



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

IN RE:)
)
ROBERT LEE PHELPS,) **Case No. 140902647C**
)
Applicant.)

CONSENT ORDER

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through legal counsel Mark J. Rachel, and Robert Lee Phelps have reached a settlement in this matter and have agreed 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 Chapter 385, RSMo. (Supp. 2013),¹ include the licensure, regulation, and discipline of motor vehicle extended service contract producers.

¹ All statutory references are to the Revised Statutes of Missouri (2000) as updated by the RSMo. Supplement 2013 unless otherwise noted.

RLP

2. The Consumer Affairs Division (“Division”) of the Department has the duty of conducting investigations into the qualifications of motor vehicle extended service contract (“MVESC”) producer license applicants under the insurance laws of Missouri and has been authorized by the Director to investigate and initiate actions before the Director to enforce the insurance laws of Missouri, including MVESC producer license application refusal.

3. On April 8, 2013, Applicant Robert Lee Phelps (“Phelps”) entered an Alford plea to Driving While Intoxicated – Persistent Offender, a Class D Felony, in violation of § 577.010, RSMo. (Supp. 2009). The court convicted Phelps and sentenced him to three years’ incarceration, but suspended execution of the sentence and ordered Phelps to serve five years’ supervised probation. *State v. Robert Lee Phelps*, Laclede Co. Cir. Ct., Case No. 10LA-CR00557-01.

4. Phelps’s probation is scheduled to be completed in 2018.

5. On May 30, 2014, the Department received Phelps’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”).

6. Phelps disclosed his felony conviction on his Application.

7. Phelps acknowledges and understands that under § 385.209.1(5) the Director may refuse to issue a MVESC producer license to Phelps because he has been convicted of a felony.

8. Phelps acknowledges and understands that he has the right to consult an attorney at his own expense.

9. Phelps stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission or 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 Division from all liability and claims arising out of, pertaining to, or relating to this matter.

10. Phelps acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Phelps further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications in this state and in other jurisdictions, and that it is his responsibility to comply with the reporting requirements of each state in which he may be licensed.

11. 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 representative capacity, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

12. The facts hereby admitted by Phelps constitute cause for the Director to refuse his Application pursuant to § 385.209.1(5).

13. The Director may issue orders in the public interest pursuant to § 374.046.

14. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance 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 Robert Lee Phelps, subject to the conditions set forth herein and the following special conditions:

1. Robert Lee Phelps shall report to the Division any violation of or failure to comply with Missouri insurance regulations and Missouri insurance laws, including those set forth in Chapter 385, within five (5) business days of such violation or failure to comply.

2. Robert Lee Phelps shall respond to all inquiries from the Department in accordance with 20 CSR 100-4.100(2)(A).

3. If a consumer complaint is communicated directly to Robert Lee Phelps, Robert Lee Phelps shall send the Department a copy of the complaint and a copy of his response to the consumer within five (5) business days of receipt of the consumer complaint.

4. Robert Lee Phelps shall report to the Consumer Affairs Division any and all of the following incidents involving him: probation violation, probation revocation, guilty plea, Alford plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or a misdemeanor. Robert Lee Phelps shall report all such incidents to the Consumer Affairs Division within five (5) business days of their occurrence.

5. Robert Lee Phelps shall voluntarily surrender his motor vehicle extended service contract producer license to the Department within five (5) business days of any of the following incidents involving him: probation violation, probation revocation, guilty plea, Alford plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor, regardless of whether any associated sentence is imposed, suspended, or executed.

6. Robert Lee Phelps shall report to the Consumer Affairs Division any administrative action taken against him by any other state or federal governmental agency in Missouri or any other jurisdiction within five (5) business days of the final disposition of such administrative action.

7. The special conditions listed in paragraphs 1 through 6 above will expire upon the earlier of the expiration or renewal of Robert Lee Phelps's two (2) year motor vehicle extended service contract producer license, or the refusal on renewal or revocation of Robert Lee Phelps's motor vehicle extended service contract producer license.

IT IS FURTHER ORDERED that Robert Lee Phelps shall comply fully with all court orders and other requirements relating to *State v. Robert Lee Phelps*, Laclede Co. Cir. Ct., Case No. 10LA-CR00557-01.

IT IS FURTHER ORDERED that Robert Lee Phelps shall submit a completed and executed Statement of Compliance, attached hereto as Exhibit 1, within thirty (30) days of his completion or discharge of probation in *State v. Robert Lee Phelps*, Laclede Co. Cir. Ct., Case No. 10LA-CR00557-01.

IT IS FURTHER ORDERED and Robert Lee Phelps agrees that this Consent Order authorizes the Director to access, without redaction, any and all court records, or the records of any other government entity, pertaining to any criminal proceeding against him, including *State v. Robert Lee Phelps*, Laclede Co. Cir. Ct., Case No. 10LA-CR00557-01. This authorization includes, but is not limited to, chemical test results, probation records and status, sentencing advisory reports, or other presentencing investigation reports.

IT IS FURTHER ORDERED that if Robert Lee Phelps maintains his motor vehicle extended service contract producer license beyond the initial term and complies with the terms of this Consent Order, Robert Lee Phelps may apply to renew his motor vehicle extended service contract producer license and the Director shall consider the renewal application in accordance with Chapter 385 but without regard to the criminal prosecution, or

the associated conduct, in *State v. Robert Lee Phelps*, Laclede Co. Cir. Ct., Case No. 10LA-CR00557-01.

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies, as determined appropriate by the Director and without limitation, as authorized by Chapters 374 and 385, including remedies for violation of, or failure to comply with, the terms of this Consent Order.

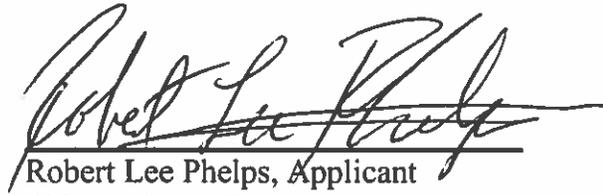
SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 9 DAY
OF October, 2014.



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 Robert Lee Phelps has the right to a hearing, but that Robert Lee Phelps has waived the hearing and consented to the issuance of this Consent Order.



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10-2-2014
Date

N/A
Counsel for Applicant
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Missouri Bar No. _____
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Date

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10/06/14
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