

**DEPARTMENT OF COMMERCE AND INSURANCE**

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

**IN RE:**

**BENJAMIN ROTH EZELL,**  
**Applicant.**

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**Case No. 1902140283C**

**CONSENT ORDER**

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Rob Tillman, and Respondent Benjamin Roth Ezell have reached settlement in this matter and have agreed to the issuance of this Consent Order.

**FINDINGS OF FACT**

1. Chlora Lindley-Myers is the duly appointed Director of the Missouri Department of Commerce and Insurance (“Director” of the “Department”) whose duties, pursuant to Chapters 374, 375, and 385, RSMo (2016),<sup>1</sup> include the supervision, regulation, and discipline of motor vehicle extended service contract (“MVESC”) producers.

2. The Consumer Affairs Division (“Division”) of the Department has the duty of conducting investigations into the conduct of MVESC producers pursuant to the laws of Missouri

<sup>1</sup> All civil statutory references are to 2016 Missouri Revised Statutes unless otherwise indicated.

and has been authorized by the Director to investigate and initiate actions to enforce the MVESC laws of Missouri, including MVESC producer license application refusals.

3. On March 26, 2015, Applicant Benjamin Roth Ezell (“Ezell”) was convicted upon a guilty plea of Possession of a Controlled Substance, a Class C Felony, in violation of § 195.202.<sup>2</sup> The court ordered Ezell to serve 120 days in the Shock Incarceration Program and sentenced him to incarceration for a period of five years. Ultimately, Ezell’s sentence was suspended and he was placed on supervised probation for a period of five years upon his completion of the Shock Incarceration Program. *State of Missouri v. Benjamin R. Ezell*, St. Louis Co. Cir. Ct., Case No. 14SL-CR07505-01. On March 1, 2018, Ezell was released early from probation. *Id.*

4. On or about December 3, 2018, the Department of Insurance, Financial Institutions, and Professional Registration (“DIFP”)<sup>3</sup> received Ezell’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”).

5. As required, Ezell disclosed his previously stated conviction on his Application.

6. Ezell understands and agrees that pursuant to § 385.209(5) the Director may refuse Ezell’s MVESC producer license because he has been convicted of a felony, specifically Possession of a Controlled Substance, a Class C Felony, in violation of § 195.202. *State of Missouri v. Benjamin R. Ezell*, St. Louis Co. Cir. Ct., Case No. 14SL-CR07505-01.

7. Ezell and the Division desire to settle the allegations raised by the Division.

8. Ezell acknowledges and understands that he has the right to consult an attorney regarding these matters.

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<sup>2</sup> All criminal statutory references are to the version of the Missouri Revised Statutes pursuant to which the judgment was rendered.

<sup>3</sup> The Department of Insurance, Financial Institutions, and Professional Registration is the predecessor agency of the Department of Commerce and Insurance. *See* Executive Order 19-02.

9. Ezell further acknowledges that he has been advised that he may, either at the time this Consent Order is signed by all parties or within fifteen (15) days thereafter, submit this Consent Order to the Administrative Hearing Commission for determination of whether the facts agreed to by the parties to this Consent Order constitute cause for discipline of Ezell's MVESC producer license.

10. Except as provided in paragraph 9 above, Ezell stipulates and agrees to waive any rights that he may have to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or challenge or contest the terms and conditions of this Consent Order and forever releases and holds harmless the Department, the Director, her agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

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

12. All signatories to this Consent Order certify by signing that they are fully authorized, in their own capacities, or by the named parties they represent, to accept the terms and provisions of this Consent Order in their entirety, and agree, in their personal or representative capacities, to be bound by the terms of this Consent Order.

### **CONCLUSIONS OF LAW**

13. Section 385.209 provides, in relevant 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 of

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;

\* \* \*

(5) Been convicted of a felony [.]

14. The facts hereby admitted by Ezell constitute cause to refuse his Application pursuant to § 385.209(5).

15. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

16. 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 THEREFORE ORDERED that the Department will issue a MVESC producer license to Benjamin Roth Ezell, subject to the conditions set forth herein:

1. Benjamin Roth Ezell shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department or the consumer within five (5) business days of receipt.

2. Benjamin Roth Ezell shall report in writing all consumer complaints, both written and oral, to the Division within five (5) business days of receipt. If a complaint is not communicated to Ezell by the Department, Ezell shall send a copy of the complaint and Ezell's response to the consumer to the Department within five (5) business days of receipt.

3. Benjamin Roth Ezell shall report to the Department any violation of or failure to comply with the laws set forth in Chapters 374 or 375 within five (5) business days of such violation or failure to comply.

4. Benjamin Roth Ezell shall report to the Department any administrative action taken

against Ezell in another jurisdiction or by another governmental agency in this state within five (5) business days after he receives notification of the initiation of such administrative action.

5. Benjamin Roth Ezell shall report to the Department any probation violation, probation revocation, arrest, citation, guilty plea, *nolo contendere* plea, finding of guilt or conviction concerning a felony or misdemeanor within five (5) business days of such occurrence.

6. The special conditions listed in the preceding five (5) paragraphs will expire upon the expiration, lapse, termination, revocation, or renewal of Ezell's insurance producer license, whichever comes first.

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 375 including remedies for violation of, or failure to comply with, the terms of this Consent Order.

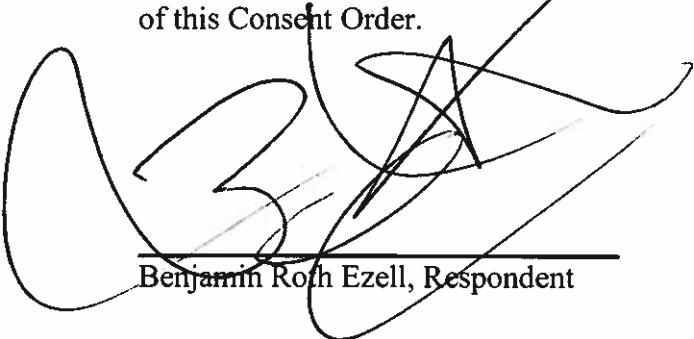
SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 06<sup>th</sup> DAY OF January, 2020.



Chlora Lindley Myers  
**CHLORA LINDLEY-MYERS, Director**  
Missouri Department of Commerce and  
Insurance

**CONSENT AND WAIVER OF HEARING**

The undersigned persons understand and acknowledge that Benjamin Roth Ezell has the right to a hearing, but that Benjamin Roth Ezell has waived the hearing and agreed to the issuance of this Consent Order.



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Benjamin Roth Ezell, Respondent

12/9/19  
Date

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\_\_\_\_\_  
Date

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Counsel for Respondent

Missouri Bar #: \_\_\_\_\_

Address: \_\_\_\_\_

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12/4/19  
Date