



## State of Missouri

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

IN RE:

MICHAEL GEORGE KARDASZ,

Applicant.

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Case No. 150121037C

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

On February 25, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue a motor vehicle extended service contract ("MVESEC") producer license to Michael George Kardasz. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

#### **FINDINGS OF FACT**

1. Michael George Kardasz ("Kardasz") is a Missouri resident with a residential address of record of 4267 Holt Rd, Bland, Missouri, 65014.
2. On March 17, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Kardasz's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. The "Applicant's Certification and 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.

4. Kardasz signed the Application in the "Applicant's Certification and Attestation" section under oath and 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 certified copy of the charging document, and
- c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Kardasz marked "NO" to Background Question No. 1.
7. When questioned about his response to Background Question 1, Kardasz affirmed his answer by writing, "I Answered [sic] NO to question # 1."

8. During its investigation, the Consumer Affairs Division ("Division") of the Department discovered the following pending case that Kardasz failed to disclose in response to Background Question No. 1 on his Application:

a. On May 9, 2013, Kardasz was charged with three counts of Criminal Non-Support, all Class A Misdemeanors, all in violation of § 568.040. On September 30, 2013, Kardasz was served with a warrant. On October 3, 2013, an attorney entered his appearance on behalf of Kardasz. On November 22, 2013, Kardasz was present at a hearing. Disposition of this case is pending, and Kardasz has an outstanding warrant for his arrest. *State v. Michael George Kardasz*, St. Charles Co. Cir. Ct., Case No. 1311-CR02745.

9. 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?
- 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 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?

10. In response to Background Question No. 7, Kardasz answered that he has a child support obligation that is eighty-eight (88) months and \$53,000 in arrears, that he is currently subject to and compliant with a repayment agreement, that he is subject to a child support related subpoena/warrant, and that he was never convicted for failure to pay child support. Kardasz did not provide any documentation with his application.
11. On March 19, 2014, Kardasz faxed a pay stub from his employer for the third weekly pay period in January 2014. The pay stub shows \$207.69 was withheld for child support during the pay period and a total of \$830.76 had been withheld through January 21, 2014. Kardasz's fax also included a copy of an Income Withholding

Order For Support. The Order was filed on January 16, 2014 and orders Kardasz's employer to withhold \$780.00 per month for child support owed to D.K. in Case. No. 1311-FC00833.

12. During its investigation, the Division substantiated that Kardasz has two (2) child support obligations. The current arrearage of both obligations totals \$69,680.70.
  - a. Kardasz owed \$52,436.06 in child support arrears to J.K. when he submitted his Application. As of February 18, 2015, his arrearage totals \$59,601.91. Kardasz is obligated to pay \$600.00 per month in child support. Kardasz has not made a child support payment since October 2014, and his payments since submitting his Application in February 2014 total to only \$34.15. *Jeannette Marie Kardasz v. Michael George Kardasz*, St. Charles Co. Cir. Ct., Case No. 04FC127810-02.
  - b. Kardasz owed \$759.21 to D.K. when he submitted his Application. As of February 18, 2015, his arrearage totals \$10,078.79. Kardasz is obligated to pay \$780.00 per month in child support. Kardasz has not made a payment since September 2014, and his payments since submitting his Application in February 2014 total to only \$40.42. *Dana M. Kardasz v. Michael G. Kardasz*, St. Charles Co. Cir. Ct., Case No. 1311-FC00833.
13. Background Question No. 4. Of the Application asks the following:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

Answer "Yes" if the answer to either question (or both) is "Yes."

If you answer yes, you must attach to this application:

  - a) a written statement explaining the circumstances of each administrative or court order,
  - b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.)
  - c) a certified copy of each administrative or court order, judgment, and/or lien, and
  - d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).
14. Kardasz marked "NO" to Background Question No. 4.

15. During its investigation, the Division discovered the following outstanding tax obligation:

- a. On June 27, 2014, the St. Louis County Circuit Court entered a judgment against Kardasz for unpaid taxes for the 2009 filing year as follows:

[Department of Revenue], under Section 143.902, RSMo, hereby certifies that the following assessment of tax, interest, additions to tax, penalties, and fees have been made and become final [in the amount of \$1,602.15]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

*Department of Revenue v. Michael G. Kardasz*, St. Louis Co. Cir. Ct., Case No. 14SL-MC08601.

16. It is inferable, and hereby found as fact, that Kardasz failed to disclose his three pending charges for Criminal Non-Support in response to Background Question No. 1 on his Application to misrepresent to the Director that he had no criminal history and to improve the likelihood that the Director would issue him a MVEESC producer license.
17. It is inferable, and hereby found as fact, that Kardasz failed to disclose his outstanding tax obligation in response to Background Question No. 4 on his Application to misrepresent to the Director that he had no outstanding tax obligations and to improve the likelihood that the Director would issue him a MVEESC producer license.

### CONCLUSIONS OF LAW

18. Section 385.209 RSMo (Supp. 2013)<sup>1</sup> 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;

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<sup>1</sup> All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

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

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

19. 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 MVEESC producer license but to protect the public.
20. The Director may refuse to issue a MVEESC producer license to Kardasz pursuant to § 385.209.1(3) because Kardasz attempted to obtain a MVEESC producer license through material misrepresentation or fraud when he failed to disclose the following pending charges on his Application in response to Background Question No. 1:
  - a. *State v. Michael George Kardasz*, St. Charles Co. Cir. Ct., Case No. 1311-CR02745 (Three counts of Criminal Non-Support, all Class A Misdemeanors, all in violation of § 568.040).
21. The Director may refuse to issue a MVEESC producer license to Kardasz pursuant to § 385.209.1(3) because Kardasz attempted to obtain a MVEESC producer license through material misrepresentation or fraud when he failed to disclose the following delinquent tax obligation on his Application in response to Background Question No. 4:
  - a. *Department of Revenue v. Michael G. Kardasz*, St. Louis Co. Cir. Ct., Case No. 14SL-MC08601 (Judgment in the amount of \$1,602.15 for unpaid taxes for the 2009 filing year).
22. Each attempt to obtain a MVEESC producer license through material misrepresentation or fraud is a separate and sufficient ground for refusal under § 385.209.1(3).
23. The Director may refuse to issue Kardasz a MVEESC producer license under § 385.209.1(12) because Kardasz has failed to comply with administrative or court orders imposing child support obligations:
  - a. *Jeannette Marie Kardasz v. Michael George Kardasz*, St. Charles Co. Cir. Ct., Case No. 04FC127810 (Arrearage of approximately \$59,601.91).

b. *Dana M. Kardasz v. Michael G. Kardasz*, St. Charles Co. Cir. Ct., Case No. 1311-FC00833 (Arrearage of approximately \$10,078.79).

24. Each failure to comply with an administrative or court order imposing child support obligations is a separate and sufficient ground for refusal under § 385.209.1(12).
25. The Director may refuse to issue a MVESC producer license to Kardasz pursuant to § 385.209.1(13) because Kardasz failed to comply with an administrative or court order directing payment of state income taxes:
- a. *Department of Revenue v. Michael G. Kardasz*, St. Louis Co. Cir. Ct., Case No. 14SL-MC08601 (Judgment in the amount of \$1,602.15 for unpaid taxes for the 2009 filing year).
26. The Director has considered Kardasz's history and all of the circumstances surrounding Kardasz's Application. Granting Kardasz a 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 Kardasz.
27. This order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the Motor Vehicle Extended Service Contract Producer License application of Michael George Kardasz is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 26<sup>th</sup> DAY OF FEBRUARY, 2015.



  
**JOHN M. HUFF**  
**DIRECTOR**



## **NOTICE**

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

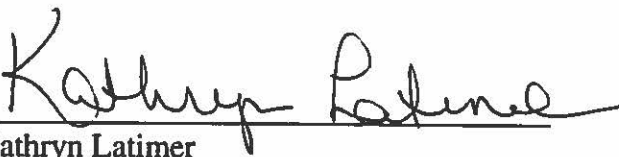
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 27th day of February, 2015 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Michael George Kardasz  
4267 Holt Rd.  
Bland, Missouri 65014

Tracking No. 1Z0R15W84299208793

A handwritten signature in black ink, appearing to read "Kathryn Latimer", is written over a horizontal line.

Kathryn Latimer  
Paralegal

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