



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

KEVIN M. BODINE,

Applicant.

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Case No. 195431

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 7, 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 Kevin M. Bodine. 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. Kevin M. Bodine ("Bodine") is a Missouri resident with a residential address of record of 1455 W. Duchesne, Florissant, Missouri, 63031.
2. On April 9, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Bodine's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. 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[.]

4. Bodine answered “No” to Question No. 1. Bodine did not disclose any criminal history in his Application.
5. Contrary to Bodine’s “No” answer to Question No. 1, the Consumer Affairs Division’s investigation of Bodine’s Application revealed that on May 16, 2008, Bodine pleaded guilty in the St. Charles County Circuit Court to three counts of the Class C Felony of Attempt to Commit the Offense of Sale of a Controlled Substance, a violation of § 195.211.¹ According to the Information filed by the St. Charles County Prosecutor, Bodine on three occasions “sold white pills” to an undercover officer, “representing said pills as MDMA.” The court sentenced Bodine to four years’ imprisonment on each count, to be served concurrently, but suspended execution of the sentence and placed Bodine on five years’ probation. On February 1, 2013, Bodine was discharged from his probation.²
6. It is inferable, and is hereby found as fact, that Bodine falsely answered “No” to Question No. 1 and failed to disclose his convictions of three counts of the Class C Felony of Attempt to Commit the Offense of Sale of a Controlled Substance in his Application in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
7. On May 14, 2013, Consumer Affairs Division investigator Karen Crutchfield mailed an inquiry letter to Bodine, requesting an explanation of Bodine’s “No” answer to Background Question No. 1 in light of his convictions in case number 0711-CR08963-01, requesting a detailed explanation of the crime and the circumstances surrounding it, and requesting certified copies of court documents related to the conviction.
8. Crutchfield mailed the May 14, 2013 letter by first class mail, to Bodine’s address of record, with sufficient postage attached.
9. The May 14, 2013 letter was not returned as undeliverable.

¹ References to this statute are to the version in the Revised Statutes of Missouri under which Bodine pleaded guilty and was convicted.

² *State of Missouri v. Kevin Matthew Bodine*, St. Charles Co. Cir. Ct., No. 0711-CR08963-01.

10. Bodine never responded to the May 14, 2013 letter and has not demonstrated any justification for his failure to respond.
11. On June 5, 2013, Crutchfield mailed a second inquiry letter to Bodine, again requesting an explanation of Bodine's "No" answer to Background Question No. 1 in light of his convictions in case number 0711-CR08963-01, requesting a detailed explanation of the crime and the circumstances surrounding it, and requesting certified copies of court documents related to the conviction.
12. Crutchfield mailed the June 5, 2013 letter by first class mail, to Bodine's address of record, with sufficient postage attached.
13. The June 5, 2013 letter was not returned as undeliverable.
14. Bodine never responded to the June 5, 2013 letter and has not demonstrated any justification for his failure to respond.

CONCLUSIONS OF LAW

15. 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:

* * *

 - (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;

* * *

 - (5) Been convicted of any felony[.]
16. Regulation 20 CSR 100-4.100(2) states:
 - (2) Except as required under subsection (2)(B)—
 - (A) 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.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

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 motor vehicle extended service contract producer license, but to protect the public.
18. The Director may refuse to issue an MVESC producer license to Bodine under § 385.209.1(5) because Bodine has been convicted of three felonies:
 - a. Attempt to Commit the Offense of Sale of a Controlled Substance, a Class C Felony in violation of § 195.211 (three counts).³
19. The Director also may refuse to issue an MVESC producer license to Bodine under § 385.209.1(3) because Bodine attempted to obtain an MVESC producer license through material misrepresentation or fraud. Bodine falsely answered “No” to Question No. 1 and failed to disclose his convictions of three counts of the Class C Felony of Attempt to Commit the Offense of Sale of a Controlled Substance in his Application in order to misrepresent to the Director that he had no criminal history, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
20. The Director also may refuse to issue an MVESC producer license to Bodine under § 385.209.1(2) because Bodine violated a rule of the Director, in that he failed to adequately respond to two written inquiries from the Consumer Affairs Division—mailed on May 14, 2013, and June 5, 2013—without demonstrating reasonable justification for either of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
21. The Director has considered Bodine’s history and all of the circumstances surrounding Bodine’s Application. Granting Bodine 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 Bodine.

³ *State of Missouri v. Jasen Allen Bodine*, St. Charles Co. Cir. Ct., No. 04CR131046-01.

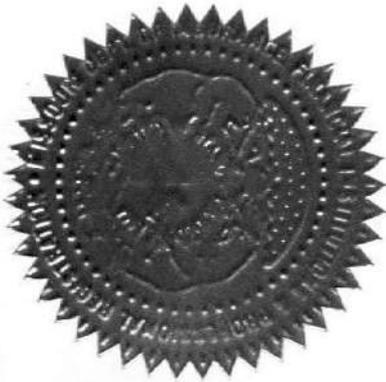
22. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Kevin M. Bodine** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 12TH DAY OF NOVEMBER, 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 12th day of November, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

Kevin M. Bodine
1455 W. Duchesne
Florissant, Missouri 63031

Certified No. 7009 3410 0001 9255 0479



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