State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Chance Michael Earnest,	)	**Case No. 12-0329324C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 30, 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 Chance Michael Earnest. 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. Chance Michael Earnest ("Earnest") is a Missouri resident with a residential address of 6804 Village Square, Hazelwood, MO 63042.

2. On December 9, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Earnest'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. Earnest marked "Yes" to Question No. 1 and in a letter attached to his Application disclosed the following convictions and stated, in part:

> I am writing this letter to explain the charges on my record. The first charge was in 2000 and resulted in a charge of possession of a controlled substance. I was placed on probation for a period of 5yrs and 60 day work release. The stipulations were completed in 2007. The other 2 charges on my record in 2008 and 2010 were also possession of a controlled substance. I had a problem with addiction for many years. I was sentenced to long term treatment in January 2010 for a period of 12 months and completed successfully and have not used since. I regularly attend AA meetings and still currently in aftercare with Community

Services of Mo. I have made many positive changes in my life to assure my future sobriety.

5. On or about September 18, 2001, Earnest pleaded guilty to the Class B Felony of Sale of a Controlled Substance (heroin) in violation of § 195.211. The court sentenced Earnest to five years in the custody of the Department of Corrections ("DOC"), suspended the execution of sentence and placed Earnest on probation for five years. *State v. Chance Michael Earnest*, St. Charles Co. Cir. Ct., No. 01CR125822-01.

6. On or about August 3, 2009, Earnest pleaded guilty to the Class C Felony of Possession of a Controlled Substance (heroin) in violation of § 195.202. The court sentenced Earnest to six years in the DOC, suspended the execution of sentence, and placed Earnest on probation for two years. In 2010, the court revoked Earnest's probation and ordered him into the DOC's long term substance abuse program under § 217.362. After completion of the program, the court suspended the execution of sentence and placed Earnest back on probation for two years, to end in July 2013. *State v. Chance Michael Earnest*, St. Louis City Cir. Ct., No. 0822-CR06815-01.

7. On or about May 12, 2010, Earnest pleaded guilty as a prior drug offender to the Class C Felony of Possession of a Controlled Substance (heroin) in violation of § 195.202. The court sentenced Earnest to ten years in the custody of the DOC and ordered him into the DOC's substance abuse program, both concurrent with Case No. 0822-CR06815. After completion of the program, the court suspended the execution of sentence and placed Earnest back on probation for two years, to end in July 2013. *State v. Chance Michael Earnest,* St. Louis City Cir. Ct., No. 1022-CR00068-01.

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:
>
> * * *
>
> (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.

CAUSE FOR ORDER TO REFUSE A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

10. Earnest may be refused a motor vehicle extended service contract (MVESC) 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. Chance Michael Earnest*, St. Charles Cir. Ct. No. 01CR125822-01 (Class B Felony of Sale of a Controlled Substance (heroin) in violation of § 195.211).

    b. *State v. Chance Michael Earnest*, St. Louis City Cir. Ct. 0822-CR06815-01 (Class C Felony of Possession of a Controlled Substance (heroin) in violation of § 195.202).

    c. *State v. Chance Michael Earnest,* St. Louis City Cir. Ct. No. 1022-CR00068-01 (Class C Felony of Possession of a Controlled Substance (heroin) in violation of § 195.202).

11. Earnest has been convicted of three felonies; each felony is a sufficient ground to refuse Earnest a MVESC license. Granting Earnest a MVESC producer license would not be in the interest of the public. For all of the reasons given in the Petition, the Director has considered Earnest's history and all of the circumstances surrounding Earnest's Application and exercises his discretion to refuse Earnest's motor vehicle extended service contract producer license.

12. The order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license application of **Chance Michael Earnest** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 4th **DAY OF** June**, 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 5th day of June, 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 address:

Chance Michael Earnest
6804 Village Square
Hazelwood, MO 63042

Certified No. 7009 3410 0001 8931 3209

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