



**FINAL ORDER**  
**EFFECTIVE**  
**10-26-2017**

**State of Missouri**  
**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND**  
**PROFESSIONAL REGISTRATION**

**IN RE:**

**JOSHUA NAVIN DAUM,**

**Applicant.**

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**Case No. 170619306C**

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

On July 5, 2017, 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 Joshua Navin Daum. After reviewing the Petition, 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. Joshua Navin Daum ("Daum") is a Missouri resident with a residential and mailing address of 221 East First Street North, Wright City, Missouri 63390-1119.
2. On July 25, 2007, Daum pled guilty to two counts of Stealing, a Class A Misdemeanor, in violation of § 570.030, RSMo<sup>1</sup> and two counts of Assault in the Third Degree, a Class A Misdemeanor, in violation of § 565.070; the court suspended imposition of sentence and ordered Daum to complete two years' supervised probation. *State v. Joshua Navin Hart Daum*, St. Charles Co. Assoc. Cir. Ct., Case No. 0711-CR01962.
3. On April 17, 2009, Daum pled guilty to Possession Of a Controlled Substance With Intent to Distribute, a Class B Felony, in violation of § 195.211; the court suspended imposition of sentence and ordered Daum to complete three years' supervised probation. *State v. Joshua N. Daum*, St. Louis Co. Cir. Ct., Case No. 08SL-CR05523-01.
4. On January 5, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Daum's Application for Motor Vehicle Extended Service Contract Producer License ("2012 Application").

<sup>1</sup> All criminal statutory references are to those contained in the version of the Missouri Revised Statutes pursuant to which each judgment was rendered.

5. Daum falsely answered "No" to Background Information Question 1 of the 2012 Application, which asked:

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 and 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.

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

6. By signing before a notary public on January 4, 2012, Daum accepted the "Applicant's Certification and Attestation" section of the 2012 Application which provided, in relevant part:

I hereby certify that, under penalty of perjury, 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.

7. On January 9, 2012, the Department issued Daum a motor vehicle extended service contract ("MVESC") producer license. It expired on January 9, 2014.
8. On March 3, 2014, the Department received Daum's second Application for Motor Vehicle Extended Service Contract Producer License ("2014 Application").
9. Daum falsely answered "No" to Background Information Question 1 of the 2014 Application, which was identical to Background Information Question 1 of the 2012 Application.
10. By signing before a notary public on February 26, 2014, Daum accepted the "Applicant's Certification and Attestation" section of the 2014 Application, which was identical to the "Applicant's Certification and Attestation" section of the 2012 Application.

11. On March 27, 2014, the Department issued Daum another MVESC producer license. It expired on March 27, 2016.
12. On July 11, 2014, the Saint Charles County Circuit Court entered a judgment against Daum for \$3,385.66 of unpaid 2012 individual income tax; the judgment has not been satisfied. *Dep't of Revenue v. Joshua N. Daum*, St. Charles Co. Cir. Ct., Case No. 1411-MC03780.
13. On March 21, 2017, the Department received Daum's third Application for Motor Vehicle Extended Service Contract Producer License ("2017 Application").
14. Daum falsely answered "No" to Background Information Question 4 of the 2017 Application, which asked:

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.).

15. By signing before a notary public on March 15, 2017, Daum accepted the "Applicant's Certification and Attestation" section of the 2017 Application which provided, in relevant part:

I hereby certify that, under penalty of perjury, 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.

\* \* \*

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 [ ]4.

16. On April 20, 2017, Special Investigator Andrew Engler of the Department's Consumer Affairs Division ("Division") mailed an inquiry letter to Daum, requesting Missouri Department of Revenue records regarding the income tax delinquency that Daum had failed to disclose by his 2017 Application, as well as Daum's criminal record. The inquiry letter advised Daum that by regulation his response "was due within twenty days. ... Failure to respond could result in an administrative action."
17. The April 20, 2017 inquiry letter was not returned to the Division as undeliverable; therefore, Daum is presumed to have received it.
18. Daum neither responded to the April 20, 2017 inquiry letter nor demonstrated reasonable justification for his nonresponsiveness.
19. It is inferable that Daum failed to disclose his 2012 Missouri state income tax delinquency as required by the 2017 Application in order to materially misrepresent to the Director that he had no such tax delinquency and thereby improve the chances that his application would be approved and he would be granted a MVESC producer license.

