



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

SHANNON M. ZOLL,

Applicant.

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Case No. 193603

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

On January 7, 2014, 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 Shannon M. Zoll. 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. Shannon M. Zoll ("Zoll") is a Missouri resident with a residential address of record of 31 Blue Spruce, O'Fallon, Missouri, 63366.
2. On May 6, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Zoll's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Zoll attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. 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[.]

5. Zoll answered “No” to Question No. 1 and did not disclose any criminal history in her Application.

6. Contrary to Zoll’s answer to Question No. 1, the Consumer Affairs Division’s investigation revealed that on December 14, 2012, Zoll pleaded guilty in the St. Charles County Circuit Court to two counts of the Class A Misdemeanor of Criminal Nonsupport, in violation of § 568.040, RSMo Supp. 2012. The court suspended the imposition of sentence, placed Zoll on two years’ supervised probation, and ordered Zoll to begin paying \$50.00 per month, in addition to her existing monthly child support obligation, toward her child support arrearage, starting in April 2013.¹

7. The Probable Cause Statement in Zoll’s Criminal Nonsupport case was filed by Margaret Ann Burch, based on Zoll’s failure to pay \$358.00 per month in child support to Burch as ordered by the St. Charles County Circuit Court in Case No. 0911-MC00276.²

8. 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.)

9. Zoll answered “No” to Background Question No. 7 and did not disclose any child support arrearage in her Application.

¹ *State of Missouri v. Shannon M. Zoll*, St. Charles Co. Cir. Ct., No. 1211-CR02280.

² *Id.*

10. Contrary to Zoll's answer to Background Question No. 7, as of the date of the Application Zoll owed \$6,656.78 in child support arrearages.
11. On March 2, 2009, the Director of the Family Support Division of the Missouri Department of Social Services issued an Order obligating Zoll to pay \$358.00 in child support to Margaret Ann Burch for a child born in 2005.³
12. On March 5, 2009, the Director of the Family Support Division's Order was filed in the St. Charles County Circuit Court. On the same day, that Order was then issued as the court's judgment requiring Zoll to pay \$358.00 per month in child support. The judgment has not been satisfied.⁴
13. Zoll's failure to comply with the Family Support Division's administrative order and the St. Charles County Circuit Court's judgment imposing a child support obligation were the basis for her guilty plea to the Class A Misdemeanor of Criminal Nonsupport.⁵
14. On May 14, 2013, Consumer Affairs Division investigator Julie Hesser mailed a written inquiry to Zoll, requesting an explanation of the circumstances of Zoll's guilty plea to two counts of the class A misdemeanor of Criminal Nonsupport and for Zoll's failure to report that case and her failure to report her child support arrearage in her Application.
15. On May 30, 2013, Zoll responded to Hesser's inquiry by email, stating, verbatim in relevant part:

In June of 2012 legal action was taken against me in regards to child support for my son. I had and probably still have a lack of knowledge when it comes to how this effects my back round. I was totally unaware that it did until i was denied a job. My public defender advised me that when i enter into a payment arrangement it may change the status of my back round. This is the first time my back round has been reviewed since.

...

In regards to having an arrearage balance my sons grandmother (who has guardianship of him and receives the support) started the support order and was having it enforced for few months. When she realized her son was being garnished as well (because he is the father) she stopped the enforcement. I did not know that a back balance was still accruing until she 2 years later started to again enforce monthly payments. It was my belief by having my taxes garnished each yaer i wouldn't have any legal recourse. I was obviously wrong.

³ *Margaret Ann Burch v. Shannon Marie Zoll*, Before the Director, Family Support Division, Missouri Department of Social Services, IV-D Case No. 91199874.

⁴ *State ex rel. Margaret Burch v. Shannon Marie Zoll*, St. Charles Co. Cir. Ct., No. 0911-MC00276.

⁵ *State of Missouri v. Shannon M. Zoll*, St. Charles Co. Cir. Ct., No. 1211-CR02280.

When i obtained my public defender she explained to me the difference between voluntary and non voluntary payments. As well by only paying the exact amount do each month i would stay in arrears. Part of my monthly payment agreement is to pay \$50 over the monthly support amount towards the arrears. Which I have been doing faithfully every month since entering into the payment agreement. Therefore I did not believe i was still considered in an arrearage status. I am also uncertain if my record is correct in reflecting this or if i need to somehow have it updated.

In short i was aware that these things had been reflected on my back round and believed entering a payment arrangement would change that. I am also sending a copy of the agreement i signed with the court as it may better answer any concerns you have.

