



State of Missouri

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

IN RE:)
)
EDWARD LEE NIMROD,) **Case No. 170117068C**
)
Applicant.)

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

On March 13, 2017, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Edward Lee Nimrod. After reviewing the Petition, the Investigative Report, and relevant documents, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Edward Lee Nimrod ("Nimrod") is a Texas resident with a residential and mailing address of 2413 Hawkwood Ct., Fort Worth, Texas 76123.
 2. On September 16, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Nimrod's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
 3. The "Attestation" section of the Application, states, in relevant part:
 1. I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
- * * *
5. I further certify, under penalty of perjury, that a) I have no child support obligation, b) I have a child support obligation and am currently in compliance with that obligation, or c) I have a child support obligation

that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Question 36.7.

4. Nimrod accepted the "Attestation" section by signing the Application under oath before a notary public.

5. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgment withheld or deferred, received a suspended imposition of sentence ("SIS") or suspended execution of sentence ("SES"), or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony, or a military offense. You may exclude any of the following if they are/were misdemeanor traffic citations or misdemeanors: driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude misdemeanor juvenile convictions.

"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, having entered an Alford Plea, or having been given probation, a suspended sentence, or a fine.

"Had a judgment withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt was 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").

Unless excluded by the language above, you must disclose convictions that have been expunged.

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 judgment.

6. Nimrod answered "No" in response to Background Question No. 1.

7. During its investigation, the Division discovered the following conviction that Nimrod failed to disclose on his Application:

- a. On February 27, 2007, Nimrod pled guilty to the Class A Misdemeanor – Non-Support, in violation of § 568.040 RSMo.¹ The court sentenced Nimrod to two (2) years' incarceration, but suspended the imposition of sentence, and ordered, *inter alia*, Nimrod to pay \$100 per month (\$74 for child support and \$26 for restitution). On February 19, 2009, the court revoked Nimrod's probation, sentenced him to six (6) months' incarceration, suspended the execution of sentence, placed him on two (2) years' probation, and ordered Nimrod to pay \$100 per month. *State v. Edward L. Nimrod*, Jackson Co. Cir. Ct. (Kansas City Criminal/Traffic), Case No. 0516-CR03566.

8. Background Question No. 2 of the Application asks, in relevant part:

Have you ever been named or involved as a party in an administrative proceeding or action regarding any professional or occupational license or registration, or regarding the lack of such license or registration?

"Involved" means having a license censured, suspended, revoked,

9. Nimrod answered "No" in response to Background Question No. 2.

10. During its investigation, the Division discovered that the Department had issued Nimrod an insurance producer license on June 14, 2002. However, on August 28, 2004, such license was revoked for tax non-compliance pursuant to § 324.010 RSMo (Supp. 2003).

11. The Director is a state regulator of insurance.

12. Background Question No. 7 of the Application asks the following:

Do you currently have or have you had a child support obligation?

If you answer yes:

- a) are you in arrearage?
- b) by how many months are you in arrearage? ____ months
- c) what is the total amount of your arrearage? _____
- d) are you currently subject to a repayment agreement to cure the arrearage? (If you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
- e) are you in compliance with said repayment agreement? (If you answer

¹ All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri under which the court rendered judgment.

- yes, provide documentation showing proof of current payments from the appropriate state child support agency.)
- f) 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.)
 - g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?
13. In response to Background Question No. 7, Nimrod answered that he does have a child support obligation, he is in arrearage (but did not indicate how many months or the amount of the arrearage), he is currently subject to repayment agreement, he is not subject to a subpoena or warrant, and he has not ever been convicted of a misdemeanor or felony for failure to pay child support. Contrary to the instructions of the Application, Nimrod provided no documentation of his repayment agreement or proof of current payments from the appropriate state child support agency.
14. According to the records of the Family Support Division, Child Support Enforcement, Missouri Department of Social Services, as of September 2016 (the month he submitted his Application), Nimrod was \$64,349.17 in total arrears in child support in *Edward L. Nimrod v. Niesha L. Nimrod*, Jackson Co. Cir. Ct., Case No. 99FC202068² (Administrative Case No. 60746837).
15. On October 11, 2016, Special Investigator Andrew Engler, with the Division, sent an inquiry letter to Nimrod to his residential and mailing address on his Application by first class mail, postage prepaid. The letter requested additional documentation and information about Nimrod's criminal background and requested a copy of his child support payment history. The letter further stated: "Pursuant to 20 CSR 100-4.100, your response is due within twenty days. Failure to respond could result in a refusal to issue your MVEESC [motor vehicle extended service contract] license."
16. The United States Postal Service did not return the October 11, 2016 inquiry letter to the Division, and therefore it is presumed received by Nimrod.
17. Nimrod failed to provide a written response to the Division's October 11, 2016 inquiry letter and failed to demonstrate a reasonable justification for the delay.
18. On November 8, 2016, Special Investigator Engler sent a second inquiry letter to Nimrod to his residential and mailing address on his Application by first class mail, postage prepaid, requesting the same information and documentation as in the October 11, 2016 letter.

² Although this is the original and main case number, the court has reopened and issued orders several times through the years. Most recently, the court entered a Judgment of Modification on March 14, 2016 ordering Nimrod to pay \$460 per month commencing on December 1, 2015. *Edward L. Nimrod v. Niesha L. Nimrod*, Jackson Co. Cir. Ct., Case No. 99FC202068-06.