#### CONCLUSIONS OF LAW

20. Section 385.209.1<sup>2</sup> 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:

- (1) Filed an application for license in this state within the previous ten years, which, as of the effective date of the license, was incomplete in any material respect or contained incorrect, misleading, or untrue information;
- (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; [or]

\* \* \*

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

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<sup>2</sup> All civil statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes.

21. Title 20 CSR 100-4.100(2)(A) is a rule of the Director and 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.

22. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000) (internal citation omitted).

23. The Director may refuse to issue Daum a MVESC producer license pursuant to § 385.209.1(1) because as of January 9, 2012 his 2012 Application contained incorrect, misleading, or untrue information because he had answered "No" to Background Information Question 1 and did not disclose as required, nor provide documents regarding, his prosecutions in *State v. Joshua Navin Hart Daum*, St. Charles Co. Assoc. Cir. Ct., Case No. 0711-CR01962, and *State v. Joshua N. Daum*, St. Louis Co. Cir. Ct., Case No. 08SL-CR05523-01.

24. The Director may refuse to issue Daum a MVESC producer license pursuant to § 385.209.1(1) because as of March 27, 2014 his 2014 Application contained incorrect, misleading, or untrue information because he had answered "No" to Background Information Question 1 and did not disclose as required, nor provide documents regarding, his prosecutions in *State v. Joshua Navin Hart Daum*, St. Charles Co. Assoc. Cir. Ct., Case No. 0711-CR01962, and *State v. Joshua N. Daum*, St. Louis Co. Cir. Ct., Case No. 08SL-CR05523-01.

25. Each time Daum's 2012 Application and 2014 Application contained incorrect, misleading, or untrue information as of the effective date of his ensuing license is a separate and sufficient cause for refusal pursuant to § 385.209.1(1).

26. The Director may refuse to issue Daum a MVESC producer license pursuant to § 385.209.1(2) because he violated a rule of the Director, specifically 20 CSR 100-4.100, when he failed to respond to the Division's April 20, 2017 inquiry letter and demonstrated no reasonable justification for his nonresponsiveness.

27. The Director may refuse to issue Daum a MVESC producer license pursuant to § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud by not disclosing his 2012 Missouri state income tax delinquency as required by the 2017 Application.

28. The Director may refuse to issue Daum a MVESC producer license pursuant to § 385.209.1(13) because he has failed to comply with an administrative or court order

directing payment of 2012 Missouri state income tax. *See Dep't of Revenue v. Joshua N. Daum*, St. Charles Co. Cir. Ct., Case No. 1411-MC03780.

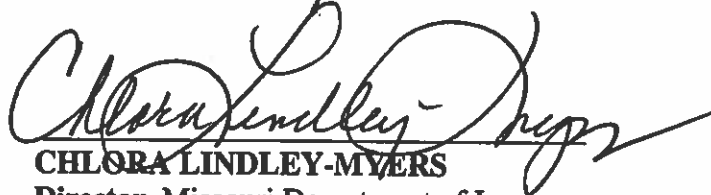
29. The Director has considered Daum's history and all of the circumstances surrounding Daum's 2017 Application, including the infirmities of his 2012 Application and 2014 Application. Issuing a MVESC producer license to Daum would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse Daum's 2017 Application for a MVESC producer license.
30. This Order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license application of **Joshua Navin Daum** is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 20<sup>th</sup> DAY OF September, 2017.

  
**CHLOA LINDLEY-MYERS**  
Director, Missouri Department of Insurance,  
Financial Institutions and Professional Registration



## **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.

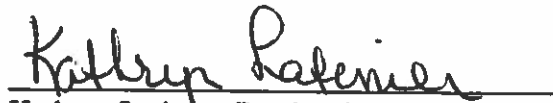
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 20th day of September, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Joshua Navin Daum  
221 East First Street North  
Wright City, Missouri 63390-1119

No. 1Z0R15W84293132965



Kathryn Latimer, Paralegal  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration  
301 West High Street, Room 530  
Jefferson City, Missouri 65101  
Telephone: (573) 751-6515  
Facsimile: (573) 526-5492  
Email: Kathryn.Latimer@insurance.mo.gov



**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of September, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Joshua Navin Daum  
221 East First Street North  
Wright City, Missouri 63390-1119

Certified No. 7016 3010 0000 4563 0970



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