STATE OF MISSOURI

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	
Thomas R. Beckerle,	)	**Case No. 200958**
	)	
Applicant.	)	

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Andy Heitmann, and Thomas R. Beckerle, have reached a settlement in this matter and have consented 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 Chapters 374, 375, and 385 RSMo, include the supervision, regulation, and discipline of motor vehicle extended service contract (MVESC) producers.

2. The Department's Consumer Affairs Division ("Division") has the duty of conducting investigations into the acts of MVESC producers under Chapters 374, 375, and 385, and is authorized to investigate and recommend enforcement action, including MVESC producer license application refusal.

3. Thomas R. Beckerle ("Beckerle") is a Missouri resident with a residential address of record of 615 Country Lake Drive, St. Peters, Missouri, 63376.

4. On or about June 22, 1998, Beckerle pleaded guilty in the Circuit Court of St. Charles County to three counts of the Class C Felony of Assault in the Second Degree (DWI), in violation of § 565.060. The court suspended the imposition of sentence and placed Beckerle on five years' probation. On May 22, 2001, the court revoked Beckerle's probation, sentenced him to seven years' imprisonment, suspended execution of the sentence, placed Beckerle on another five years' probation and ordered Beckerle to serve 60 days' shock incarceration.[1]

5. On or about July 18, 2008, Beckerle pleaded guilty in the St. Louis County Circuit Court to the Class D Felony of Driving While Intoxicated (Persistent Offender). The court sentenced Beckerle to four years' imprisonment, but suspended execution of the sentence, placed Beckerle on five years' probation and ordered Beckerle to complete the 90-day "Choices" program. Beckerle completed his probation on July 18, 2013.[2]

6. On July 5, 2013, the Department received Beckerle's Application for Motor Vehicle Extended Service Contract Producer License ("Application").

7. 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.

---

[1] *State of Missouri v. Thomas R. Beckerle*, St. Charles Co. Cir. Ct., No. CR197-2741FX (Case.net No. 11R019702741-01).

[2] *State of Missouri v. Thomas Robert Beckerle*, St. Louis Co. Cir. Ct., No 08SL-CR01738-01.

"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 judgment[.]

8. The Application appears to reflect that Beckerle marked "Yes" to Question No. 1, then scratched that out and marked "No." However, with his Application Beckerle included uncertified court documents from Case No. 08SL-CR01738-01 and a written explanation of that conviction.

9. Beckerle did not disclose in his Application his convictions in Case No. CR197-2741FX.

10. As part of an investigation of Beckerle's Application, Consumer Affairs Division investigator Julie Hesser obtained certified records from Case Nos. CR197-2741FX and 08SL-CR01738-01.

11. 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.)

12. Beckerle answered "Yes" to Question No. 7 and indicated that he was 24 months in arrearage.

13. Further investigation by Hesser revealed that Beckerle had actually overestimated the amount of his arrearage, which was actually about 15 months' worth, and that Beckerle had been paying his monthly obligation consistently since December 2011. As of January 27, 2014, Beckerle has continued to pay his child support obligation each month and has reduced his arrearage to about 12 months.

14. On July 26, 2013, Hesser mailed Beckerle a written inquiry requesting an explanation of his conviction of three counts of the Class C Felony of Assault in the Second Degree (DWI) in Case No. CR197-2741FX and his failure to disclose those convictions in his Application.

15. Hesser mailed the July 26, 2013 letter by first class mail to Beckerle's address of record, with sufficient postage attached.

16. The July 26, 2013 letter was not returned as undeliverable.

17. Beckerle failed to respond to the July 26, 2013 letter within 20 days and has not demonstrated any justification for his failure to timely respond.

18. On August 23, 2013, Hesser again mailed Beckerle a written inquiry requesting an explanation of his conviction of three counts of the Class C Felony of Assault in the Second Degree (DWI) in Case No. CR197-2741FX and his failure to disclose those convictions in his Application.

19. On or about September 9, 2013, Beckerle timely responded to Hesser's August 23, 2013 written inquiry, with a letter stating, verbatim in its entirety:

> Dear Julie,
>
> Thank you for taking the time to consider my application to produce service contracts. I failed to disclose my felony conviction for assault because I was a minor and it was related to a car accident. I've since

made great strides to eradicate alcohol from my life, and I hope to have my record expunged within the next five years.

Those two infractions (although serious) are a small part in an otherwise productive, healthy life. I know I can sell service contracts with integrity and value as I've been in the business since 2006. I believe greatly in the product and I'm proud that Missouri is the hub for service contract sales. I hope you'll forgive my past and allow me the opportunity to be a productive producer in the service contract industry.

Regards,

Tom Beckerle

20. The incident upon which Beckerle's Class C Felony Assault in the Second Degree (DWI) convictions were based took place on August 7, 1997, when Beckerle was seventeen years old. However, he was not tried in juvenile court, but in the St. Charles County Circuit Court, Circuit Judge Division.

21. Beckerle acknowledges and understands that under § 385.209.1(5), the Director may refuse to issue a motor vehicle extended service contract producer license to Beckerle because Beckerle has been convicted of a felony.

