DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	
Kirk A. James,	)	**Case No. 120125079C**
	)	
Respondent.	)	

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 Tamara W. Kopp, and Kirk A. James, 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 producers.

2. The Department's Consumer Affairs Division ("Division") has the duty of conducting investigations into the acts of motor vehicle extended service contract producers

[1] All statutory references are to the 2011 Supplement to the Revised Statutes of Missouri unless otherwise noted.

under Chapters 374, 375, and 385, and is authorized to investigate and recommend enforcement action, including motor vehicle extended service contract producer license application refusal.

3. On October 3, 2007, Kirk A. James ("James"), possessed cocaine HCl, a controlled substance, knowing of its presence and nature, in violation of § 195.202.

4. On January 8, 2008, James was charged with the Class C Felony of possession of a controlled substance in St. Charles County Circuit Court.

5. On June 5, 2009, the Court suspended the imposition of James' sentence and ordered that he complete five years supervised probation. *State v. Kirk A. James*, St. Charles County Circuit Court, Case No. 0811-CR00112-01.

6. James' probation is scheduled to be completed June 5, 2014.

7. On or about December 6, 2011, James submitted an Application for Motor Vehicle Extended Service Contract Producer License ("Application") to the Department.

8. James acknowledges and understands that should he fail to complete the terms of his probation, under § 385.209.1(5), the Director may refuse or discipline James' motor vehicle extended service contract producer license. *State v. Kirk A. James*, St. Charles County Circuit Court, Case No. 0811-CR00112-01.

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

10. This Consent Order is entered pursuant to §§ 374.046 and 385.216. As such, any interested person aggrieved by this Consent Order may request a hearing before the Director or 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, James 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 James' license.

11. James stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission, 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.

12. 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 representational capacity, to be bound by the terms of this Consent Order.

Conclusions of Law

13. The actions admitted by James may be grounds to refuse his Missouri motor vehicle extended service contract producer license application pursuant to § 385.209.1(5).

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

15. 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.

ORDER

IT IS ORDERED that the Department will issue a motor vehicle extended service contract producer license to Kirk A. James subject to the conditions set forth herein.

IT IS ORDERED that Kirk A. James shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department or a consumer within five business days of receipt. James shall report in writing all consumer complaints, both written and oral, to the Consumer Affairs Division of the Department, within five business days of receipt. If a complaint was not communicated to James by the Department, James shall send the Department a copy of the complaint and James' response to the consumer within five business days of receipt.

IT IS ORDERED that Kirk A. James shall maintain full compliance with all court orders and other requirements relating to *State v. Kirk A. James*, St. Charles County Circuit Court, Case No. 0811-CR00112-01. James shall sign and submit a Statement of Compliance to the Director within 30 days of his completion of probation. Should James fail to successfully complete probation, James shall notify the Consumer Affairs Division within five business days of the dismissal from or revocation of probation and notify the Consumer Affairs Division of the consequences of such failure, dismissal or revocation.

IT IS ORDERED that Kirk A. James shall execute and submit any necessary documents to provide the Department access to James' probation and court records, including access to any chemical test results.

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

IT IS ORDERED that for five years subsequent to the date of this executed Consent Order, Kirk A. James will voluntarily surrender his license to the Department within 30 days of James' 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 Kirk A. James shall report to the Consumer Affairs Division any administrative action undertaken or initiated against James in another jurisdiction or by another governmental agency in this state within five business days after James receives notification of the initiation of such administrative action.

IT IS ORDERED that Kirk A. James 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 business days of such violation or failure to comply.

IT IS ORDERED that if Kirk A. James maintains his motor vehicle extended service contract producer license beyond the initial term and complies with the terms of this Consent Order, including the successful completion of probation, James may apply to renew his license and the Director shall consider the renewal application in accordance with Chapters 374, 375, and 385 without regard to James' prior felony in *State v. Kirk A. James*, St. Charles County Circuit Court, Case No. 0811-CR00112-01.

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 APRIL, 2012.

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 Kirk A. James may have a right to a hearing, but that Kirk A. James has waived the hearing and consented to the issuance of this Consent Order.

Kirk A. James
394 Round Tower Drive East
St. Charles, Missouri 63303
Respondent

4/3/12
Date

Counsel for Respondent
Name: _____
Missouri Bar No. _____
Address: _____
_____
Telephone: _____

Date

Tamara W. Kopp
Counsel for Consumer Affairs Division
Missouri Bar No. 59020
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

4-6-12
Date

Missouri Department of Insurance, Financial
Institutions and Professional Registration
Attn: Legal Section
301 West High Street, Room 530
Jefferson City, Missouri 65101

RE: Statement of Compliance
State v. Kirk A. James, St. Charles County Circuit Court, Case No. 0811-CR00112-01
DIFP Case No. 120125079C

I, Kirk A. James, hereby truthfully state under penalty of perjury, that I successfully completed the probation associated with *State v. Kirk A. James*, St. Charles County Circuit Court, Case No. 0811-CR00112-01, on _____, 20_____.

Signed: _____ _____
Kirk A. James Date

In witness whereof I have hereunto subscribed my name and affixed my official seal this ____ day of _____, 20____.

_____
Notary

My commission expires: _____