State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
ODIS JAMAR BUCKLEY,	)	**Case No. 15-0720365C**
	)	
Applicant.	)	

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

On August 26, 2015, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Odis Jamar Buckley. 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. Odis Jamar Buckley ("Buckley") is a Missouri resident with a residential address of 27 Hereford Avenue, St. Louis, Missouri 63135.

2. On May 22, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Buckley's "Application for Motor Vehicle Extended Service Contract Producer License" ("Application").

3. The "Applicant's Certification and Attestation" section of the Application reads, in relevant part:

> 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.
>
> * * *
>
> I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state or

> federal income tax obligation and I have provided all information and documentation requested in Background Information Question 36.4.
>
> 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 a child support obligation that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Information Question 36.7.

4. Buckley signed the Application under oath and before a notary.

5. Background Information Question No. 2 of the Application asks, in relevant part:

> Have you ever been named or involved as a party in an administrative proceeding or action regarding any professional or occupational license or registration, or regarding the lack of such license or registration?
>
> "Involved" means having a license censured, suspended, revoked, canceled, terminated or being assessed a fine, a voluntary forfeiture, a cease and desist order, a prohibition order, a consent order, or being placed on probation. "Involved" also includes the act of surrendering a license to resolve an administrative proceeding or action. "Involved" also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license or is related to the lack of such license. "Involved" also means having a license application denied or the act of withdrawing an application to avoid a denial.

6. Buckley answered "No" to Background Information Question No. 2.

7. The Division's investigation revealed that on August 19, 2014, Buckley filed an "Application for Motor Vehicle Extended Service Contract Producer License" ("2014 Application").[1] On January 7, 2015, the Director refused to issue a Motor Vehicle Extended Service Contract ("MVESC") producer license to Buckley. The Director denied Buckley's 2014 Application for an MVESC producer license because Buckley failed to respond to Division inquiries, failed to comply with orders regarding overdue tax and child support, and because he failed to disclose his child support obligations and arrearages in order to improve his chances of licensure through such concealment pursuant to § 385.209.1(2), (3), (12), and (13). *See In re: Odis Buckley*, Case No. 14-1110728C, "Order Refusing to Issue a Motor Vehicle Extended Service Contract Producer License," issued January 7, 2015 (attached as Exhibit A).

[1] Buckley previously held an MVESC producer license from August 17, 2012 to August 17, 2014 when it expired by operation of law. *See* § 385.207.6, RSMo Supp. 2013.

8. Background Information Question No. 4 of the Application asks, in relevant part:

> Have you failed to pay state or federal income tax?
>
> Have you failed to comply with an administrative or court order directing payment of state or federal income tax?
>
> Answer "Yes" if the answer to either question (or both) is "Yes."

9. Buckley answered "No" to Background Information Question No. 4.

10. The Division's investigation revealed that, in fact, Buckley has outstanding tax obligations to the State of Missouri for tax years 2005 and 2006.

11. The St. Louis County Circuit Court entered judgment against Buckley upon the Department of Revenue's certification of delinquent individual income tax, interest, and additions to tax, totaling $605.63. *Department of Revenue v. Odis J. Buckley*, St. Louis Co. Cir. Ct., Case No. 10SL-MC02463. The judgment remains unsatisfied.

12. Background Information Question No. 7 of the Application reads as follows:

Do you currently have or have you had a child support obligation?

If you answer yes:

a) are you in arrearage?
b) by how many months are you in arrearage? _____ months
c) what is the total amount of your arrearage? _____
d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)
f) 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.)
g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?

13. Buckley answered "No" to Background Information Question No. 7.

14. The Division's investigation revealed that, in fact, Buckley has legal obligations to pay child support and child support arrearages, as follows:

a. Buckley is required to pay $380.00 per month for support of D.C., a minor. *Missouri Family Support Division – Child Support Enforcement, et al. v. Odis J. Buckley, et al.*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02795. The court's order has been in effect since August 2009. In mid-December 2014, before his 2014 Application was refused, Buckley owed $11,269.81 in arrearages in this case. As of August 1, 2015, he owes $13,829.81 in arrearages in this case.

b. Buckley is required to pay $364.00 per month in support of D.B., a minor. *State of Missouri, Division of Family Services, et al. v. Odis Jamar Buckley*, St. Louis Co. Cir. Ct., Case No. 09SL-CR02456. The court's order has been in effect since January 2008. In mid-December 2014, before his 2014 Application was refused, Buckley owed $14,144.31 in arrearages in this case. As of August 1, 2015, he owes $16,692.31 in arrearages in this case.