16. The document provided by Zoll with her May 30, 2013 written response, which she described as a payment agreement, was an Order of Court Supervised Probation, dated December 14, 2012, signed by Zoll as probationer, in which she agreed to comply with various conditions of probation, one of which was the special condition that she begin paying \$50.00 toward the arrearage each month, starting in April 2013.
17. Although in her May 30, 2013 written response, Zoll professes confusion about the effect of the Order of Court Supervised Probation and garnishment of her tax refund on the existence of, or significance of, her criminal history and the existence of her child support arrearage, the plain language of Question No. 1 and common sense with regard to Question No. 7 clearly called for "Yes" answers where Zoll falsely supplied "No" answers:
 - a. Question No. 1 explicitly calls for "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")." These circumstances clearly apply to Zoll's guilty plea to two counts of the Class A Misdemeanor of Criminal Nonsupport and the court's suspension of the imposition of sentence on both counts.
 - b. Zoll knew as of December 14, 2012, that she had a child support arrearage, when she agreed with the court to pay \$50.00 per month toward it, beginning April 2013, as part of her conditions of probation. It is not credible that Zoll believed that she had paid off the child support arrearage completely by May 6, 2013, when she submitted her Application with a "No" answer to Question No. 7. Nor is it credible that she believed that merely by agreeing to pay \$50.00 per month that this agreement, itself, eliminated the arrearage.
18. It is inferable, and hereby found as fact, that Zoll falsely answered "No" to Question No. 1 and failed to disclose her plea of guilty to the Class A Misdemeanor of Criminal Nonsupport, in order to falsely represent to the Director that she had no criminal history

and, accordingly, to improve the chances that the Director would approve her Application and issue her an MVESC producer license.

19. It is inferable, and hereby found as fact, that Zoll falsely answered "No" to Question No. 7 and failed to disclose her child support arrearage, in order to falsely represent to the Director that she had no child support arrearage and, accordingly, to improve the chances that the Director would approve her Application and issue her an MVESC producer license.

CONCLUSIONS OF LAW

20. 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:

* * *

(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[.]

21. 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.
22. The Director may refuse to issue an MVESC producer license to Zoll under § 385.209.1(3) because Zoll attempted to obtain an MVESC producer license through material misrepresentation or fraud. Each of the following is a separate and sufficient factual basis for finding cause to refuse to issue Zoll an MVESC producer license under § 385.209.1(3):
- a. Zoll falsely answered "No" to Question No. 1 and failed to disclose her plea of guilty to the Class A Misdemeanor of Criminal Nonsupport, in order to falsely represent to the Director that she had no criminal history and, accordingly, to improve the chances that the Director would approve her Application and issue her an MVESC producer license; and

- b. Zoll falsely answered "No" to Question No. 7 and failed to disclose her child support arrearage, in order to falsely represent to the Director that she had no child support arrearage and, accordingly, to improve the chances that the Director would approve her Application and issue her an MVESC producer license.
23. The Director also may refuse to issue Zoll an MVESC producer license under § 385.209.1(12) because Zoll has failed to comply with administrative and court orders imposing a child support obligation:
 - a. On March 2, 2009, the Director of the Family Support Division of the Missouri Department of Social Services issued an Order obligating Zoll to pay \$358.00 in child support for a child born in 2005;⁶
 - b. On March 5, 2009, the Director of the Family Support Division's Order was filed in the St. Charles County Circuit Court. On the same day, that Order was then issued as the court's judgment requiring Zoll to pay \$358.00 per month in child support;⁷ and
 - c. Zoll's failure to comply with the Family Support Division's administrative order and the St. Charles County Circuit Court's judgment imposing a child support obligation were the basis for her guilty plea to the Class A Misdemeanor of Criminal Nonsupport;⁸
24. The Director has considered Zoll's history and all of the circumstances surrounding Zoll's Application. Granting Zoll 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 Zoll.
25. This order is in the public interest.

⁶ *Margaret Ann Burch v. Shannon Marie Zoll*, Before the Director, Family Support Division, Missouri Department of Social Services, IV-D Case No. 91199874.

⁷ *State ex rel. Margaret Burch v. Shannon Marie Zoll*, St. Charles Co. Cir. Ct., No. 0911-MC00276.

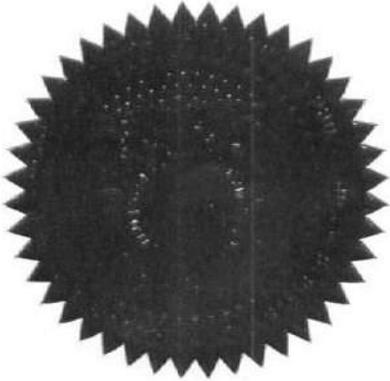
⁸ *State of Missouri v. Shannon M. Zoll*, St. Charles Co. Cir. Ct., No. 1211-CR02280.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Shannon M. Zoll** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 8th DAY OF JANUARY, 2014.



A handwritten signature in black ink, appearing to read "John M. Huff". The signature is written over a horizontal line.

JOHN M. HUFF
DIRECTOR

NOTICE

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

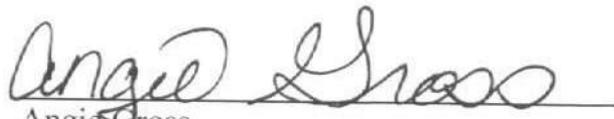
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 13th day of January, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Shannon M. Zoll
31 Blue Spruce
O'Fallon, Missouri 63366

Certified No. 7009 3410 0001 9254 6908



Angie Gross
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