



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

JADE L. HORNE,

Applicant.

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Case No. 204090

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

On April 28, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Jade L. Horne. 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. Jade L. Horne ("Horne") is a Missouri resident with a residential address of record of 700 Grey Mist Terrace, Lake St. Louis, Missouri, 63367.
2. On September 18, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Horne's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Background Question No. 1 of the Application asks the following:

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 or 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.

"Had a judgement withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt is made, but imposition or execution of

the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence—sometimes called an “SIS” or “SES”).

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 judgement[.]

4. Horne answered “Yes” to Question No. 1 and disclosed in a written statement and certified court documents that he had been convicted in 2011 of a felony:

- a. On April 20, 2011, Horne pleaded guilty in the Warren County Circuit Court to the Class D Felony of DWI – Alcohol – Persistent Offender, in violation of § 577.010. The court sentenced Horne to four years’ imprisonment, but suspended execution of the sentence and placed Horne on five years’ probation.¹

5. Background Question No. 7 of the Application asked:

7. 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. Horne answered “Yes” to Question No. 7 and indicated that he was four months in arrearage.

7. On September 24, 2013, Consumer Affairs Division investigator Andrew Engler mailed Horne a written inquiry, noting Horne’s “Yes” answer to Background Question No. 7, and requesting that Horne provide the current status of his child support arrearage and any evidence of a repayment arrangement and his payment history.

8. Engler mailed the September 24, 2013 letter by first class mail, to Horne’s address of record, with sufficient postage attached.

9. The September 24, 2013 letter was not returned as undeliverable.

¹ *State of Missouri v. Jade Louis Horne*, Warren Co. Cir. Ct., No. 10BB-CR00538-01.

10. On October 15, 2013, Consumer Affairs Division investigator Andrew Engler mailed Horne a second letter, extending Horne's time to respond to the September 24, 2013 letter until October 25, 2013.
11. Horne never responded to the September 24, 2013 letter or the October 15, 2013 extension letter and has not demonstrated any justification for his failure to adequately respond.

CONCLUSIONS OF LAW

12. Section 385.209 RSMo, Supp. 2013, 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;

* * *

- (5) Been convicted of any felony[.]

13. 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 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.

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 a motor vehicle extended service contract producer license, but to protect the public.
15. The Director may refuse to issue an MVESC producer license to Horne under § 385.209.1(5) because Horne has been convicted of a felony:
 - a. Class D Felony of DWI – Alcohol – Persistent Offender, in violation of § 577.010.
16. The Director also may refuse to issue an MVESC producer license to Horne under § 385.209.1(2) because Horne violated a rule of the Director, in that he failed to adequately respond to a written inquiry from the Consumer Affairs Division—on September 24, 2013, with the response deadline extended by the October 15, 2013 letter—without demonstrating reasonable justification for any of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
17. The Director has considered Horne's history and all of the circumstances surrounding Horne's Application. Granting Horne an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Horne.
18. This order is in the public interest.


ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Jade L. Horne** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND DAY OF MAY, 2014.




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 2nd day of May, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Jade L. Horne
700 Grey Mist Terrace
Lake St. Louis, Missouri 63367

Certified No. 7009 3410 0001 9254 7714



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