15. It is inferable, and hereby found as fact, that Buckley failed to disclose his tax lien and child support obligations and arrearages, and the fact that the Director previously refused to issue him an MVESC producer license, in order to improve the chances that the Director would issue a license to him this time.

16. On May 29, 2015, Andrew Engler ("Engler"), a Special Investigator with the Division, sent an inquiry letter to Buckley via first class mail, postage prepaid, at Buckley's residential address, 27 Hereford Avenue, St. Louis, MO 63135. In it, Engler indicated that the Division's investigation revealed that Buckley had previously been refused an MVESC producer license, that he had a tax lien with the Missouri Department of Revenue, and that he had child support arrearages, notwithstanding Buckley's "no" answers to those questions on the Application. Engler asked Buckley to explain the circumstances surrounding the prior refusal, the tax lien, and the child support arrearages, and to explain why he failed to disclose these issues on his Application. Engler requested a response within twenty days from the postmark of the letter.

17. The United States Postal Service did not return Engler's May 29, 2015 inquiry letter to the Division as undeliverable and it is presumed received.

18. Buckley did not respond timely or at all to Engler's May 29, 2015 inquiry letter and he did not demonstrate reasonable justification for any delay.

19. Again on June 18, 2015, Engler sent another inquiry letter to Buckley via first class mail, postage prepaid. In it, Engler reiterated that the Division's investigation revealed that Buckley had a prior MVESC producer license refusal, a tax lien, and child support arrearages. Engler again asked Buckley to explain the circumstances surrounding these issues and his failure to disclose them on his Application. Engler requested a response in twenty days.

20. The United States Postal Service did not return Engler's June 18, 2015 inquiry letter to the Division as undeliverable and it is presumed received.

21. Buckley did not respond timely or at all to the Division's June 18, 2015 inquiry letter and he did not demonstrate reasonable justification for any delay.

22. On or about August 11, 2015, Engler observed Buckley, while in or from this state, engaging in selling, offering, negotiating, or soliciting motor vehicle extended service contracts with a consumer, even though Buckley does not hold an MVESC producer license.

23. The Director is a state regulator of service contracts.

CONCLUSIONS OF LAW

24. Section 385.209.1, RSMo Supp. 2013,[2] provides:

> 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;
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> (3) Obtained or attempted to obtain a license through material misrepresentation or fraud;
>
> * * *
>
> (9) Been refused a license or had a license revoked or suspended by a state or federal regulator of service contracts, financial services, investments, credit, insurance, banking, or finance;
>
> * * *
>
> (11) Unlawfully acted as a producer without a license;
>
> (12) Failed to comply with an administrative or court order imposing a child support obligation;

[2] All further statutory references are to RSMo Supp. 2013 unless otherwise indicated.

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

25. Section 385.206, RSMo, provides, in part:

> 1. It is unlawful for any person in or from this state to sell, offer, negotiate, or solicit a motor vehicle extended service contract with a consumer, other than the following:
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> * * *
>
> (6) A business entity producer or individual producer licensed under section 385.207[.]

26. Section 385.207, RSMo, provides, in part:

> * * *
>
> 3.
> 4. An individual, prior to selling, offering, negotiating, or soliciting a motor vehicle extended service contract with a consumer under subdivision (6) of subsection 1 of section 385.206, shall apply for and obtain licensure with the director as an individual producer in accordance with this section.
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> * * *
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> 6. A producer license issued under this section, if not renewed by the director by its expiration date, shall terminate on its expiration date and shall not after that date authorize its holder under sections 385.200 to 385.220 to sell, offer, negotiate, or solicit motor vehicle extended service contracts.