19. The United States Postal Service did not return the November 8, 2016 inquiry letter to the Division, and therefore it is presumed received by Nimrod.
20. Nimrod failed to provide a written response to the Division's November 8, 2016 inquiry letter and failed to demonstrate a reasonable justification for the delay.
21. It is inferable, and hereby found as fact, that Nimrod failed to disclose his criminal background on his Application in order to materially misrepresent to the Director that he had no criminal history, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.
22. It is also inferable, and hereby found as fact, that Nimrod failed to disclose the revocation of his insurance producer license in order to materially misrepresent to the Director that he had no administrative actions, and thus, to gain the Director's approval of his Application.
23. It is further inferable, and hereby found as fact, that Nimrod failed to disclose the true extent of his child support obligation and arrearage, failed to provide documentation regarding same, and failed to reveal his conviction for Class A Misdemeanor of Non-Support in order to make it appear he is in compliance with his obligations and to minimize the obligation, thereby materially misrepresenting his child support obligation and in order to induce the Director to approve his Application.

CONCLUSIONS OF LAW

24. Section 385.209.1 RSMo (Supp. 2013)³ provides, in relevant part:

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;

³ All civil statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

* * *

(9) Been refused a license or had a license revoked or suspended by a state or federal regulator of service contracts, financial services, investments, credit, insurance, banking, or finance; [or]

* * *

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

25. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

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.

26. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).
27. The Director may refuse to issue a motor vehicle extended service contract ("MVESC") producer license to Nimrod under § 385.209.1(2) because Nimrod failed to adequately respond, and in fact never responded, to two (2) inquiry letters from the Division and failed to provide reasonable justifications for the delay, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation. Each violation of 20 CSR 100-4.100(2)(A), a regulation of the Director, is a separate and sufficient cause to refuse Nimrod's Application.
28. The Director may refuse to issue an MVESC producer license to Nimrod under § 385.209.1(3) because Nimrod attempted to obtain an MVESC producer license through material misrepresentation or fraud by failing to disclose his conviction of the Class A Misdemeanor – Non-Support, *State v. Edward L. Nimrod*, Jackson Co. Cir. Ct. (Kansas City Criminal/Traffic), Case No. 0516-CR03566, on his Application in order to misrepresent his criminal history to the Director, and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

29. The Director may refuse to issue an MVESC producer license to Nimrod under § 385.209.1(3) because Nimrod attempted to obtain an MVESC producer license through material misrepresentation or fraud by failing to disclose an administrative action against a professional license, namely, the revocation of his insurance producer license, on his Application in order to misrepresent his licensure history to the Director, and, accordingly, to gain the Director's approval of his Application and issue Nimrod an MVESC producer license.
30. The Director may refuse to issue an MVESC producer license to Nimrod under § 385.209.1(3) because Nimrod attempted to obtain an MVESC producer license through material misrepresentation or fraud by failing to disclose the extent of his child support obligation and significant arrearage (\$64,349.17 as of the date of his Application), and the fact that he had been convicted of the Class A Misdemeanor – Non-Support, *State v. Edward L. Nimrod*, Jackson Co. Cir. Ct. (Kansas City Criminal/Traffic), Case No. 0516-CR03566, in order to misrepresent his child support history and obligations to the Director, and, accordingly, to induce the Director to his Application and issue him an MVESC producer license.
31. The Director may refuse to issue an MVESC producer license to Nimrod under § 385.209.1(9) because Nimrod has had an insurance producer license revoked by a state regulator of insurance, namely, the Director.
32. Nimrod may also be refused an MVESC producer license pursuant to § 385.209.1(12) because he failed to comply with an administrative or court order imposing a child support obligation. *Edward L. Nimrod v. Niesha L. Nimrod*, Jackson Co. Cir. Ct., Case No. 99FC202068 (Administrative Case No. 60746837); *State v. Edward L. Nimrod*, Jackson Co. Cir. Ct. (Kansas City Criminal/Traffic), Case No. 0516-CR03566.
33. Issuing an MVESC producer license to Nimrod would not be in the public's interest. Nimrod failed to respond to two (2) Division inquiry letters, misrepresented his criminal, professional licensure, and child support history on his Application, and has failed to comply with an administrative or court order imposing child support obligations.
34. The Director has considered Nimrod's history and all of the circumstances surrounding his Application. Issuing a motor vehicle extended service contract producer license to Nimrod would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Nimrod a motor vehicle extended service contract producer license.

35. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license Application of **Edward Lee Nimrod** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 13th DAY OF June, 2017.



Chelora Lindley-Myers
CHELORA LINDLEY-MYERS
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.

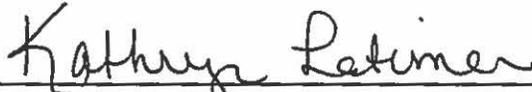
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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of June, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, with signature required, at the following address:

Edward Lee Nimrod
2413 Hawkwood Ct.
Fort Worth, TX 76123

Tracking No. 1Z0R15W84299985220



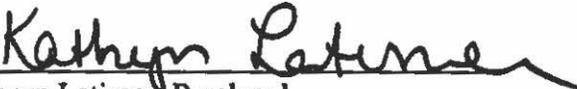
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301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of July, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Edward Lee Nimrod
2413 Hawkwood Ct.
Fort Worth, TX 76123

Certified No. 7016 1370 0001 2035 9005


Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Edward Lee Nimrod
2413 Hawkwood Ct.
Fort Worth, TX 76123



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
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