



## State of Missouri

### DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

STEPHEN A. BRASFIELD SR.,  
  
Applicant.

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)  
) Case No. 140617507C  
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)

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

On July 31, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a Motor Vehicle Extended Service Contract Producer License to Stephen A. Brasfield Sr. 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. Stephen A. Brasfield Sr. ("Brasfield") is a Missouri resident with a residential address of 4100 Carrollton Court, Bridgeton, Missouri 63044.
2. On March 20, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Brasfield'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. Brasfield signed, under oath and before a notary public, the Application in the "Applicant's Certification and Attestation" section and dated his signature "3/14/14."
5. Background Question No. 1 of the Application asks, in relevant part:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

6. Brasfield answered "No" to Background Question No. 1.
7. Contrary to Brasfield's answer to Background Question No. 1, the Consumer Affairs Division's ("Division") investigation revealed the following felony charge that was pending when Brasfield submitted his Application:
  - a. On April 6, 2012, Brasfield was charged with Receiving Stolen Property, a Class C Felony, in violation of § 570.080 RSMo. On April 25, 2014, Brasfield pled guilty. The court suspended imposition of sentence and placed Brasfield on supervised probation for five (5) years. *State v. Stephen A Brasfield*, St. Louis Co. Cir. Ct., Case No. 13SL-CR04227-01.
8. Background Question No. 7 of the Application asks, in relevant part:

Do you currently have or have you had a child support obligation?
9. Brasfield answered "No" to Background Question No. 7.
10. Contrary to Brasfield's answer to Background Question No. 7, the Division's investigation revealed the following child support obligations and arrearages that Brasfield owes:
  - a. On October 22, 2007, an order was entered against Brasfield regarding child support. The Order provided that Brasfield owed \$307.00 per month for support of his minor child. As of July 21, 2014, Brasfield's child support arrearage was \$16,219.59. *State of Missouri DFS et al v. Stephen Andre Brasfield*, St. Louis Co. Cir. Ct., Case No. 07SL-DR00668.
  - b. On February 10, 2009, an order was entered against Brasfield regarding child support. The Order provided that Brasfield owed \$50.00 per month for support of his minor child. As of July 21, 2014, Brasfield's child support arrearage was \$1,250.00. *State of Missouri DFS et al v. Stephen Andre Brasfield*, St. Louis Co. Cir. Ct., Case No. 09SL-DR00857.
11. On March 26, 2014, Special Investigator Andrew Engler ("Engler"), with the Division, mailed an inquiry letter to Brasfield requesting information and documentation regarding Brasfield's pending felony charge. Engler warned Brasfield that failure to respond by April 15, 2014 could result in refusal of Brasfield's MVESC producer license.
12. The March 26, 2014 letter was not returned as undeliverable, and therefore is presumed received by Brasfield.

13. Brasfield failed to respond to the March 26, 2014 letter by April 15, 2014, and failed to demonstrate a reasonable justification for the delay.
14. On April 16, 2014, Engler sent a second inquiry letter to Brasfield requesting substantially the same information requested in his March 26, 2014 inquiry letter. Engler warned Brasfield that failure to respond by May 6, 2014 could result in refusal of Brasfield's MVESC producer license.
15. The April 16, 2014 letter was not returned as undeliverable, and therefore is presumed received by Brasfield.
16. Brasfield failed to respond to the April 16, 2014 letter by May 6, 2014, and failed to demonstrate a reasonable justification for the delay.

#### CONCLUSIONS OF LAW

17. Section 385.209 RSMo (Supp. 2013)<sup>1</sup> 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;

\* \* \*

    - (12) Failed to comply with an administrative or court order imposing a child support obligation[.]

18. 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

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<sup>1</sup> All statutory references are to the RSMo (2000) as updated by the 2013 Supplement, unless otherwise indicated.

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.

19. "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).
20. 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.
21. The Director may refuse to issue a MVESC producer license to Brasfield under § 385.209.1(2) because Brasfield failed to adequately respond to two (2) inquiry letters from the Division and failed to provide reasonable justifications for the delay, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation.
22. Each failure to provide an adequate response to the Division or failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal under § 385.209.1(2).
23. The Director may refuse to issue a MVESC producer license to Brasfield under § 385.209.1(3) because Brasfield attempted to obtain an MVESC producer license through material misrepresentation or fraud when Brasfield failed to disclose a pending felony charge on his March 2014 Application, to which he pled guilty to in April 2014:
  - a. *State v. Stephen A. Brasfield*, St. Louis Co. Cir. Ct., Case No. 13SL-CR04227-01.
24. The Director may refuse to issue a MVESC producer license to Brasfield under § 385.209.1(3) because Brasfield attempted to obtain an MVESC producer license through material misrepresentation or fraud when Brasfield failed to disclose the following child support obligations:
  - a. *State of Missouri DFS et al v. Stephen Andre Brasfield*, St. Louis Co. Cir. Ct., Case No. 07SL-DR00668 (arrearage of \$16,219.59).
  - b. *State of Missouri DFS et al v. Stephen Andre Brasfield*, St. Louis Co. Cir. Ct., Case No. 09SL-DR00857 (arrearage of \$1,250.00).
25. Each failure to disclose constitutes a separate and sufficient cause for refusal under § 385.209.1(3).
26. The Director may refuse to issue a MVESC producer license to Brasfield under

§ 385.209.1(12) because Brasfield has failed to comply with two administrative or court orders imposing a child support obligation and, as a result, owes \$17,469.59 in total arrears.

- a. *State of Missouri DFS et al v. Stephen Andre Brasfield*, St. Louis Co. Cir. Ct., Case No. 07SL-DR00668.
  - b. *State of Missouri DFS et al v. Stephen Andre Brasfield*, St. Louis Co. Cir. Ct., Case No. 09SL-DR00857.
27. Each failure to comply with an administrative or court order imposing a child support obligation constitutes a separate and sufficient cause for refusal under §385.209.1(12).
28. The Director has considered Brasfield's history and all of the circumstances surrounding Brasfield's Application. Granting Brasfield a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Brasfield's MVESC producer license.
29. This order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the Motor Vehicle Extended Service Producer License Application of **Stephen A. Brasfield Sr.** is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 4<sup>th</sup> DAY OF AUGUST, 2014.



  
**JOHN M. HUFF**  
**DIRECTOR**

NOTICE

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

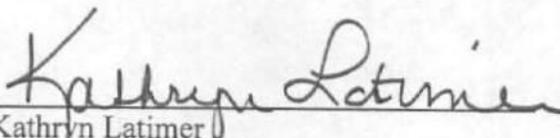
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 5th 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:

Stephen A. Brasfield Sr.  
4100 Carrollton Court  
Bridgeton, Missouri 63044

Tracking No. 1Z0R15W84297578932

  
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