. 7, at the time of his Renewal Application, he owed \$64,292.71 in child support arrearage. As of February 27, 2014, Orndorff owed \$64,052.71 in child support arrearage.
20. Investigation of Orndorff's Renewal Application revealed Orndorff's suspended imposition of sentence for the Class D Felony of Criminal Non-Support and the existence of his child support arrearage.
21. On December 16, 2013, Consumer Affairs Division investigator Andrew Engler mailed Orndorff a written inquiry, noting Orndorff's "No" answer to Background Question No. 1 and Orndorff's failure to disclose his felony Criminal Non-Support charge in his Renewal Application. Engler requested that Orndorff provide a statement explaining the

circumstances surrounding the charge and Orndorff's failure to disclose the charge in his Renewal Application. Engler also requested that Orndorff provide the current status of his child support arrearage and a copy of the charging document in the criminal matter.

22. On February 10, 2014, the Department received a written explanation from Orndorff, to which Orndorff attached court documents requested by Engler. Orndorff described a confluence of events in his personal life that led to his being ordered to pay a combined monthly total of child support and alimony that was "almost equal to [Orndorff's] monthly salary," which, along with the closing of the company that he worked for and his inability to solidify a modification of his monthly obligations, led to his child support arrearage. Orndorff stated in his explanation that he entered into a payment plan through the court, which he had adhered to and kept current.
23. In his written explanation, Orndorff explained that he answered "No" to Background Question No. 1 and Background Question No. 7 of the Renewal Application because he thought that he had already disclosed his criminal history and his child support arrearage to the Department. He supplied a corrected set of responses to Background Question No. 7 of the Renewal Application, including its sub-parts a) through g).
24. Orndorff did not provide any explanation of his failure to disclose in his 2012 Application his suspended imposition of sentence for the Class D Felony of Criminal Non-Support and his child support arrearage.

CONCLUSIONS OF LAW

25. Section 385.209 RSMo, Supp. 2013, 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:

* * *

- (1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;

* * *

- (3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

26. 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.

27. The Director may refuse to renew Orndorff's MVESC producer license under § 385.209.1(1) because Orndorff filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information, in that Orndorff:
 - a. Failed to disclose in his 2012 Application his suspended imposition of sentence for the Class D Felony of Criminal Non-Support in *State of Missouri v. Clyde D. Orndorff*, St. Louis Co. Cir. Ct., No. 09SL-CR09124-01; and
 - b. Failed to disclose in his 2012 Application the existence and extent of his child support arrearage.
28. The Director also may refuse to renew Orndorff's MVESC producer license under § 385.209.1(3), because Orndorff attempted to obtain, and obtained, an MVESC producer license through misrepresentation, in that Orndorff:
 - a. Failed to disclose in his 2012 Application his suspended imposition of sentence for the Class D Felony of Criminal Non-Support in *State of Missouri v. Clyde D. Orndorff*, St. Louis Co. Cir. Ct., No. 09SL-CR09124-01; and
 - b. Failed to disclose in his 2012 Application the existence and extent of his child support arrearage.
29. The Director also may refuse to renew Orndorff's MVESC producer license under § 385.209.1(3) because Orndorff attempted to obtain an MVESC producer license through misrepresentation, in that Orndorff:
 - a. Failed to disclose in his Renewal Application his suspended imposition of sentence for the Class D Felony of Criminal Non-Support in *State of Missouri v. Clyde D. Orndorff*, St. Louis Co. Cir. Ct., No. 09SL-CR09124-01; and
 - b. Failed to disclose in his Renewal Application the existence and extent of his child support arrearage.
30. The Director has considered Orndorff's history and all of the circumstances surrounding Orndorff's Application. Granting Orndorff 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 Orndorff.

31. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license renewal application of **Clyde D. Orndorff, Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 14TH 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 17th 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:

Clyde D. Orndorff, Jr.
1319 Lanvale
Webster Groves, Missouri 63119

Certified No. 7009 3410 0001 9254 7226



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