DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

In the Matter of:	)	
	)	
Gene A. Bentrup,	)	**Case No. 186249**
	)	
Applicant.	)	

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Andy Heitmann, and Gene A. Bentrup, have reached a settlement in this matter and have consented to the issuance of this Consent Order.

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director" of the "Department"), whose duties, pursuant to Chapters 374, 375, and 385 RSMo,[1] include the supervision, regulation, and discipline of motor vehicle extended service contract (MVESC) producers.

2. The Department's Consumer Affairs Division ("Division") has the duty of conducting investigations into the acts of MVESC producers under Chapters 374, 375, and 385,

[1] All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

and is authorized to investigate and recommend enforcement action, including MVESC producer license application refusal.

3. For purposes of this Consent Order, "BEP" shall refer to any and all motor vehicle extended service contract business entity producers, whether now in existence or whether formed after this Consent Order is executed, in which Gene A. Bentrup ("Bentrup") holds any ownership interest, including any such partnership or sole proprietorship, or whose decisions about MVESC provider's products to sell Bentrup has any right to control, at any time that Bentrup holds an individual MVESC producer license under the terms of this Consent Order.

4. Bentrup is a Missouri resident with a residential address of record of 1263 Charmwood, Kirkwood, Missouri, 63122.

5. On or about June 5, 1987, Bentrup pled guilty in the Circuit Court of St. Louis County to the Class C Felony of Receiving Stolen Property.[2] The court suspended imposition of sentence and place Bentrup on two (2) years' probation.

6. On or about July 2, 1993, Bentrup pled guilty in the Circuit Court of Jefferson County to the Class A Felony of Trafficking Drugs in the First Degree.[3] The court sentenced Bentrup to incarceration for a period of twenty (20) years in the custody of the Missouri Department of Corrections. Bentrup was released from incarceration in 1998.

7. On November 26, 2012, the Department received Bentrup's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

8. 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?

---

[2] A violation of § 570.080, RSMo Supp. 1986. *State of Missouri v. Gene Allen Bentrup*, St. Louis Co. Cir. Ct., No. 21CCR-553574.

[3] A violation of § 195.222.2, RSMo Supp. 1990. *State of Missouri v. Gene Allen Bentrup*, Jefferson Co. Cir. Ct., No. 23CR191-0735.

> "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 judgment[.]

9. Bentrup marked "Yes" to Question No. 1. With his Application, Bentrup included certified court documents from *State of Missouri v. Gene Allen Bentrup, Jefferson Co. Cir. Ct., No. 23CR191-0735*. Bentrup also included written statement briefly describing circumstances under which he obtained drugs for his ex-wife as those that led to his conviction for Trafficking Drugs in the First Degree.

10. Bentrup did not disclose his 1987 guilty plea to Receiving Stolen Property on his Application.

11. As part of an investigation of Bentrup's Application, Consumer Affairs Division investigator Dennis Fitzpatrick obtained additional certified records, not already provided by Bentrup, from *State of Missouri v. Gene Allen Bentrup,* Jefferson Co. Cir. Ct., No. 23CR191-0735.

12. The documents provided by the court included an Amended Information, which included the allegation that Bentrup was a "prior offender … in that he has pleaded guilty to or has been found guilty of a felony as follows: On or about June 5, 1987, defendant pleaded guilty to the felony of receiving stolen property in the Circuit Court of St. Louis County."

13. On January 16, 2013, Fitzpatrick emailed Bentrup a written inquiry and requested information about the 1987 guilty plea to felony Receiving Stolen Property.

14. After some confusion about which charge Fitzpatrick was inquiring about, on January 22, 2013, Bentrup sent an email to Fitzpatrick stating, verbatim in its entirety:

> Dennis,
> At this time my brother Craig Bentrup was living at my residence. The house was in my name, therefore the police came in and found the stolen property. However, my brother did not claim ownership of the stolen property. So in return, I plead guilty to an SIS (Suspended Imposition Sentence), so therefore this is not on my record, since I completed the probation period for the actual charge. Please contact me if I need to provide anything else. Thank you.