22. Beckerle acknowledges and understands that under § 385.209.1(3), the Director may refuse to issue a motor vehicle extended service contract producer license to Beckerle because Beckerle attempted to obtain a motor vehicle extended service contract license through material misrepresentation, in that Beckerle initially failed to disclose his convictions of three counts of the Class C Felony of Assault in the Second Degree (DWI) in his Application.

23. Beckerle acknowledges and understands that under § 385.209.1(2), the Director may refuse to issue a motor vehicle extended service contract producer license to Beckerle because Beckerle failed to respond to Hesser's July 26, 2013 written inquiry letter within 20 days and has not demonstrated any justification for his failure to timely respond.

24. Beckerle acknowledges and understands that he has the right to consult counsel at his own expense.

25. This Consent Order is entered pursuant to § 374.046. As such, any interested person aggrieved by this Consent Order may request a hearing before the Director on review of this Consent Order in a circuit court under § 374.055. Although under the Department's interpretation of the relevant statutes, review of this Consent Order by the Administrative Hearing Commission is not available, Beckerle nevertheless may have the right, under § 621.045, to submit this Consent Order to the Administrative Hearing Commission for a determination that the facts agreed to in this Consent Order constitute grounds to refuse to issue Beckerle an individual MVESC producer license.

26. Beckerle 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 Consumer Affairs Division from all liability and claims arising out of, pertaining to, or relating to this matter.

27. Beckerle acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Beckerle further acknowledges and understands that this administrative action should be disclosed on future applications and renewal applications and that it is his responsibility to comply with the reporting requirements of each state in which he is licensed or in which he seeks to become licensed.

28. 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

29. The actions admitted by Beckerle may be grounds for the Director to refuse to issue Beckerle a Missouri MVESC producer license application pursuant to §§ 385.209.1(2), (3) and (5).

30. The Director may impose orders in the public interest under §§ 374.046 and 385.216.

31. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

32. Any violation of this Consent Order will constitute a violation of an order of the Director and therefore will constitute a ground for discipline to Beckerle's MVESC producer license under § 385.209.1(2).

ORDER

IT IS ORDERED that the Department will issue an individual motor vehicle extended service contract producer license to Thomas R. Beckerle under the conditions set forth herein.

IT IS ORDERED that Thomas R. Beckerle shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department or a consumer within five business days of receipt. Beckerle shall report in writing all consumer complaints, both written and oral, to the Consumer Affairs Division of the Department, within five business days of receipt. If Beckerle receives a complaint directly from a consumer or any other person outside the Department, then, in addition to responding to the complaining person within five

business days, Beckerle shall provide the Department with copies of the complaint and his response to the complaining person within five business days of receiving the complaint.

IT IS ORDERED that Thomas R. Beckerle shall report to the Consumer Affairs Division any and all of the following incidents involving Beckerle: arrest, citation, guilty plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Beckerle shall report all such incidents to the Consumer Affairs Division within five business days of their occurrence.

IT IS ORDERED that Thomas R. Beckerle will voluntarily surrender his license to the Department within five business days of Beckerle's entry of a guilty plea, nolo contendere plea, finding of guilt or conviction for a felony, regardless of whether sentence is imposed, suspended, or executed.

IT IS ORDERED that Thomas R. Beckerle shall report to the Consumer Affairs Division any administrative action undertaken or initiated against Beckerle in another state, or by another governmental authority in this state, within five business days after Beckerle receives notification of the initiation of such administrative action. "Administrative action" shall include not only actions brought before an administrative agency, including its director or the equivalent, or before an administrative tribunal, but also civil court actions initiated by state or federal authorities, and also any consent agreement with a state or federal authority resolving any allegation or dispute that could otherwise be brought before an administrative agency, its director or the equivalent, a tribunal, or in civil court by that state or federal authority.

IT IS ORDERED that Thomas R. Beckerle shall report to the Consumer Affairs Division within five business days any action undertaken involving him by any industry trade association, including but not limited to any discipline, de-certification, revocation of membership,

imposition of a fine or other monetary penalty, or other resolution of alleged violations of the law, regulation, rule, standard or requirement.

IT IS ORDERED that Thomas R. Beckerle shall report to the Consumer Affairs Division any violation of or failure to comply with the laws set forth in Chapters 374, 375, or 385 within five business days of such violation or failure to comply.

IT IS ORDERED that the Director may pursue additional legal remedies, as determined appropriate by the Director, and without limitation, as authorized by Chapters 374, 375, 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 11TH DAY OF MARCH, 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 Thomas R. Beckerle may have a right to a hearing, but that Thomas R. Beckerle has waived the hearing and consented to the issuance of this Consent Order.

Tom Beckerle

Thomas R. Beckerle
615 Country Lake Drive
St. Peters, Missouri 63376
Respondent

2-28-14
Date

Counsel for Respondent
Name: _____
Missouri Bar No. _____
Address: _____
_____
Telephone: _____

Date

Andy Heitmann
Consumer Affairs Division Counsel
Missouri Bar No. 60679
Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-1922
Facsimile: (573) 522-3630

3/6/14
Date