27. Title 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, provides:

> 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.

28. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).

29. 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 MVESC producer licenses, but to protect the public.

30. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(2) because Buckley violated a provision in §§ 385.200 to 385.220, namely § 385.206.1(6), when, on or about August 11, 2015, he unlawfully, in or from this state, sold, offered, negotiated, or solicited motor vehicle extended service contracts with a consumer.

31. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(2) because Buckley twice violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A). Buckley failed to respond timely or at all to two written inquiries from the Division, mailed on May 29, 2015 and June 18, 2015. Buckley failed to demonstrate reasonable justification for any delay.

32. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(2) because Buckley twice violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), in that Buckley failed to respond to two written inquiries from the Division mailed on August 26, 2014 and September 15, 2014. Buckley failed to demonstrate reasonable justification for any delay. These failures resulted, in part, in the Director denying Buckley's 2014 Application for an MVESC producer license. *See* Exhibit A. Buckley did not appeal the order denying his 2014 Application, which is now final, and he is collaterally estopped from challenging it or the grounds asserted therein. *St. Louis Metropolitan Towing v. Director of Revenue*, 450 S.W.3d 303, 307 (Mo. App. W.D. 2014).

33. Each violation of 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient ground for the Director to refuse to issue Buckley an MVESC producer license under § 385.209.1(2).

34. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(3) because Buckley attempted to obtain a license through material misrepresentation or fraud. In his Application, Buckley answered "No" in response to Background Information Question No. 2 regarding prior administrative actions against him. But the Division's investigation revealed that the Director had previously refused to issue an MVESC producer license to Buckley in January 2015. Background Information Question No. 2 plainly includes a previous license denial within the scope of "involved" in an administrative action, but Buckley failed to disclose that previous denial on his Application. Buckley's prior refusal was from earlier this year, so it would strain credulity to suggest that he forgot about it.

35. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(3) because Buckley attempted to obtain a license through material misrepresentation or fraud. In his Application, Buckley answered "No" in response to Background Information Question No. 4 regarding failure to comply with an order directing the payment of state income tax. Buckley did not disclose the tax lien against him for $605.63. Buckley could not be unaware of the tax lien against him, because the tax lien was one of the reasons that his prior application for an MVESC producer license was refused.

36. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(3) because Buckley attempted to obtain a license through material misrepresentation or fraud. In his Application, Buckley answered "No" in response to Background Information Question No. 7 regarding child support. But the Division's investigation revealed two separate child support orders. *Missouri Family Support Division – Child Support Enforcement, et al. v. Odis J. Buckley, et al.*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02795; *State of Missouri, Division of Family Services, et al. v. Odis Jamar Buckley*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02456. As of August 1, 2015, Buckley was $16,692.31 in arrears in one case, and $13,829.81 in arrears in the other case, for a total arrearage of $30,522.12.

37. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(3) because Buckley attempted to obtain a license through material misrepresentation or fraud. In his 2014 Application, Buckley answered "No" in response to Background Information Question No. 7 regarding child support. But the Division's investigation revealed two separate child support orders. *See id.* In December 2014, Buckley was $14,144.31 in arrears in one case, and $11,269.81 in arrears in the other case, for a total arrearage of $25,414.12. This failure to disclose child support obligations and arrearages resulted, in part, in the Director denying Buckley's 2014 Application for an MVESC producer license. *See* Exhibit A. Buckley did not appeal the order denying his 2014 Application, which is now final, and he is collaterally estopped from challenging it or the grounds asserted therein. *St. Louis Metropolitan Towing v. Director of Revenue*, 450 S.W.3d 303, 307 (Mo. App. W.D. 2014).

38. Each violation of § 385.209.1(3) constitutes a separate and sufficient ground for the Director to refuse to issue Buckley an MVESC producer license.

39. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(9) because Buckley has previously been refused a license by a state regulator of service contracts. On January 7, 2015, the Director refused to issue an MVESC producer license to Buckley pursuant to § 385.209.1(2), (3), (12), and (13). *See* Exhibit A.

40. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(11) because Buckley unlawfully acted as a producer without a license when,

on or about August 11, 2015, he, in or from this state, sold, offered, negotiated, or solicited a motor vehicle extended service contract with a consumer.

41. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(12) because Buckley failed to comply with an administrative or court order imposing a child support obligation. Buckley currently owes a total of $30,522.12 in child support, in two separate cases. *Missouri Family Support Division – Child Support Enforcement, et al. v. Odis J. Buckley, et al.*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02795; *State of Missouri, Division of Family Services, et al. v. Odis Jamar Buckley*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02456.

42. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(12) because Buckley failed to comply with an administrative or court order imposing a child support obligation. In December 2014, after he filed his 2014 Application, Buckley owed $25,414.12 in child support arrearages in two cases. *See id.* Buckley's failure to pay his child support resulted, in part, in the Director denying Buckley's 2014 Application for an MVESC producer license. *See* Exhibit A. Buckley did not appeal the order denying his 2014 Application, which is now final, and he is collaterally estopped from challenging it or the grounds asserted therein. *St. Louis Metropolitan Towing v. Director of Revenue*, 450 S.W.3d 303, 307 (Mo. App. W.D. 2014).

43. Each violation of an administrative or court order imposing a child support obligation constitutes a separate and sufficient ground for the Director to refuse to issue Buckley an MVESC producer license under § 385.209.1(12).

44. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(13) because Buckley failed to comply with an administrative or court order directing payment of state income tax, specifically, the $605.63 tax judgment in *Department of Revenue v. Odis J. Buckley*, St. Louis Co. Cir. Ct., Case No. 10SL-MC02463.

45. The Director may refuse to issue an MVESC producer license to Buckley under § 385.209.1(13) because Buckley failed to comply with an administrative or court order directing payment of a $605.63 tax judgment. *See id.* This failure to pay this tax judgment resulted, in part, in the Director denying Buckley's 2014 Application for an MVESC producer license. *See* Exhibit A. Buckley did not appeal the order denying his 2014 Application, which is now final, and he is collaterally estopped from challenging it or the grounds asserted therein. *St. Louis Metropolitan Towing v. Director of Revenue*, 450 S.W.3d 303, 307 (Mo. App. W.D. 2014).

46. Each violation of an administrative or court order directing payment of state tax constitutes a separate and sufficient ground for the Director to refuse to issue Buckley an MVESC producer license under § 385.209.1(13).

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

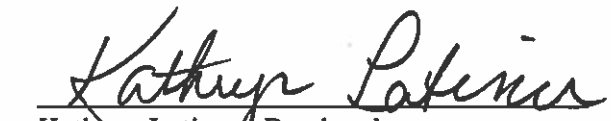
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 28th day of August, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Odis Buckley
27 Hereford Avenue
St. Louis, Missouri 63135

Tracking No. 1Z0R15W84299730192



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47. The above-described instances are grounds upon which the Director may refuse to issue Buckley an MVESC producer license. Buckley failed to timely or adequately respond to Division inquiries both as to his current Application and his 2014 Application. He has failed to comply with orders regarding tax and child support, which led in part to the denial of his 2014 Application; he has to date continued to fail to comply with such orders. He failed to disclose his child support obligations and arrearages on his unsuccessful 2014 Application; he failed, again, to disclose his child support obligations and arrearages on his most recent Application. He failed to disclose the tax judgment against him in his Application and he failed to disclose the fact that the Director previously refused to issue him an MVESC producer license. Buckley failed to make required disclosures on his applications, both in 2014 and now, in order to improve his chances of licensure through such concealment. Finally, Buckley, while in or from this state, sold, offered, negotiated, or solicited a motor vehicle extended service contract with a consumer, despite the fact that he is not licensed to do so.

48. The Director has considered Buckley's history and all of the circumstances surrounding Buckley's Application. Issuing an MVESC producer license to Buckley would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Buckley an MVESC producer license.

