State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JULIAN J. GONZALES,	)	**Case No. 202413**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On March __, 2014, 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 Julian J. Gonzales. 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. Julian J. Gonzales ("Gonzales") is a Missouri resident with a residential address of record of 813 Colleen Drive, O'Fallon, Missouri, 63366.

2. On September 3, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Gonzales's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. By signing the Application, Gonzales attested and certified that "all of the information submitted in this application and attachments is true and complete."

4. 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.)

5. Gonzales answered "No" to Background Question No. 7 and did not disclose any child support obligation in arrearage in his Application.

6. Contrary to Gonzales's answer to Question No. 7, as of the date of the Application Gonzales owed a total of $37,003.81 in arrearages on a child support obligation.

7. As of February 18, 2014, Gonzales owed a total of $41,503.81 in child support arrearages.

8. On November 10, 2008, the St. Charles County Circuit Court, in a dissolution action, entered a Judgment on Dissolution ordering Gonzales to pay $1,000.00 per month for the support of D.G.[1]

9. On July 31, 2012, the St. Charles County Circuit Court entered a judgment ordering Gonzales to continue to pay $1,000 per month for the support of D.G.

10. The November 10, 2008 Judgment on Dissolution and the July 31, 2012 Judgment are the orders imposing a child support obligation for which Gonzales is in arrears.[2]

11. On September 6, 2013, Consumer Affairs Division investigator Andrew Engler mailed Gonzales a written inquiry, noting Gonzales's "No" answer to Background Question No. 7, and requesting that Gonzales provide the current status of his child support arrearage and any evidence of a repayment arrangement and his payment history.

12. On September 17, 2013, the Department received Gonzales's response to Engler's inquiry. In the response, Gonzales stated, verbatim:

> This letter is in response to yours in regard to my child support. I checked no in thought that I was being asked if I had any judgements against me as far as child support goes. I am trying to pay my back child support as I have been paying an extra $500 per month. I have been in the building product industry and have been struggling with job loss & debt for five years, ever since I my divorce was final. I am attaching my last receipt of my CS payment history. I have made payments of $330 per week with my last employer which is not reflected in the attached payment schedule. I have not yet found a job that will allow me to earn enough to get back on track with CS and allow me to live above poverty. That is why I need this job so that I can get caught back up on CS and get my finances in order.

13. Gonzales's explanation for his failure to disclose his child support arrearage is not credible. Background Question No. 7 plainly asks "Do you have a child support obligation in arrearage?" There is no mention of judgments in the question.

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[1] *T.E.G. v. Julian J. Gonzales*, St. Charles Co. Cir. Ct., No. 0811-FC03171.

[2] *State of Missouri, Family Support Div. v. Julian J. Gonzales*, St. Louis City Cir. Ct., No. 0722-FC00696.

14. It is inferable, and hereby found as fact, that Gonzales falsely answered "No" to Question No. 7 of the Application, and failed to disclose his child support obligation in arrearage, in order to misrepresent to the Director that he had no child support obligation in arrearage and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

CONCLUSIONS OF LAW

15. 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:
>
> * * *
>
> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
>
> * * *
>
> (12) Failed to comply with an administrative or court order imposing a child support obligation[.]

16. 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.

17. The Director may refuse to issue an MVESC producer license to Gonzales under § 385.209.1(3) because Gonzales attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Question No. 7 of the Application, and failed to disclose his child support obligation in arrearage, in order to misrepresent to the Director that he had no child support obligation in arrearage and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

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

    a. As of February 18, 2014, Gonzales owed a total of $41,503.81 in child support arrearages.

    b. On November 10, 2008, the St. Charles County Circuit Court, in a dissolution action, entered a Judgment on Dissolution ordering Gonzales to pay $1,000.00 per month for the support of D.G.

    c. On July 31, 2012, the St. Charles County Circuit Court entered a judgment ordering Gonzales to continue to pay $1,000 per month for the support of D.G.

    d. The November 10, 2008 Judgment on Dissolution and the July 31, 2012 Judgment are the orders imposing a child support obligation for which Gonzales is in arrears.

19. The Director has considered Gonzales's history and all of the circumstances surrounding Gonzales's Application. Granting Gonzales 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 Gonzales.

20. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Julian J. Gonzales** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 10th **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 12th 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:

Julian J. Gonzales
813 Colleen Drive
O'Fallon, Missouri 63366

Certified No. 7009 3410 0001 9254 7202

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