



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ERIC CASELL DAVIS,

Applicant.

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Case No. 14-0929678C

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

On March 16, 2015, 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 Eric Casell Davis. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Eric Casell Davis ("Davis") is a Missouri resident with a current residential address of 5535 Pershing Avenue, St. Louis, Missouri 63112.
2. In January 2014, the Department received Davis' "Application for Motor Vehicle Extended Service Contract Producer License" ("Application").
3. Background Question No. 1 of the Application asks, in relevant part:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?
4. Davis answered "Yes" to Background Question No. 1. He attached documentation to his Application showing that on July 26, 2013, he pled guilty to the Class D Felony of Non-Support, Total Arrears in Excess of 12 Monthly Payments Due Under Order of Support, in violation of § 568.040 in *State v. Eric C. Davis*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02895-01.
5. Background Question No. 7 of the Application asks, in relevant part:

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.)
6. Davis marked "Yes" to Background Question No. 7 and indicated that he was "12+" months in arrears. With his Application, Davis submitted a written explanation regarding the Felony Non-Support case and his child support arrearage.
 7. On January 17, 2014, Andrew Engler ("Engler"), Special Investigator with the Division, sent an inquiry letter to Davis via first class mail, postage prepaid, at the address he provided on his Application, 5535 Pershing Avenue, St. Louis, Missouri 63112. In it, Engler asked Davis to provide the current status of Davis' child support arrearages, along with evidence of a repayment arrangement and payment history. Engler requested a response on or before February 6, 2014.
 8. The United States Postal Service did not return the Division's January 17, 2014 inquiry letter to the Division as undeliverable. Therefore, Davis is presumed to have received the inquiry letter.
 9. Davis did not respond to the Division's January 17, 2014 letter and he did not demonstrate reasonable justification for delay.
 10. The Division's investigation into Davis and his background revealed the following:
 - a. As noted, Davis pled guilty to the Class D Felony of Non-Support, Total Arrears in Excess of 12 Monthly Payments Due Under Order of Support, in violation of § 568.040 in *State v. Eric C. Davis*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02895-01. On November 22, 2013, Davis received a suspended imposition of sentence and five years of supervised probation. The court ordered Davis to pay child support as a condition of his probation. The court scheduled a probation violation hearing for December 18, 2014. On December 18, 2014, the court revoked Davis' bond and took Davis into custody. The court also set a new bond -- \$7,000.00 cash only. On December 23, 2014, Davis posted the full amount of the cash bond and on January 20, 2015, per order of the court, the \$7,000.00 was assigned to the Missouri

Family Support Payment Center.¹ On February 19, 2015, the court held a probation violation hearing and continued Davis on probation. The court ordered Davis to pay \$1,000.00 per month in child support.

b. Davis has two active child support cases, as follows:

1. In *Davis v. Davis*, St. Louis City Case No. 22983-01217, Davis has been ordered to pay \$864.30 per month for two children. As of January 2014 when he filed his Application, Davis owed \$128,396.04 in arrearages on this case. In January 2015, the \$7,000.00 cash bond that Davis posted in *State v. Eric C. Davis*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02895-01, was applied to this case. As of March 2, 2015, Davis owes \$126,829.43 in arrearages on this case.

2. In *State of Missouri, Division of Child Support Enforcement, et al. v. Eric C. Davis*, St. Louis Co. Case No. 2100FC-09266, Davis has been ordered to pay \$351.00 per month for one child. As of January 2014 when he filed his Application, Davis owed \$34,291.22 in arrearages on this case. As of March 2, 2015, Davis owes \$37,522.41 in arrearages on this case.

CONCLUSIONS OF LAW

11. Section 385.209.1, RSMo Supp. 2013,² provides:

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;

* * *

¹ The payment was assigned to one of Davis' active child support cases, *Davis v. Davis*, St. Louis City Case No. 22983-01217.

² All further statutory references are to RSMo Supp. 2013 unless otherwise indicated.

(12) Failed to comply with an administrative or court order imposing a child support obligation[.]

12. 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.

13. 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 mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).
14. 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 motor vehicle extended service contract producer licenses, but to protect the public.
15. The Director may refuse to issue a motor vehicle extended service contract ("MVESC") producer license to Davis under § 385.209.1(2) because Davis violated a rule of the Director, specifically, 20 CSR 100-4.100(2)(A). Davis failed to respond to a written inquiry from the Division, mailed on January 17, 2014. Davis failed to demonstrate reasonable justification for any delay.
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16. The Director may refuse to issue an MVESC producer license to Davis under § 385.209.1(12) because Davis failed to comply with an administrative or court order imposing a child support obligation. Davis currently owes \$126,829.43 in arrearages in *Davis v. Davis*, St. Louis City Case No. 22983-01217, and he owes \$37,522.41 in arrearages in *State of Missouri, Division of Child Support Enforcement, et al. v. Eric C. Davis*, St. Louis Co. Case No. 2100FC-09266. With \$164,351.84 in current, total arrearages, Davis has manifestly failed to comply with an administrative or court order imposing a child support obligation.
17. Each violation of a provision in § 385.209.1 constitutes a separate and sufficient ground for the Director to refuse to issue Davis an MVESC producer license.
18. The above-described instances are grounds upon which the Director may refuse to issue Davis an MVESC producer license. Davis failed to respond to a Division

inquiry. And Davis has failed to comply with an administrative or court order imposing a child support obligation.

19. The Director has considered Davis' history and all of the circumstances surrounding Davis' Application. Issuing an MVESC producer license to Davis would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Davis an MVESC producer license.
20. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license Application of **Eric Casell Davis** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 17th DAY OF MARCH, 2015.




JOHN M. HUFF
DIRECTOR

NOTICE

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

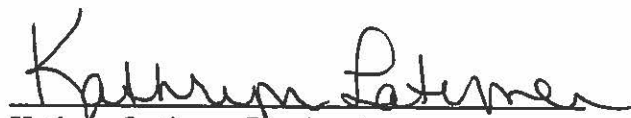
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 18th day of March, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Eric Casell Davis
5535 Pershing Avenue
St. Louis, Missouri 63112

Tracking No. 1Z0R15W84294108945



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