15. As part of further investigation, the Director issued a subpoena to Bentrup, ordering him to appear at the Department's offices and testify under oath concerning his qualifications for licensure as a motor vehicle extended service contract producer, including his background and work history.

16. Bentrup appeared at the Department's offices on May 2, 2013, and testified under oath as ordered by the Director in the subpoena.

17. Some of Bentrup's testimony under oath was at odds with his January 22, 2013 emailed explanation of the circumstances surrounding his guilty plea to the Receiving Stolen Property charge. Whereas in the January 22, 2013 email Bentrup implied that his brother had been to blame for the criminal acts underlying the charge, in his testimony under oath Bentrup admitted that:

a. He knew at the time that the stolen property, tires and wheels for a Corvette, had been stolen;

b. The tires and wheels were for his own personal use;

c. He bought the tires and wheels to put on his car;

d. He sold the tires and wheels when they didn't fit on his car;

e. He knew at the time that the stolen car from which the tires and wheels were taken was being taken apart in his garage.

18. During his testimony on May 2, 2013, and at other times, Bentrup has averred that he intends to create and own a BEP that would sell only products for which Mechanical Breakdown Protection, Inc. (MBPI) is the provider. Bentrup stated that MBPI products would not be directly marketed to consumers by the BEP, but instead would be sold to consumers through car dealerships and auto repair facilities, with his BEP to handle renewal business.

19. Bentrup acknowledges and understands that under § 385.209.1(5), the Director may refuse to issue a motor vehicle extended service contract producer license to Bentrup because Bentrup has been convicted of a felony.

20. Bentrup acknowledges and understands that under § 385.209.1(3), the Director may refuse to issue a motor vehicle extended service contract producer license to Bentrup because Bentrup attempted to obtain a motor vehicle extended service contract license through material misrepresentation, in that Bentrup initially failed to disclose the Receiving Stolen Property criminal case in his Application, and then in his January 22, 2013 email to Fitzpatrick misrepresented the circumstances of the Receiving Stolen Property charge, and those misrepresentations are material to the Director's licensing decision.

21. Bentrup acknowledges and understands that he has the right to consult counsel at his own expense.

22. This Consent Order is entered pursuant to § 374.046. As such, any interested person aggrieved by this Consent Order may request a hearing before the Director on review of this Consent Order in a circuit court under § 374.055. Although under the Department's interpretation of the relevant statutes, review of this Consent Order by the Administrative Hearing Commission is not available, Bentrup nevertheless may have the right, under § 621.045, to submit this Consent Order to the Administrative Hearing Commission for a determination that the facts agreed to in this Consent Order constitute grounds to refuse to issue Bentrup an individual MVESC producer license.

23. Bentrup stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission or the Director, and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order, and forever releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from all liability and claims arising out of, pertaining to, or relating to this matter.

24. Bentrup acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Bentrup further acknowledges and understands that this administrative action should be disclosed on future applications and renewal applications and that it is his responsibility to comply with the reporting requirements of each state in which he is licensed or in which he seeks to become licensed.

25. Each signatory to this Consent Order certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to accept the

terms and provisions of this Consent Order in their entirety, and agrees, in his or her personal or representative capacity, to be bound by the terms of this Consent Order.

Conclusions of Law

26. The actions admitted by Bentrup may be grounds to refuse his Missouri MVESC producer license application pursuant to §§ 385.209.1(3) and (5).

27. The Director may impose orders in the public interest under §§ 374.046 and 385.216.

28. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

29. Any violation of this Consent Order will constitute a violation of an order of the Director and therefore will constitute a ground for discipline to Bentrup's MVESC producer license under § 385.209.1(2).

ORDER

IT IS ORDERED that the Department will issue an individual motor vehicle extended service contract producer license to Gene A. Bentrup under the conditions set forth herein.

