



## State of Missouri

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

IN RE:

MARVIN S. ISBELL,

Applicant.

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Case No. 180499

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

On April 19, 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 Marvin S. Isbell. 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. Marvin S. Isbell, ("Isbell") is a Missouri resident with a residential address of record of 10680 Stroup Road, Festus, Missouri, 63028.
2. On September 26, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Isbell's 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. Isbell marked "Yes" to Question No. 1.
5. As revealed by documents Isbell attached to his Application, documents Isbell later provided upon request and documents otherwise obtained by a Department investigator, Isbell had been convicted of three felonies:
  - a. On March 24, 2000, in the U.S. District Court, Eastern District of Missouri, Isbell pled guilty to and was convicted of the federal felony of Possession of a Controlled Substance with Intent to Distribute under §§ 21 U.S.C. 841(a)(1)

and (b)(1)(D)(1998). The court sentenced Isbell to a fine of \$2,500 and gave him three years' probation. *U.S. v. Marvin Scott Isbell*, U.S. Dist. Ct., E. D. Mo., No. 4:00-CR-00007-RWS.

- b. On February 15, 2002, Isbell pled guilty in the Circuit Court of St. Louis County to the Class D Felony of Leaving the Scene of an Accident in violation of § 577.060, RSMo Supp. 1999. The court sentenced Isbell to five years' imprisonment but suspended execution of the sentence, granted him five years' probation, and required him to pay the victim \$60,000 in restitution. *State of Missouri v. Marvin Scott Isbell*, St. Louis Co. Cir. Ct., No. 2100CR-03973-01.
- c. On January 11, 2007, Isbell pled guilty in the Circuit Court of St. Louis County to a Class C Felony of Possession of a Controlled Substance for possession of cocaine base and a Class A Misdemeanor count of Possession of a Controlled Substance for possession of marijuana, both in violation of § 195.202 Supp. 2006. On the felony count, the court sentenced Isbell to seven years' imprisonment but suspended execution of the sentence and granted Isbell five years' probation. *State of Missouri v. Marvin S. Isbell*, St. Louis Co. Cir. Ct., No. 2106CR-04325-01. As a result of this plea and sentence, Isbell's probation granted in *State of Missouri v. Marvin Scott Isbell*, St. Louis Co. Cir. Ct., No. 2100CR-03973-01 was revoked on January 11, 2007.<sup>1</sup>

6. With his Application, Isbell included the following explanation of his criminal history, verbatim in its entirety:

1. When I was twenty years old. I got caught with marijuana trying to sell it to make some money.
2. I was in a car accident and left the scene because I was scared.
3. I was caught with a controlled substance.

To whom it may concern. I am no longer on probation and have not been in any trouble. I have a home and a family now. My main focus is to work hard and to take care of my family. I have worked in the service contract industry for eight years. I'm good at what I do and would like to continue in this field.

7. Upon request of the Department's investigator, Isbell later provided the following additional explanation, verbatim in its entirety:

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<sup>1</sup> This fact is contrary to Isbell's statement, noted in paragraph 7 of this Order, that he "completed the probation and the special conditions of probation."

1. In March of 2000 I plead guilty to a felony for possession with intent to distribute marijuana. I was sentenced to 5 years probation and 100 hundred hours of community service. I completed the probation and the community service.

2. In Feb. of 2002 I plead guilty to a felony for leaving the scene of an accident. I was sentenced to 5 years probation, 100 hours of community service, to reimburse 15% of net pay while on probation to victim. I completed the probation and the special conditions of probation.

3. In Jan. 2007 I plead guilty to a felony for possession of a controlled substance. I was sentenced to 120 days electronic monitoring, drug treatment program at Bridgeway (inpatient for 30 days), and served 10 days in jail sentence. I completed all of the conditions required of me.

### CONCLUSIONS OF LAW

8. Section 385.209 RSMo, Supp. 2012,<sup>2</sup> provides, in part:

- i. 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:

\* \* \*

(5) Been convicted of any felony[.]

9. 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.

10. Isbell may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(5) because he has been convicted of three felonies:

- a. *U.S. v. Marvin Scott Isbell*, U.S. Dist. Ct., E. D. Mo., No. 4:00-CR-00007-RWS (federal felony of Possession of a Controlled Substance with Intent to Distribute under §§ 21 U.S.C. 841(a)(1) and (b)(1)(D)(1998)).

- b. *State of Missouri v. Marvin Scott Isbell*, St. Louis Co. Cir. Ct., No. 2100CR-

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<sup>2</sup> Statutory references are to the 2012 version of the Revised Statutes of Missouri unless otherwise noted.

03973-01 (Class D Felony of Leaving the Scene of an Accident in violation of § 577.060, RSMo Supp. 1999).

c. *State of Missouri v. Marvin S. Isbell*, St. Louis Co. Cir. Ct., No. 2106CR-04325-01 (Class C Felony of Possession of a Controlled Substance for possession of cocaine base in violation of § 195.202 Supp. 2006).

11. The Director has considered Isbell's history and all of the circumstances surrounding Isbell's Application. Granting Isbell a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Isbell.
12. This Order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the individual motor vehicle extended service contract producer license application of **Marvin S. Isbell** is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 24<sup>TH</sup> DAY OF APRIL, 2013.



  
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**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 26 day of April, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

Marvin S. Isbell  
10680 Stroup Road  
Festus, Missouri 63028

Certified No. 7009 3410 0001 9254 5307



Hailey Boessen  
Senior Office Support Assistant  
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Missouri Department of Insurance, Financial  
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