



## State of Missouri

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

IN RE:

WENDELL P. LOMAX III,

Applicant.

)  
)  
)  
)  
)

Case No. 191899

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

On June 27, 2013, 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 Wendell P. Lomax III. 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. Wendell P. Lomax III, ("Lomax") is a Missouri resident with a residential address of record of 10717 Spring Garden Drive, St. Louis, Missouri, 63137.
2. On January 29, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Lomax'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. Lomax signed the Application in the "Applicant's Certification and Attestation" section under oath before a notary.

5. 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?
- 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.)

6. Lomax answered "Yes" to Background Question No. 7 and indicated that he was "6-8" months in arrearage.
7. On February 6, 2013, the Department's Consumer Affairs Division investigator Julie Hesser mailed Lomax a written inquiry letter requesting that Lomax provide documentation showing twenty-four months of payment history and an approved payment plan from the appropriate child support agency.
8. Hesser sent the February 6, 2013 letter by first class mail to Lomax's address of record with sufficient postage attached.
9. The February 6, 2013 letter was not returned as undeliverable.
10. Lomax never responded to the February 6, 2013 letter and has not demonstrated any reasonable justification for his failure to respond.
11. On March 29, 2013, Hesser mailed Lomax another written inquiry letter, again requesting documentation showing twenty-four months of payment history and an approved payment plan from the appropriate child support agency.
12. Hesser sent the March 29, 2013 letter with sufficient postage attached by certified mail and first class mail to Lomax's address of record.
13. The copy of the March 29, 2013 letter sent by certified mail was returned unclaimed, but the copy sent by first class mail was not returned as undeliverable.
14. Lomax never responded to the March 29, 2013 letter and has not demonstrated any reasonable justification for his failure to respond.
15. Hesser contacted the Circuit Court of St. Louis City directly and acquired a certified copy of Lomax's Missouri Department of Social Services child support order.<sup>1</sup>

---

<sup>1</sup> *S.M.L. v. Wendell Phillip Lomax III*, State of Missouri Dept. of Social Servs., Family Support Div., Case No. 41397683. The St. Louis City Circuit Court entered judgment against Lomax based on the administrative order for child support on July 7, 2011. *Longo v. Lomax*, St. Louis City Cir. Ct., No. 1122-AD00475.

16. The July 7, 2011 child support order directed Lomax to pay \$ 504.00 per month in child support.
17. Further investigation revealed that as of May 3, 2013, Lomax owed a total of \$ 11,592.00 in child support, including \$ 10,406.66 in arrears, and had paid a total of \$ 1,185.34 since April 1, 2011.
18. Contrary to Lomax's statement on his Application that he was only "6-8" months in arrearage on his child support obligation, as of May 3, 2013, Lomax owed more than twenty (20) months of arrearage.

**CONCLUSIONS OF LAW**

19. Section 385.209 RSMo, Supp. 2012,<sup>2</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 [.]

20. 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

---

<sup>2</sup> Statutory references are to the 2012 version of the Revised Statutes of Missouri unless otherwise noted.

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.

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. Lomax may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(12) because he has failed to comply with administrative and court orders imposing a child support obligation, in that as of May 3, 2013, he was more than twenty (20) months in arrearage on a child support obligation ordered by the Director of the Family Support Division of the Missouri Department of Social Services and by the St. Louis City Circuit Court.
23. Lomax may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud, in that in his Application Lomax grossly understated the extent of the child support arrearages he owed and made such misrepresentation in order to minimize the weight the Director would give in his licensure decision to his failure to comply with his administrative and court ordered support obligation.
24. Lomax may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(2) because he twice failed to respond to an inquiry from the Department's Division of Consumer Affairs without demonstrating a reasonable justification for his failure to respond. Lomax's failures to respond violated 20 CSR 100-4.100(2), a rule of the Director.
25. The Director has considered Lomax's history and all of the circumstances surrounding Lomax's Application. Granting Lomax a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Lomax.
26. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Wendell P. Lomax III** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 3<sup>RD</sup> DAY OF JULY, 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 8 day of July, 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:

Wendell P. Lomax III  
10717 Spring Garden Dr.  
St. Louis, Missouri 63137

Certified No. 7009 3410 0001 9255 1025



Hailey Boessen  
Senior Office Support Assistant  
Agent Investigation Section  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration  
301 West High Street, Room 530  
Jefferson City, Missouri 65101  
Telephone: 573.751.2640  
Facsimile: 573.526.4898  
Email: hailey.boessen@insurance.mo.gov