



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

BROCK R. BUEHRLE,

Applicant.

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Case No. 197271

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 19, 2013, 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 Brock R. Buehrle. 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. Brock R. Buehrle ("Buehrle") is a Missouri resident with a residential address of record of 1824 Santa Rosa Street, St. Charles, Missouri, 63303.
2. On May 10, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Buehrle's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Buehrle attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. 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[.]

5. Buehrle answered "No" to Question No. 1 and did not disclose any criminal history in his Application.
6. Contrary to Buehrle's answer to Question No. 1, the Consumer Affairs Division's investigation revealed that Buehrle had been convicted of three Class A Misdemeanors:
 - a. On August 3, 2009, Buehrle pleaded guilty in the St. Charles County Circuit Court to the Class A Misdemeanor of Assault in the Third Degree, in violation of § 565.070. The court sentenced Buehrle to eleven days in county jail, retroactive to July 23, 2009.¹
 - b. On January 14, 2010, Buehrle pleaded guilty in the St. Charles County Circuit Court to two counts of the Class A Misdemeanor of Domestic Assault in the Third Degree, in violation of § 565.074. The court sentenced Buehrle to 30 days in county jail, retroactive to December 19, 2010.²
7. The Consumer Affairs Division's investigator, Julie Hesser, made numerous attempts, by mail, email and phone, to contact Buehrle to request an explanation of the circumstances surrounding his criminal convictions and of his failure to disclose them on his Application. Hesser's written inquiries mailed to Buehrle at his address of record, on May 22, 2013, and July 11, 2013, were returned as undeliverable, with no forwarding address. Hesser's requests by email for an updated or corrected address were not returned by the recipient email server as undeliverable, but neither did Buehrle respond to them. Hesser's phone calls and voicemail messages, placed to the phone number provided by Buehrle in his Application, went unanswered. Investigative attempts to locate an address for Buehrle more recent than the one he provided in his Application have been unavailing.

¹ *State of Missouri v. Brock R. Buehrle*, St. Charles Co. Cir. Ct., No. 0911-CR04308.

² *State of Missouri v. Brock R. Buehrle*, St. Charles Co. Cir. Ct., No. 0911-CR07194.

8. It is inferable, and hereby found as fact, that Buehrle falsely answered "No" to Question No. 1 and failed to disclose his pleas of guilty to the Class A Misdemeanor of Assault in the Third Degree and to two counts of the Class A Misdemeanor of Domestic Assault in the Third Degree in order to falsely represent to the Director that he had no criminal history and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

CONCLUSIONS OF LAW

9. Section 385.209 RSMo, Supp. 2012, 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:

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud[.]

10. 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.
11. The Director may refuse to issue an MVESC producer license to Buehrle under § 385.209.1(3) because Buehrle falsely answered "No" to Question No. 1 and failed to disclose his pleas of guilty to the Class A Misdemeanor of Assault in the Third Degree and to two counts of the Class A Misdemeanor of Domestic Assault in the Third Degree in order to falsely represent to the Director that he had no criminal history and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
12. The Director has attempted to afford Buehrle every opportunity to explain his criminal history and his failure to disclose his criminal history. Despite numerous attempts to contact Buehrle using the contact information Buehrle himself provided in his Application, the Director has been unable to obtain Buehrle's explanation. Accordingly, the Director has been left only Buehrle's misrepresentation to consider in making his licensure decision.
13. The Director has considered Buehrle's history and all of the circumstances surrounding Buehrle's Application. Granting Buehrle 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 Buehrle.

14. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Brock R. Buehrle** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 27th DAY OF DECEMBER, 2013.




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 30th day of December, 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 addresses:

Brock R. Buehrle
1824 Santa Rosa Street
St. Charles, Missouri 63303

Certified No. 7009 3410 0001 9254 6717



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