State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
MATTHEW D. STOUT,	)	**Case No. 140528485C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On August 14, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue a Motor Vehicle Extended Service Contract Producer License to Matthew D. Stout. 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. Matthew D. Stout, ("Stout") is a Missouri resident with a residential address of 2312 Donna Maria, Warrenton, Missouri 63383, and a mailing address of P.O. Box 503, Warrenton, Missouri 63383.

2. On January 8, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Stout's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

3. The "Applicant's Certification and 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. I further certify, under penalty of perjury, that a) I have no child-support obligation, b) I have a child-support obligation and I am currently in

compliance with that obligation, or c) I have identified my child support obligation arrearage on this application.

4. Stout signed the Application in the "Applicant's Certification and Attestation" section under oath and before a notary public.

5. 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.).

6. In response to Background Question No. 7, Stout answered that he does have a child support obligation in arrearage, that he is two (2) months in arrearage, that he is currently subject to and in compliance with a repayment agreement, and that he is not subject to a child support related subpoena/warrant.

7. The Consumer Affair Division's ("Division") investigation regarding Stout's child support obligations revealed that Stout failed to disclose the true extent of his obligations:

   a. On October 21, 2004, the Warren County Circuit Court entered an order against Stout obligating him to pay $575.00 per month for support of his two minor children, and $793.00 in retroactive child support. On April 12, 2012, the court entered a judgment of modification that reduced Stout's child support obligation to $414.00 per month. As of the date Stout submitted his Application, Stout owed $10,332.50 in arrears. As of July 21, 2014, Stout owed $11,241.48 in arrears. Over the past thirteen (13) months, Stout's payments have been sporadic. *FSD/Christina L. Stout v. Matthew D. Stout*, Warren Co. Cir. Ct., Case No. 04BB-DR0079-01.

   b. On April 8, 1999, an order was entered against Stout obligating him to pay $186.00 per month for support of his minor child beginning May 15, 1999. As of the date Stout submitted his Application, Stout owed $7,253.01 in arrears. As of July 21, 2014, Stout owed $7,650.04 in arrears. Over the past thirteen (13) months, Stout's payments have been sporadic. *State ex rel. Shelley Preis v. Matthew Stout*, Warren Co. Cir. Ct., IV-D Case No. 30687165.

8. On January 17, 2014, Special Investigator Andrew Engler ("Engler"), with the Division, mailed an inquiry letter to Stout requesting information regarding the current status of

Stout's arrearage and evidence of Stout's repayment plan and payment history.

9. The January 17, 2014 inquiry letter was returned to Engler by the United States Postal Service and was marked "return to sender."

10. Engler contacted Stout by telephone to inquire about Stout's mailing address and request the current status of Stout's arrearage and evidence of a repayment plan. During the phone conversation, Stout informed Engler that his mail is collected from P.O. Box 503, Warrenton, Missouri 63383.

11. On January 29, 2014, Engler sent a second inquiry letter to Stout at P.O. Box 503, Warrenton, Missouri 63383. The letter requested substantially the same information as previously requested and a response by February 18, 2014. The inquiry letter further warned Stout that failure to respond could result in refusal of his motor vehicle extended service contract ("MVESC") producer license.

12. The January 29, 2014 letter was not returned as undeliverable, and therefore is presumed received by Stout.

13. Stout failed to respond to the January 29, 2014 letter by February 18, 2014, and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

14. Section 385.209 RSMo (Supp. 2013)[1] 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:
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> * * *
>
> (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;
>
> * * *
>
> (12) Failed to comply with an administrative or court order imposing a child support obligation[.]

[1] All statutory references are to the RSMo (2000) as updated by the 2013 Supplement, unless otherwise indicated.

15. Title 20 CSR 100-4.100(2)(A) states:

> 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 motor vehicle extended service contract producer license, but to protect the public.

18. Stout may be refused a MVESC Producer License pursuant to § 385.209.1(2) because Stout 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. Stout may be refused a MVESC Producer License pursuant to § 385.209.1(3) because Stout attempted to obtain a license through material misrepresentation or fraud when he failed to fully disclose his child support arrearage in his Application in order to misrepresent to the Director that he was only two (2) months in arrears,[2] when he was actually $17,585.51 in arrears at the time of his Application, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

20. Stout may be refused a MVESC Producer License pursuant to § 385.209.1(12) because he failed to comply with two (2) administrative or court order imposing a child support obligation:

    a. *FSD/Christina L. Stout v. Matthew D. Stout*, Warren Co. Cir. Ct., Case No. 04BB-DR0079-01 (arrearage of $11,241.48 as of July 21, 2014); and

    b. *State ex rel. Shelley Preis v. Matthew Stout*, Warren Co. Cir. Ct., IV-D Case No. 30687165 (arrearage of $7,253.01 as of July 21, 2014).

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[2] According to the records, a two-month arrearage for Stout would be $1,200.00. *FSD/Christina L. Stout v. Matthew D. Stout*, Warren Co. Cir. Ct., Case No. 04BB-DR0079-01. *State ex rel. Shelley Preis v. Matthew Stout*, Warren Co. Cir. Ct., IV-D Case No. 30687165.

21. Each failure to comply with an administrative or court order imposing a child support obligation is a separate and sufficient ground for refusal under § 385.209.1(12).

22. The Director has considered Stout's history and all of the circumstances surrounding Stout's Application. Granting Stout a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Stout's application for a MVESC producer license.

23. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Motor Vehicle Extended Service Producer License Application of **Matthew D. Stout** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20th **DAY OF** August **, 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 21st day of August, 2014 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Matthew D. Stout
2312 Donna Maria
Warrenton, MO 63383

Tracking No. 1Z0R15W84293401601

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