IT IS ORDERED that Gene A. Bentrup shall respond in writing to all MVESC-related consumer complaints submitted to him in writing by the Department or a consumer concerning Bentrup or any BEP of which he is a manager, owner or agent within five (5) business days of receipt. Bentrup shall report in writing all written MVESC-related consumer complaints concerning Bentrup or any BEP of which he is a manager, owner or agent to the Consumer Affairs Division of the Department within five (5) business days of receipt, providing a copy of each such complaint. Bentrup or any BEP of which he is manager, owner or agent shall respond

to each complaint received within five business days and provide the Department with the response to the complaining person within five business days of sending the response.

IT IS ORDERED that Gene A. Bentrup shall report to the Consumer Affairs Division any and all of the following incidents involving Bentrup: arrest, citation, guilty plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Bentrup shall report all such incidents to the Consumer Affairs Division within five business days of their occurrence.

IT IS ORDERED that Gene A. Bentrup will voluntarily surrender his license to the Department within five business days of Bentrup's entry of a guilty plea, nolo contendere plea, finding of guilt or conviction for a felony, regardless of whether sentence is imposed, suspended, or executed.

IT IS ORDERED that Gene A. Bentrup shall report to the Consumer Affairs Division any administrative action undertaken or initiated against Bentrup in another state, or by another governmental authority in this state, within five business days after Bentrup receives notification of the initiation of such administrative action. "Administrative action" shall include not only actions brought before an administrative agency, including its director or the equivalent, or before an administrative tribunal, but also civil court actions initiated by state or federal authorities, and also any consent agreement with a state or federal authority resolving any allegation or dispute that could otherwise be brought before an administrative agency, its director or the equivalent, a tribunal, or in civil court by that state or federal authority.

IT IS ORDERED that Gene A. Bentrup shall report to the Consumer Affairs Division within five business days any action undertaken involving him or a BEP by any industry trade association, including but not limited to any discipline, de-certification, revocation of

membership, imposition of a fine or other monetary penalty, or other resolution of alleged violations of the law, regulation, rule, standard or requirement.

IT IS ORDERED that Gene A. Bentrup shall report to the Consumer Affairs Division any violation of, or failure to comply with, the laws set forth in Chapters 374, 375, or 385 within five (5) business days of (a) written notice of such violation or failure to comply, or (b) of facts or circumstances that Bentrup knows or reasonably should know constitute a violation or failure to comply. Said written notice shall identify the alleged violation or failure to comply and shall describe the related facts and circumstances with sufficient specificity to put a reasonable person on notice of the factual basis for a particular violation of failure to comply.

IT IS ORDERED that Bentrup, individually and/or through a BEP, shall market only products for which MBPI is the provider, which products are initially sold through car dealerships and/or auto repair facilities. If Bentrup or a BEP wishes to market other products, or to market MBPI products other than those initially sold through car dealerships and/or auto repair facilities, Bentrup shall first obtain the written permission of the Director. If Bentrup violates this provision, including by allowing a BEP to violate this section, Bentrup shall voluntarily surrender his individual MVESC producer license and shall immediately cease to transact individual MVESC business in Missouri unless and until he again holds a valid and active Missouri MVESC individual producer license.

IT IS ORDERED that the Director may pursue additional legal remedies, as determined appropriate by the Director, and without limitation, as authorized by Chapters 374, 375, and 385 including remedies for violation of, or failure to comply with, the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 6th DAY OF MAY, 2014.

JOHN M. HUFF
Director, Missouri Department of Insurance, Financial Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Gene A. Bentrup may have a right to a hearing, but that Gene A. Bentrup has waived the hearing and consented to the issuance of this Consent Order.

Gene A. Bentrup

4/24/2014
Date

Gene A. Bentrup
Respondent
1263 Charmwood
Kirkwood, Missouri 63122

4/23/14
Date

Brian McGovern
Counsel for Respondent
Missouri Bar No. 34677
400 South Woods Mill Road, Suite 250
Chesterfield, Missouri 63017
Telephone: (314) 392-5200

5/5/14
Date

Andy Heitmann
Consumer Affairs Division Counsel
Missouri Bar No. 60679
Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-1922
Facsimile: (573) 522-3630