



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JOHNATHAN S. CAFFEY,

Applicant.

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Case No. 186325

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 30, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Johnathan S. Caffey. 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. Johnathan S. Caffey, ("Caffey") is a Missouri resident with a residential address of record of 2016 Villas Drive, Warrenton, Missouri, 63383.
2. On January 2, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Caffey's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Caffey attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. 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?

"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. Caffey answered “Yes” to Question No. 1.

6. With his Application, Caffey included a written statement briefly describing the circumstances surrounding of his criminal history and copies of related uncertified court documents, which, along with documents later obtained by the Consumer Affairs Division during its investigation, showed that:

- a. On March 8, 2007, Caffey’s guilty plea in the Circuit Court of Warren County to the Class C Felony of Possession of a Controlled Substance, in violation of § 195.202, RSMo. The court referred Caffey to a court program for drug treatment. On January 2, 2009, the court terminated Caffey’s participation in the drug treatment program, and on March 3, 2009, sentenced Caffey to six years’ imprisonment.¹
- b. A criminal case is currently pending in the Warren County Circuit Court in which Caffey is charged with the Class B Felony of Burglary in the First Degree and the Class B Felony of Attempted Robbery in the First Degree.² Caffey described these charges in the written explanation as the result of a false accusation.

7. Background Question No. 7 of the Application asks 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 agency.)

¹ *State of Missouri v. Johnathan S. Caffey*, Warren Co. Cir. Ct., No. 06BB-CR01226-01.

² *State of Missouri v. Johnathan S. Caffey*, Warren Co. Cir. Ct., No. 11BB-CR00882-01.

8. Caffey answered "No" to Background Question No. 7.
9. On May 9, 2008, a child support order naming Caffey as respondent, issued by an authorized representative of the Director of the Family Support Division of the Missouri Department of Social Services, was filed in the Warren County Circuit Court. That order was then issued as the court's judgment, ordering Caffey to pay \$531.00 per month in child support, beginning on May 15, 2008, for a child born in 2006.³
10. Contrary to Caffey's answer to Question No. 7, as of the date of the Application, Department of Social Services records stated that Caffey owed an arrearage of \$28,490.00 for the support of the child named in the May 9, 2008 order. As of November 25, 2013, Caffey owed an arrearage of \$34,331.00.
11. On January 9, 2013, the Consumer Affairs Division's investigator, Karen Crutchfield, sent Caffey an inquiry letter, requesting certified copies of court documents, a more detailed explanation of his criminal history, a copy of Caffey's child support order, and explanation of Caffey's apparent child support arrearages and of why Caffey answered "No" to Background Question No. 7.
12. On January 22, 2013, Crutchfield received Caffey's response to her January 9 letter, in which he provided some of the information Crutchfield requested, including a written explanation of Caffey's child support circumstances from the mother of the child involved as well as from Caffey. According to both, the child support obligation arose from the child's use of Medicaid assistance. They stated that Caffey had been contributing directly to the child's care, that Caffey was engaged to marry the mother, and that the two were working to straighten out the situation with authorities.
13. As Caffey had not provided a complete response to each of the inquiries in her January 9 letter, Crutchfield sent another letter of inquiry to Caffey on January 25, 2013.
14. On February 11, 2013, Crutchfield received Caffey's response to her January 25 letter, in which he provided certified records and detailed additional explanation of his criminal history and his child support circumstances.
15. Caffey explained that in 2006 after he lost his scholarship and his girlfriend became pregnant, Caffey had briefly resorted to selling cocaine to "make some quick money and stop."
16. Caffey also explained the ways in which he has taken responsibility for his actions that led to his conviction and has changed his life for the better.
17. In the nearly eleven months that have passed since Caffey offered his explanation of his child support arrearage, Caffey has not provided any indication that he has made any

³ *K.L.H. v. Johnathan Scott Caffey*, Warren Co. Cir. Ct., Case No. 08BB-MC00053.

progress in resolving his arrearage.

CONCLUSIONS OF LAW

18. Section 385.209 RSMo, Supp. 2012, 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;

* * *

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

19. 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.

20. The Director may refuse to issue an MVESC producer license to Caffey under § 385.209.1(5) because Caffey has been convicted of a felony:

a. The Class C Felony of Possession of a Controlled Substance, in violation of § 195.202, RSMo.⁴

21. The Director also may refuse to issue Caffey an MVESC producer license under § 385.209.1(12) because Caffey has failed to comply with administrative and court orders imposing child support obligations:

a. On May 9, 2008, a child support order naming Caffey as respondent, issued by an authorized representative of the Director of the Family Support Division of the Missouri Department of Social Services, was filed in the Warren County Circuit Court. That order was then issued as the court's judgment, ordering Caffey to pay \$531.00 per month in child support, beginning on May 15, 2008, for a child born in 2006.⁵

⁴ *State of Missouri v. Johnathan S. Caffey*, Warren Co. Cir. Ct., No. 06BB-CR01226-01.

⁵ *K.L.H. v. Johnathan Scott Caffey*, Warren Co. Cir. Ct., Case No. 08BB-MC00053.

- b. As of the date of the Application, Department of Social Services records stated that Caffey owed an arrearage of \$28,490.00 for the support of the child named in the May 9, 2008 order. As of November 25, 2013, Caffey owed an arrearage of \$34,331.00.
- 22. The Director has considered Caffey's history and all of the circumstances surrounding Caffey's Application. Granting Caffey 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 Caffey.
- 23. This order is in the public interest.

ORDER

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

SO ORDERED.

WITNESS MY HAND THIS 31ST DAY OF DECEMBER, 2013.




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 31st day of December, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Johnathan S. Caffey
2016 Villas Drive
Warrenton, Missouri 63383

Certified No. 7009 3410 0001 9254 6762


Angie Gross

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