



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

CHRISTOPHER PAUL NIELSEN,

Applicant.

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Case No. 1906120867C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On July 22, 2019 the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Christopher Paul Nielsen. 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. Christopher Paul Nielsen ("Nielsen") is a Missouri resident with a residential address of 108 Hollow Creek Dr, St. Peters, Missouri, 63376.
2. On February 15, 2019, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Nielsen's Application for a Motor Vehicle Extended Service Contract Producer License ("Application").
3. The Application contains an Applicant's Certification and Attestation section, which states in relevant part:

I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and compete. 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. Background Information Question Number 1 of the Applications asks, in relevant part:

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?

5. Nielsen answered “no” to Background Information Question No. 1.
6. The Department’s Consumer Affairs Division investigated Nielsen’s Application, revealing that contrary to his “No” answer to Background Information Question No. 1, Nielsen had been convicted of two felonies:
 - a. On May 30, 2003, Nielsen entered a plea of guilty to a felony charge of Driving While Intoxicated, in violation of §577.010 RSMo,¹ and was sentenced to a three year Suspended Execution of Sentence (“SES”) with five years of probation. *State of Missouri v. Christopher Nielsen*, St. Charles Co. Cir. Ct., Case No. 02CR-131694-01. On April 3, 2006, Nielsen’s probation was revoked and he was sentenced to three years in the Missouri Department of Corrections.
 - b. On September 8, 2016, Nielsen entered a plea of guilty to the charge of Possession of a Controlled Substance, in violation of §§558.011 and 560.011 RSMo. *State of Missouri v. Christopher Nielsen*, St. Charles Co. Cir. Ct., Case No. 1511-CR04457-01. Nielsen was sentenced to a five year suspended execution of sentence with five years of supervised probation. On April 5, 2018, Nielsen’s probation was revoked and he was re-sentenced to serve a five year sentence in the Missouri Department of Corrections pursuant to §559.115.3 RSMo (Institutional Treatment Program). Nielsen is currently on supervised felony probation.
7. It is inferable, and is hereby found as fact, that Nielsen failed to disclose his criminal history in his Application in order to mislead the Director into believing that Nielsen had no criminal history in order to improve the chances that the Director would approve his Application and issue him an Motor Vehicle Extended Service Contract Producer license.
8. On February 25, 2019, Division Special Investigator Andrew Engler (“Engler”) sent an inquiry letter via first class mail, postage prepaid, to Nielsen at the address provided in the Application. In his letter, Engler asked Nielsen to provide an explanation for his failure to disclose the felony conviction. Engler asked for a response within twenty days

¹ All statutory references are to the Revised Statutes of Missouri in effect at the time of the offense, unless otherwise noted.

and stated that “[f]ailure to respond could result in a refusal to issue your MVESC license.”

9. The inquiry letter dated February 25, 2019 was not returned as undeliverable to the Division and therefore, it is presumed received.
10. Nielsen did not respond timely or at all to Engler’s February 25, 2019 inquiry letter and he did not demonstrate reasonable justification for any delay.
11. On March 21, 2019, Engler sent another inquiry letter to Nielsen via first-class mail, postage prepaid, to Nielsen’s residential address. In his letter, Engler again asked Nielsen to explain why he had failed to disclose his felony Driving While Intoxicated and Possession of a Controlled Substance convictions. Engler stated that “[p]ursuant to 20 CSR 100-4.100, your response was due within twenty days. I will allow you to respond within an additional twenty days. Failure to respond could result in a refusal to issue your MVESC license.”
12. Nielsen responded to the March 21, 2019 letter from Engler with an e-mail, sent April 6, 2019. He did not attach any certified court documents concerning the aforementioned felony convictions.
13. Nielsen’s April 6, 2019 email stated, in relevant part:

In response to the DWI combine [sic] alcohol drug intoxication in 2003, I was sentenced to incarceration in Missouri Department of Corrections. Upon being released I was assigned to parole for the time period of five years and I successfully completed parole. As far as the possession of controlled substance I was sentenced to 120 days treatment which I successfully completed on august 10th 2018. I am currently on probation for the remainder of my punishment on that charge. I apologize for the lack of initial disclosure. I was told that you would find out about them anyway and I didn’t need to give explanations on my application. Please take these charges into consideration when reviewing my application as these are not any type of FDIC violations. Thank you for your time.

14. On April 11, 2019, Nielsen made a call to Engler to ascertain the status of his application. At that time, Engler informed Nielsen again that he was required to provide certified court records of any convictions.
15. As of the time of the filing of this petition, the Department has not received any certified court records from Nielsen.

16. The Application which Nielsen completed contains an Applicant's Certification and Attestation section, which states in relevant part:

I further certify, under penalty of perjury, that a) I have no child support obligation, or b) I have a child support obligation and I 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 Information Question 36.7.

17. Background Information 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 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?

18. Nielsen answered "Yes" to Background Information Question No. 7, answered "Yes" to sub-part (a) of Background Question No. 7, and indicated that he was "12" months and "\$6,000" in arrearage.
19. Investigation revealed as of May 15, 2019, Nielsen owed total arrearages of \$6,914.90 for the support of one child. At the current court-ordered rate of \$375.00 total per month, that arrearage represents 18 months' worth of unpaid support.
20. Further investigation revealed that on December 17, 2014, Nielsen's marriage was dissolved by the Circuit Court of St. Charles County, Missouri, and Nielsen was ordered at that time to provide \$375.00 per month in support of his minor child, and an additional \$2,000.00 in arrearages. *Stacy L Nielsen v. Christopher P Nielsen*, St. Charles Co. Cir. Ct., Case No. 1311-FC01650.

21. It is inferable and hereby found as fact that Nielsen did not accurately disclose his unpaid child support arrearages to increase his chances at receiving a license.
22. It is inferable and hereby found as fact that Nielsen did not disclose his Driving While Intoxicated and Possession of a Controlled Substance convictions in order to increase his chances of receiving a license.

CONCLUSIONS OF LAW

23. 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.

24. Regulation 20 CSR 100-4.010(1)(A) defines "adequate response," including for purposes of 20 CSR 100-4.100(2), as:

[A] written response answering each inquiry with reasonable specificity. A person's acknowledgment of the division's inquiry is not an adequate response.

25. Section 385.209.1, RSMo 2016, 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 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;

* * *

(5) Been convicted of any felony; [or]

* * *

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

26. The Director may refuse to issue an Motor Vehicle Extended Service Contract producer license to Nielsen under §385.209.1(2) because Nielsen violated 20 CSR 100-4.100(2)(A), a rule of the Director, in that Nielsen failed to respond to a written inquiry from the Division from February 25, 2019, and Nielsen failed to demonstrate reasonable justification for any delay.
27. The Director may refuse to issue an Motor Vehicle Extended Service Contract producer license to Nielsen under §385.209.1(3) because Nielsen attempted to obtain a license through material misrepresentation or fraud because he failed to disclose his criminal history. *State of Missouri v. Christopher Nielsen*, St. Charles Co. Cir. Ct., Case No. 02CR131694-01 and *State of Missouri v. Christopher Nielsen*, St. Charles Co. Cir. Ct., Case No. 1511-CR04457-01.
28. The Director may refuse to issue a Motor Vehicle Extended Service Contract Producer license to Nielsen under §385.209.1(5) because Nielsen has been convicted of felony charges, namely:
 - a. Driving While Intoxicated, in violation of §577.010 RSMo. *State v. Christopher Nielsen*, St. Charles Co. Cir. Ct., Case No. 02CR131694-01.
 - b. Possession of a Controlled Substance, in violation of §§558.011 and 560.011 RSMo. *State v. Christopher Nielsen*, St. Charles Co. Cir. Ct., Case No. 1511-CR04457-01.
29. Each instance in which Nielsen has been convicted of a felony constitutes a separate and sufficient ground for refusal pursuant to §385.209.1(5).
30. The Director may refuse to issue a Motor Vehicle Extended Service Contract Producer license to Nielsen under §385.209.1(12) because Nielsen has unpaid child support arrearages in the amount of \$6,914.90.

31. The Director has considered Nielsen's history and all of the circumstances surrounding Nielsen's Application and exercises her discretion to refuse to issue Nielsen an MVESC producer license.
32. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Motor Vehicle Extended Service Contract Producer License Application of **CHRISTOPHER PAUL NIELSEN** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 15th DAY OF August, 2019.



Chlora Lindley-Myers
CHLORA 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 15th of August, 2019, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Christopher Paul Nielsen
108 Hollow Creek Dr
St. Peters, MO 63376

No. 1Z0R15W84295847743



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