



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
CURTIS T. JOHNSON,) Case No. 192646
)
Applicant.)

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

On October 15, 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 Curtis T. Johnson. 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. Curtis T. Johnson ("Johnson") is a Missouri resident with a residential address of record of 180 Reasor Drive, Hazelwood, Missouri, 63136.
- 2. On February 11, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Johnson'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. Johnson marked “No” to Background Question No. 1.
5. Johnson did not disclose any criminal history in his Application.
6. Consumer Affairs Division investigator Karen Crutchfield’s investigation into Johnson’s Application found information indicating that Johnson may have criminal history that he should have disclosed on his Application.¹
7. Background Question No. 7 of the Application asks the following:

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.)

8. Johnson answered “No” to Background Question No. 7, and did not otherwise indicate that he had any child support arrearage.
9. The investigation also revealed that, contrary to Johnson’s false “No” answer to Background Question No. 7, at the time he submitted his Application, Johnson owed \$2,678 in child support arrearages.
10. On March 7, 2012, the Director of the Missouri Department of Social Services, Family Support Division, through a designated hearing officer, issued a Decision and Order

¹ At the time the investigation commenced, online Case.net records contained a Missouri criminal case involving Johnson with the case number 1016-CR02505-01. For unknown reasons, Case.net no longer displays those records.

directing Johnson to pay \$206.00 per month in child support.²

11. On March 20, 2012, the St. Louis County Circuit Court entered a judgment against Johnson, ordering Johnson to pay \$206.00 per month in accordance with the March 7, 2012 Decision and Order.³
12. As of the date of his Application, Johnson had not paid any of the child support he was first directed on March 7, 2012, eleven months earlier, to pay.
13. It is inferable, and is hereby found as fact, that Johnson failed to disclose his child support arrearage and outstanding child support warrant in his Application in order to represent to the Director that he had no child support arrearage or warrant, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
14. On February 22, 2013, Crutchfield mailed an inquiry letter to Johnson requesting an explanation of his "No" answer to Background Question No. 1, in light of the information indicating that Johnson may have a criminal history, and requesting clarification of Johnson's identity and child support obligation.
15. Crutchfield mailed the February 22, 2013 letter by first class mail, to Johnson's address of record, with sufficient postage attached.
16. The February 22, 2013 letter was not returned as undeliverable.
17. Johnson never responded to the February 22, 2013 letter and has not demonstrated any justification for his failure to respond.
18. On March 18, 2013, Crutchfield mailed a second inquiry letter to Johnson, again requesting an explanation of his "No" answer to Background Question No. 1, in light of the information indicating that Johnson may have a criminal history, and again requesting clarification of Johnson's identity and child support obligation.
19. Crutchfield mailed the March 18, 2013 letter by first class mail, to Johnson's address of record, with sufficient postage attached. Crutchfield also sent a copy of the letter by certified mail to Johnson's business address of record.
20. The March 18, 2013 letter sent by first class mail was not returned as undeliverable. The certified copy was signed for by someone other than Johnson.

² *State of Missouri ex rel. Brittany Danielle McIntire v. Curtis T. Johnson*, Before the Director of the Family Support Division, Missouri Department of Social Services, Case No. 81295031.

³ *State of Missouri, Department of Social Services, Family Support Division, et al. v. Curtis T. Johnson*, St. Louis Co. Cir. Ct., 12SL-DR02053.

21. Johnson never responded to the March 18, 2013 letter and has not demonstrated any justification for his failure to respond.
22. On April 23, 2013, the Director issued a Subpoena Duces Tecum to Johnson, ordering him to appear and testify before the Director's designee on May 14, 2013, concerning his qualifications for MVESC licensure and any criminal history he had not disclosed in his Application.
23. The April 23, 2013 Subpoena Duces Tecum was sent by certified mail, and by first class mail, with sufficient postage attached, to Johnson at his address of record.
24. The first class mail was not returned as undeliverable. Johnson signed for and received the certified mail.
25. On May 14, 2013, Johnson failed to appear and testify as ordered by the Director.

CONCLUSIONS OF LAW

26. 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:

* * *

 - (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;

* * *

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

27. 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.

28. 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.
29. The Director may refuse to issue Johnson an MVESC producer license pursuant to § 385.209.1(12) because Johnson has failed to comply with an administrative order and a court order imposing a child support obligation, in that as of February 11, 2013, he was eleven (11) months in arrearage on a child support obligation ordered by the Director of the Family Support Division of the Missouri Department of Social Services, and again ordered in the March 20, 2012 judgment of the St. Louis County Circuit Court, and had never made any payment on the obligation.
30. The Director also may refuse to issue Johnson an MVESC producer license under § 385.209.1(3) because Johnson attempted to obtain a license through material misrepresentation or fraud when he failed to disclose his child support arrearage in his Application, falsely answering "No" to Background Question No. 7 and further failing to indicate that he was eleven months in arrearage with an outstanding child support warrant.
31. The Director also may refuse to issue Johnson an MVESC producer license under § 385.209.1(2) because Johnson violated a rule of the Director, in that Johnson failed to respond to two written inquiries from the Consumer Affairs Division—on February 22, 2013, and March 18, 2013—without demonstrating reasonable justification for either of his failures to respond, each time thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
32. The Director also may refuse to issue Johnson an MVESC producer license under § 385.209.1(2) because Johnson violated a subpoena of the Director when he failed to appear and testify as ordered by the Director in the Subpoena Duces Tecum issued on

April 23, 2013.

33. The Director has considered Johnson's history and all of the circumstances surrounding Johnson's Application. Granting Johnson an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue an MVESC producer license to Johnson.
34. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Curtis T. Johnson** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 21ST DAY OF OCTOBER, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

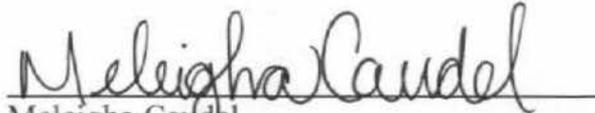
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 23rd day of October, 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:

Curtis T. Johnson
180 Reasor Drive
Hazelwood, Missouri 63136

Certified No. 7009 3410 0001 9855 0295



Melegha Caudel
Investigations Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.1922
Facsimile: 573.522.3630
Email: meleigha.caudel@insurance.mo.gov