



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

QUINTON A. MARTIN,

Applicant.

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Case No. 193457

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On November 5, 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 Quinton A. Martin. 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. Quinton A. Martin ("Martin") is a Missouri resident with a residential address of record of 9422 Everman Avenue, Overland, Missouri, 63116.
2. On March 11, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Martin'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. Martin answered “No” to Question No. 1.

5. Contrary to Martin’s “No” answer to Question No. 1, the Consumer Affairs Division’s investigation of Martin’s Application revealed that on May 21, 2010, Martin pleaded guilty in the St. Louis County Circuit Court to the Class D Felony of Criminal Non-Support, a violation of § 568.040. The court suspended the imposition of sentence and placed Martin on five (5) years’ supervised probation. Martin currently remains on probation, which is due to end on May 21, 2015.¹

6. It is inferable, and is hereby found as fact, that Martin failed to disclose his plea of guilty to the Class D Felony of Criminal Non-Support and the suspended imposition of sentence in order to diminish the apparent extent of his criminal history to the Director, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

7. 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.)

8. Martin answered “Yes” to Background Question No. 7, and indicated that his child support obligation was two (2) months in arrearage.

9. On March 19, 2013, Consumer Affairs Division investigator Karen Crutchfield mailed a written inquiry to Martin, requesting an explanation for Martin’s “No” answer to Question No. 1, in light of his plea of guilty to Criminal Non-Support and the suspended

¹ *State of Missouri v. Quinton A. Martin*, St. Louis Co. Cir. Ct., No. 09SL-CR08990-01.

imposition of sentence in *State of Missouri v. Quinton A. Martin*, St. Louis Co. Cir. Ct., No. 09SL-CR08990-01, an explanation of how Martin came to be in arrears on his child support obligation, and a current copy of Martin's child support payment history.

10. Crutchfield mailed the March 19, 2013 letter by first class mail, to Martin's address of record, with sufficient postage attached.
11. The March 19, 2013 letter was not returned as undeliverable.
12. Martin never responded to the March 19, 2013 letter and has not demonstrated any justification for his failure to respond.
13. On April 10, 2013, Crutchfield mailed a second inquiry letter to Martin, again requesting an explanation for Martin's "No" answer to Question No. 1, in light of his plea of guilty to Criminal Non-Support and the suspended imposition of sentence in *State of Missouri v. Quinton A. Martin*, St. Louis Co. Cir. Ct., No. 09SL-CR08990-01, an explanation of how Martin came to be in arrears on his child support obligation, and a current copy of Martin's child support payment history.
14. Crutchfield mailed the April 10, 2013 letter by first class mail, to Martin's address of record, with sufficient postage attached.
15. The April 10, 2013 letter was not returned as undeliverable.
16. Martin never responded to the April 10, 2013 letter and has not demonstrated any justification for his failure to respond.
17. On May 2, 2013, Crutchfield mailed a third inquiry letter to Martin, again requesting an explanation for Martin's "No" answer to Question No. 1, in light of his plea of guilty to Criminal Non-Support and the suspended imposition of sentence in *State of Missouri v. Quinton A. Martin*, St. Louis Co. Cir. Ct., No. 09SL-CR08990-01, an explanation of how Martin came to be in arrears on his child support obligation, and a current copy of Martin's child support payment history.
18. Crutchfield mailed the May 2, 2013 letter by first class mail, to Martin's address of record, with sufficient postage attached.
19. The May 2, 2013 letter was not returned as undeliverable.
20. Martin never responded to the May 2, 2013 letter and has not demonstrated any justification for his failure to respond.

CONCLUSIONS OF LAW

21. 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[.]

22. 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.

23. 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.

24. The Director may refuse to issue an MVESC producer license to Martin under § 385.209.1(3) because Martin attempted to obtain an MVESC producer license through material misrepresentation or fraud when Martin falsely answered "No" to Question No. 1 of the Application and failed to disclose his plea of guilty to the Class D Felony of Criminal Non-Support and the suspended imposition of sentence that resulted from that

guilty plea, all in order to diminish the apparent extent of his criminal history to the Director, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

25. The Director may refuse to issue Martin an MVESC producer license under § 385.209.1(2) because Martin violated a rule of the Director, in that he failed to adequately respond to three written inquiries from the Consumer Affairs Division—on March 19, 2013, April 10, 2013 and May 2, 2013—without demonstrating reasonable justification for any of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director. Each of Martin's failures to respond to Consumer Affairs Division inquiries is a violation of a rule of the Director and a separate and sufficient ground upon which to refuse to issue an MVESC producer license to Martin.
26. The Director has considered Martin's history and all of the circumstances surrounding Martin's Application. Granting Martin 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 Martin.
27. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Quinton A. Martin** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 8TH DAY OF NOVEMBER, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

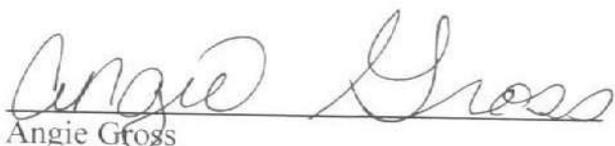
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 8th 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 address:

Quinton A. Martin
9422 Everman Avenue
Overland, Missouri 63116

Certified No. 7009 3410 0001 9255
0431



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Senior Office Support Assistant
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Institutions and Professional Registration
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