49. This Order is in the public interest.

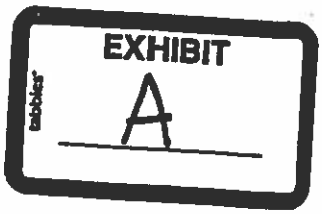
ORDER

IT IS THEREFORE ORDERED that the MVESC producer license Application of **Odis Jamar Buckley** is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 26th **DAY OF** August**, 2015.**

JOHN M. HUFF
DIRECTOR



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
ODIS BUCKLEY,	)	**Case No. 14-1110728C**
	)	
Applicant.	)	

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

On January 2, 2015, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Odis Buckley. 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. Odis Buckley ("Buckley") is a Missouri resident with a residential address of 2823 Lynhurst, St. Louis, MO 63114.

2. On August 19, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Buckley's "Application for Motor Vehicle Extended Service Contract Producer License" ("Application").

3. The "Applicant's Certification and Attestation" section of the Application reads, in relevant part, as follows:

   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. Buckley signed the Application under oath and before a notary.

5. Background Question No. 4 of the Application asks, in relevant part:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

6. Buckley answered "No" to Background Question No. 4.

7. The Division's investigation revealed that, in fact, Buckley had outstanding tax obligations to the State of Missouri for tax years 2006 and 2007.

8. The St. Louis County Circuit Court entered judgment against Buckley upon the Department of Revenue's certification of individual income tax, interest and additions to the tax, totaling $605.63. *Department of Revenue v. Odis J. Buckley*, St. Louis Co. Cir. Ct., Case No. 10SL-MC02463. The judgment remains unsatisfied.

9. On August 26, 2014, Andrew Engler ("Engler"), Special Investigator with the Division, sent an inquiry letter to Buckley via first class mail, postage prepaid, at Buckley's residential address, 2823 Lynhurst, St. Louis, MO 63114. In it, Engler indicated that the Division's investigation revealed that the Missouri Department of Revenue had filed a tax lien against Buckley. Engler asked Buckley to provide the current status of the lien and evidence of either a repayment agreement or a letter of compliance. Engler requested a response on or before September 15, 2014.

10. The United States Postal Service did not return Engler's August 26, 2014 inquiry letter to the Division as undeliverable and it is presumed delivered.

11. Buckley did not timely respond to Engler's August 26, 2014 letter and he did not demonstrate reasonable justification for delay.

12. Again on September 15, 2014, Engler sent another inquiry letter to Buckley via first class mail, postage prepaid. In it, Engler reiterated that the Division's investigation revealed that the Missouri Department of Revenue had filed a tax lien against Buckley. Engler again asked Buckley to provide the current status of the lien and evidence of either a repayment agreement or a letter of compliance. Engler requested a response on or before October 5, 2014.

13. The United States Postal Service did not return Engler's September 15, 2014 inquiry letter to the Division as undeliverable and it is presumed delivered.

14. On September 22, 2014, Buckley contacted Engler by phone and left a voice mail message indicating that he (Buckley) was unaware of any tax lien filed against him. Engler responded by leaving Buckley a voice mail directing Buckley to speak with

someone at the Department of Revenue and provide a letter of compliance to the Department regarding his tax situation.

15. To date, Buckley has not provided a letter of compliance showing that he has resolved his tax issues with the State of Missouri.

16. To date, Buckley has not mailed an adequate response to the September 15, 2014 inquiry, nor has he demonstrated a reasonable justification for delay.

17. Background Question No. 7 of the Application reads as follows:

Do you currently have or have you had a child support obligation?

If you answer yes:
a) are you in arrearage?
b) by how many months are you in arrearage? _____ months
c) what is the total amount of your arrearage? _____
d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)
f) 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.)
g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?

18. Buckley answered "No" to Background Question No. 7.

19. The Division's investigation revealed that, in fact, Buckley has legal obligations to pay child support, as follows:

a. Buckley is required to pay $380.00 per month for support of one child, D.C. *Missouri Family Support Division – Child Support Enforcement, et al. v. Odis J. Buckley et al.*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02795. This order has been in effect since August 2009. As of December 18, 2014, Buckley was $11,269.81 in arrears for this case.

b. Buckley is required to pay $364.00 per month for one child, D.B. *State v. Missouri, Division of Family Services, et al. v. Odis Jamar Buckley*, St.

Louis Co. Cir. Ct., Case No. 09SL-CR02456. This order has been in effect since January 2008. As of the December 18, 2014, Buckley was $14,144.31 in arrears for this case.

20. It is inferable, and hereby found as fact, that Buckley failed to disclose his child support obligations and arrearages in order to improve the chances that the Director would issue a license to him.

CONCLUSIONS OF LAW

21. Section 385.209.1, RSMo Supp. 2014,[1] provides:

> 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;
>
> (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

22. Title 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, provides:

> 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

[1] All further statutory references are to RSMo Supp. 2014 unless otherwise indicated.

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.

23. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).

24. 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 motor vehicle extended service contract ("MVESC") producer licenses, but to protect the public.

25. Buckley may be refused an MVESC producer license under § 385.209.1(2) because Buckley violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A). Buckley failed to timely or adequately respond to two written inquiries from the Division, mailed on August 26, 2014 and September 15, 2014. Buckley failed to demonstrate reasonable justification for any delay.

26. Each violation of 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient ground for the Director to refuse to issue Buckley an MVESC producer license under § 385.209.1(2).

27. Buckley may be refused an MVESC producer license under § 385.209.1(3) because Buckley attempted to obtain a license through material misrepresentation or fraud. In his Application, Buckley answered "No" in response to Background Question No. 7 regarding child support. But the Division's investigation revealed two separate child support orders. *Missouri Family Support Division – Child Support Enforcement, et al. v. Odis J. Buckley et al.*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02795; *State of Missouri, Division of Family Services, et al. v. Odis Jamar Buckley*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02456. As of mid-December 2014, Buckley was $11,269.81 in arrears in one case, and $14,144.31 in arrears in the other case, for a total arrearage of $25,414.12.

28. Buckley may be refused an MVESC producer license under § 385.209.1(12) because Buckley failed to comply with an administrative or court order imposing a child support obligation. As noted, Buckley owes a total of $25,414.12 in child support, in two separate cases. *Missouri Family Support Division – Child Support Enforcement, et al. v. Odis J. Buckley et al.*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02795; *State of Missouri, Division of Family Services, et al. v. Odis Jamar Buckley*, St. Louis Co. Cir. Ct., Case No. 09SL-DR02456.

29. Each violation of an administrative or court order imposing a child support obligation constitutes a separate and sufficient ground for the Director to refuse to issue Buckley an MVESC producer license under § 385.209.1(12).

30. Buckley may be refused an MVESC producer license under § 385.209.1(13) because Buckley failed to comply with any administrative or court order directing payment of state income tax, specifically, the $605.63 tax judgment in *Department of Revenue v. Odis J. Buckley*, St. Louis Co. Cir. Ct., Case No. 10SL-MC02463.

31. The above-described instances are grounds upon which the Director may refuse to issue Buckley an MVESC producer license. Buckley has failed to timely or adequately respond to this state's regulator, he has failed to comply with orders regarding tax and child support, and he failed to disclose his child support obligations and arrearages in order to improve his chances of licensure through such concealment.

32. The Director has considered Buckley's history and all of the circumstances surrounding Buckley's Application. Issuing an MVESC producer license to Buckley would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Buckley an MVESC producer license.

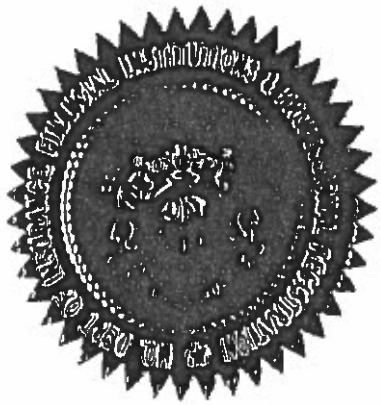
33. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the MVESC producer license Application of **Odis Buckley** is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 7th DAY OF JANUARY, 2015.



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 8th day of January, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Odis Buckley
2823 Lynhurst
St. Louis, Missouri 63114

Tracking No. 1Z0R15W84296249683

Kathryn Latimer

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