



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JACOB C. PLANT,

Applicant.

)
)
)
)
)

Case No. 140311294C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 1, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Jacob C. Plant an individual motor vehicle extended service contract producer license. 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. Jacob C. Plant ("Plant") is a Missouri resident with a residential address of record of 2200 Entity Ave., St. Louis, Missouri 63114.
2. On October 23, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Plant'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. Plant accepted the "Attestation" section by signing the Application.
5. Background Question No. 4 of the Application asked the following:

Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

If you answer yes, identify the jurisdiction(s): _____

6. Plant answered "No" to Background Question No. 4, and did not disclose any tax delinquencies in his Application.
7. Contrary to Plant's answer to Background Question No. 4, Plant had a delinquent Missouri state tax obligation of which he had been notified:
 - a. On August 2, 2010, the Director of the Missouri Department of Revenue filed a Certificate of Tax Lien – Individual Income Tax in the Lincoln County Circuit Court, certifying that Plant owed \$423.34 in delinquent taxes for tax year 2008, interest and penalties, which, upon filing, became the judgment of the court under § 143.902. The judgment remains unsatisfied. *Department of Revenue v. Jacob Plant*, Lincoln Co. Cir. Ct., No. 10L6-MC00351.
8. It is inferable that Plant falsely answered "No" to Background Question No. 4 and failed to disclose his Missouri state income tax delinquency in order to misrepresent to the Director that he had no tax delinquencies and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
9. Background Question No. 7 of the Application asks the following:

Do you have a child support obligation in arrearage?

If you answer yes:

 - (a) by how many months are you in arrearage?
 - (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, provided documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.).
10. In response to Background Question No. 7, Plant answered that he does have a child support obligation in arrearage, that he is 61 months in arrearage, that he is currently subject to and in compliance with a repayment agreement, and that he is not the subject of a child support related subpoena/warrant.
11. Upon further investigation, the Consumer Affairs Division ("Division") discovered that Plant has a monthly child support obligation of \$356.00 and currently owes total arrears of \$6,187.94. *Dana Marie Plant v. Jacob Conrad Plant*, St. Charles Co. Cir. Ct., No. 00FC124513-01.
 - a. Plant failed to pay child support for eight (8) straight months in 2013 (March through October, 2013) and failed to pay any child support to date in 2014.

12. It is inferable that Plant falsely answered that he was subject to and in compliance with a repayment agreement regarding his child support arrearage in response to Background Question No. 7 in order to misrepresent to the Director the status of his child support obligations and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
13. After reviewing Plant's Application and his child support record, Special Investigator Andrew Engler ("Special Investigator Engler") with the Division, sent an inquiry letter to Plant¹ dated October 29, 2013 to Plant's residential address listed on the Application.
 - a. The letter requested the current status of Plant's child support arrearage along with evidence of a repayment arrangement and payment history. The letter further requested a response by November 18, 2013 and warned Plant that a failure to respond could result in refusal of his MVESC producer license.
 - b. The United States Postal Service did not return the October 29, 2013 letter to the Division, and therefore it is presumed delivered.
 - c. Plant failed to provide a written response to the Division's October 29, 2013 letter and failed to demonstrate a reasonable justification for the delay.

JURISDICTION AND STATUTORY GROUNDS FOR REFUSAL

14. Section 385.209 RSMo (Supp. 2013)² 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:

* * *

 - (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;

* * *

¹ The letter was addressed to "Jacob Plarit" by mistake, but sent to the correct address provided by Plant. The United States Postal Service did not return the letter as undeliverable.

² All statutory references are to RSMo (Supp. 2013) unless otherwise indicated.

(12) Failed to comply with an administrative or court order imposing a child support obligation;

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax [.]

15. 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.

16. "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).
17. 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.
18. The Director may refuse to issue an MVESC producer license to Plant under § 385.209.1(2) because Plant failed to adequately respond to an inquiry letter 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.
19. The Director may refuse to issue Plant an MVESC producer license under § 385.209.1(13) because he has failed to comply with administrative and court orders directing payment of state income tax. *Department of Revenue v. Jacob Plant*, Lincoln Co. Cir. Ct., No. 10L6-MC00351.
20. The Director may refuse to issue an MVESC producer license to Plant under § 385.209.1(3) because he attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Background Question No. 4 and failed to disclose his Missouri state income tax delinquency in order to misrepresent to the Director that he had no tax delinquencies and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
21. The Director may refuse to issue an MVESC producer license to Plant under § 385.209.1(12) because he has failed to comply with an administrative or court order

imposing a child support obligation and, as a result, owes \$6,187.94 in total arrears. *Dana Marie Plant v. Jacob Conrad Plant*, St. Charles Co. Cir. Ct., No. 00FC124513-01.

22. The Director may also refuse to issue an MVESC producer license to Plant under § 385.209.1(3) because he attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered that he was subject to and in compliance with a repayment agreement in response to Background Question No. 7 on the Application. Plant made the misrepresentation regarding the status of his child support obligations in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
23. The Director has considered Plant's history and all of the circumstances surrounding Plant's Application. Granting Plant an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue an MVESC producer license to Plant.
24. The requested order in the public interest.

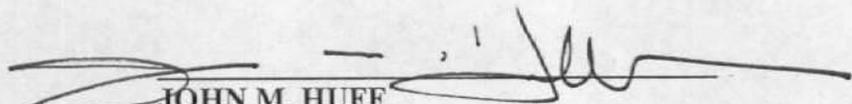
ORDER

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

SO ORDERED.

WITNESS MY HAND THIS 3RD DAY OF APRIL, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

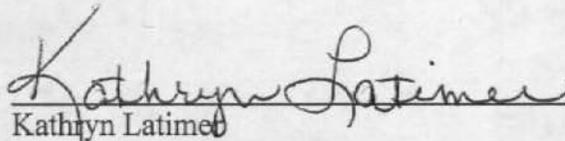
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 3rd day of April, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Jacob C. Plant
2200 Entity Ave.
St. Louis, Missouri 63114

No. 1Z0R15W84298962336



Kathryn Latimer

Paralegal

Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov