



State of Missouri

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

IN RE:)
)
Johnny Lamarr Brown,) **Case No. 181207983C**
)
Applicant.)

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

On March 6, 2019, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Johnny Lamarr Brown. After reviewing the Petition, the Investigative Report, and other relevant documents, the Director issues the following findings of fact, conclusions of law and order:

FINDINGS OF FACT

1. Johnny Lamarr Brown (“Brown”) is a Missouri resident with a residential address of 432 S. Clark, Ferguson, Missouri, 63135.
2. On August 20, 2018, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Brown’s Application for Motor Vehicle Extended Service Contract (“MVESC”) Producer License (“Application”) along with attachments.
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. I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state or federal income tax obligation and I have provided all information and

documentation requested in Background Information Question 36.4.

5. I further certify, under penalty of perjury, that a) I have no child support obligation, b) I have a child support obligation and I am currently in compliance with that obligation, or c) I have a child support obligation that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Information Question 36.7.

4. Background Information Question Number 4 of the Application asks, in relevant part:

Have you failed to pay state or federal income tax?
Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

Answer "Yes" if the answer to either question (or both) is "Yes."

If you answer yes, you must attach to this application:

- (a) a written statement explaining the circumstances of each administrative or court order,
- (b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.)
- (c) a certified copy of each administrative or court order, judgment, and/or lien, and
- (d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).

5. Brown answered "No" to Background Information Question Number 4 on his Application.

6. Contrary to Brown's "No" answer, the Consumer Affairs Division ("Division") discovered the following delinquent state income tax obligation that Brown failed to disclose on his Application:

- a. On or about April 2, 2012, the St. Louis County Circuit Court entered a judgment against Brown in the amount of \$617.39 in unpaid state income taxes for the 2007 filing year:

The Director of Revenue, under Section 143.902, RSMo, hereby certifies that the following assessment of tax, interest, additions to tax, penalties, and fees have been made and become final. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Dept. of Revenue v. Johnny L. Brown, St. Louis Co. Cir. Ct., Case No. 12SL-MC06573.

7. Background Information Question No. 7 of the Application asks:

Do you currently have or have you had a child support obligation?

If you answer yes:

a) are you in arrearage?

b) by how many months are you in arrearage? _____ months

c) what is the total amount of your arrearage? _____

d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)

e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency).

f) are you the subject of a child support related subpoena/warrant? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)

g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?

8. Brown answered “Yes” to Background Information Question No. 7. Brown answered “No” to all subparts of Background Information Question No. 7 related to arrearage.

9. Contrary to Brown’s “No” answers, the Division’s investigation revealed that, in fact, Brown has three child support obligations in arrears, as follows:

a. On November 20, 2006 the court ordered Brown to pay \$442 a month in child support in *State ex rel. v. Johnny Lamarr Brown*, St. Louis Co. Cir. Ct., Case No. 2106FC-10782. This was modified September 23, 2016 to \$392 a month. *Id.* As of the date Brown signed his Application in July of 2018, Brown was \$18,259.65 in arrears. As of February 2019, Brown is \$20,611.65 in arrears.

b. On April 8, 2009, the Court ordered Brown to pay \$45 a month in child support in *Mo. Dept. of Family Serv. et al. v. Johnny Lamarr Brown*, St. Louis Co. Cir. Ct., Case No. 09SL-DR2470. As of the date Brown signed his Application in July of 2018, Brown was \$2,705.80 in arrears. As of February 2019, Brown is \$2,773.91 in arrears.

c. On May 15, 2009, the Court ordered Brown to pay \$126 a month in child support in *Mo. Family Support Div. v. Johnny L. Brown et al.*, St. Louis City Cir. Ct., Case No. 0922-FC00362. As of the date Brown signed his Application in July of 2018, Brown was \$7,640.22 in arrears. As of February 2019, Brown is \$7956.11 in arrears.

10. After reviewing Brown’s Application, Division Special Investigator Andrew Engler (“Engler”) sent an inquiry letter via U.S. Mail to the address provided on Brown’s

Application, dated August 28, 2018. In it, Engler indicated that the Division's investigation revealed that the Missouri Department of Revenue had filed a tax lien against Brown. Engler asked Brown to provide the payment agreement or letter of compliance regarding the tax lien and to explain the circumstances surrounding the child support arrears and why they were not disclosed on the Application. The letter provided that "[p]ursuant to 20 CSR 100-4.100, your response is due within twenty days. Failure to respond could result in an administrative action against your MVESC license."

11. The inquiry letter dated August 28, 2018 was not returned as undeliverable to the Division and therefore it is presumed received.
12. Brown did not respond timely or at all to Engler's August 28, 2018 inquiry letter and he did not demonstrate reasonable justification for any delay.
13. Engler sent a second inquiry letter to Brown via U.S. Mail on September 24, 2018 to the address provided on the Application requesting Brown again to provide a payment agreement or a letter of compliance from the Department of Revenue and to explain the circumstances surrounding the child support arrears and why they were not disclosed on the Application. Engler stated that "[p]ursuant to 20 CSR 100-4.100, your response was due within twenty days. I will allow you to respond within an additional twenty days. Failure to respond could result in a refusal to issue your MVESC license."
14. The second inquiry letter dated September 24, 2018 was not returned as undeliverable to the Division and therefore it is presumed received.
15. It is inferable, and hereby found as fact, that Brown did not disclose his tax lien and three separate child support arrearages to increase his chances at receiving a license.

CONCLUSIONS OF LAW

16. Under Missouri Law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mail. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).
17. Title 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, provides:

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 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.

18. Section 385.209.1, RSMo 2016, provides, in relevant part:

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; [or]

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

19. The Director may refuse to issue an MVESC producer license to Brown under § 385.209.1(2) because Brown violated 20 CSR 100-4.100(2)(A), a rule of the Director, in that Brown failed to respond to two written inquiries from the Division from August 28, 2018, and September 24, 2018 and Brown failed to demonstrate reasonable justification for any delay.

20. Each violation of 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient ground for the Director to refuse to issue a motor vehicle extended service contract producer license to Brown pursuant to § 385.209.1(2).

21. The Director may refuse to issue an MVESC producer license to Brown under § 385.209.1(3) because Brown attempted to obtain a license through material misrepresentation or fraud because he failed to disclose the particulars of his three separate child support arrearages in response to Background Information Question No. 7 on his Application.

22. The Director may refuse to issue an MVESC producer license to Brown pursuant to § 385.209.1(3) because Brown attempted to obtain a license through material misrepresentation or fraud because he failed to disclose his delinquent tax obligation in response to Background Question Number 4 on his Application.

23. The Director may refuse to issue an MVESC producer license to Brown pursuant to § 385.209.1(12) because Brown failed to comply with three administrative or court orders imposing child support obligations as evidenced by his arrearages in *Mo. Dept. of Family Services et al. v. Johnny Lamarr Brown*, St. Louis Co. Cir. Ct., Case No. 09SL-DR2470, *Mo. Family Support Div. v. Johnny L. Brown et al.*, St. Louis City Cir. Ct., Case No. 0922-FC00362, *State ex rel. v. Johnny Lamarr Brown*, St. Louis Co. Cir. Ct., Case No. 2106FC-10782.
24. Each failure to comply with an administrative or court order directing payment of child support is a separate and sufficient cause for refusal pursuant to § 385.209.1(12).
25. The Director may refuse to issue an MVESC producer license to Brown pursuant to § 385.209.1(13) because Brown failed to comply with an administrative or court order directing payment of state or federal income tax, specifically in *Dept. of Revenue v. Johnny L. Brown*, St. Louis Co. Cir. Ct., Case No. 12SL-MC06573.
26. The above-described instances are grounds upon which the Director may refuse to issue Brown an MVESC producer license.
27. The Director has considered Brown's history and all of the circumstances surrounding Brown's Application and exercises her discretion to refuse to issue Brown an MVESC producer license.
28. The requested Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license Application of **Johnny Lamarr Brown** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 12th DAY OF AUGUST, 2019.



Chlora Lindley Myers
CHLORA LINDLEY-MYERS
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.

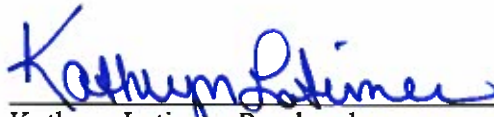
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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of August, 2019, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Johnny Lamarr Brown
432 S. Clark
Ferguson, MO 63135

Tracking NO. 1Z0R15W84297967548



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