



## State of Missouri

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

IN RE:

DEMETRIUS L. NEAL,  
  
Applicant.

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Case No. 199692

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

On January 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 Demetrius L. Neal. 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. Demetrius L. Neal ("Neal") is a Missouri resident with a residential address of record of 9919 Ashmont Drive, St. Louis, Missouri, 63136.
2. On July 16, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Neal's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Neal 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 (emphasis added):

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. Neal marked “No” to Background Question No. 1.
6. Neal did not disclose any criminal history in his Application.
7. Contrary to Neal’s “No” answer to Question No. 1, the Consumer Affairs Division’s investigation revealed information indicating that at the time Neal submitted his Application, he was charged with a crime, namely the pending charge of the Class C Felony of Stealing, in violation of § 570.030, RSMo, in the St. Charles County Circuit Court. That charge remains pending.<sup>1</sup>
8. 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.)
9. Neal answered “No” to Background Question No. 7.
10. Contrary to Neal’s answer to Question No. 7, as of the date of the Application Neal owed \$2,201.81 in child support arrearages. As of January 10, 2014, Neal owed \$2,475.69 in arrearages.
11. On May 26, 2010, the St. Louis County Circuit Court issued an order imposing a child

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<sup>1</sup> *State of Missouri v. Demetrius Lee Neal*, St. Charles Co. Cir. Ct., No. 1211-CR01576.

support obligation on Neal in the amount of \$460.00 per month. The judgment has not been satisfied.<sup>2</sup>

12. It is inferable, and is hereby found as fact, that Neal falsely answered "No" to Question No. 7 and failed to disclose his child support arrearage in his Application in order to represent to the Director that he had no child support arrearage, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
13. On July 25, 2013, Consumer Affairs Division investigator Andrew Engler mailed an inquiry letter to Neal requesting an explanation of the circumstances surrounding Neal's charge of the Class C Felony of Stealing and of why Neal failed to disclose the charge in his Application. Engler also requested a copy of the charging document in the matter.
14. Also on July 25, 2013, Neal called the Consumer Affairs Division investigator assigned to investigate Neal's Application and during that conversation Neal claimed that he had not become aware of the felony Stealing charge until after he submitted his Application.
15. Later on July 25, 2013, Neal emailed a letter to the Department regarding his Application, in which he claimed "I have sent over all the information that was ask of me." However, Neal did not provide any further information regarding his criminal history, his child support payment history, or his failure to disclose those histories.
16. Engler mailed the July 25, 2013 letter by first class mail to Neal's address of record, with sufficient postage attached.
17. The July 25, 2013 letter was not returned as undeliverable.
18. Neal never responded to the July 25, 2013 letter and has not demonstrated any justification for his failure to respond.

### CONCLUSIONS OF LAW

19. 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:

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<sup>2</sup> *State of Missouri, DFS et al. v. Demetrius Lee Neal*, St. Louis Co. Cir. Ct., No. 10SL-DR03638.

\* \* \*

(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[.]

20. 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.

21. 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.

22. The Director may refuse to issue Neal an MVESC producer license under § 385.209.1(3) because Neal attempted to obtain a license through material misrepresentation or fraud when in his Application he falsely answered "No" to Question No. 7 and failed to disclose his child support arrearage in his Application in order to represent to the Director that he had no child support arrearage, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

23. The Director also may refuse to issue Neal an MVESC producer license under § 385.209.1(2) because Neal violated a rule of the Director, in that Neal failed to respond to a written inquiry from the Consumer Affairs Division sent on July 25, 2013, without demonstrating reasonable justification for his failure to respond, thereby violating regulation 20 CSR 100-4.100(2), which is a rule of the Director.
24. The Director also may refuse to issue Neal an MVESC producer license under § 385.209.1(12) because Neal failed to comply with a court order imposing a child support obligation:
- a. On May 26, 2010, the St. Louis County Circuit Court issued an order imposing a child support obligation on Neal in the amount of \$460.00 per month;
  - b. As of the date of the Application Neal owed \$2,201.81 in child support arrearages;
  - c. As of January 10, 2014, Neal owed \$2,475.69 in arrearages.
25. The Director has considered Neal's history and all of the circumstances surrounding Neal's Application. Granting Neal 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 Neal.
26. This order is in the public interest.

**ORDER**

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

**SO ORDERED.**

WITNESS MY HAND THIS 4<sup>TH</sup> DAY OF FEBRUARY, 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 5<sup>th</sup> day of February, 2014, 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:

Demetrius L. Neal  
9919 Ashmont Drive  
St. Louis, Missouri 63136

Certified No. 7009 3410 0001 9254 6984



Angie Gross  
Investigations Section  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration  
301 West High Street, Room 530  
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