



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

PAUL N. GRANBERRY, JR.

Applicant.

Case No. 14-0311293C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 13, 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 Paul N. Granberry, Jr. 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. Paul N. Granberry, Jr. ("Granberry") is a Missouri resident with a residential address of record of 2320 Collett, St. Louis, Missouri, 63136.
2. On December 10, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Granberry's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Granberry 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:

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. Granberry answered "No" to Question No. 1. Granberry did not disclose any criminal history in his Application.

6. Contrary to Granberry's "No" answer to Question No. 1, investigation by the Consumer Affairs Division revealed that Granberry had been convicted of a felony:

- a. On May 28, 2004, Granberry pleaded guilty in the St. Louis County Circuit Court to the Class D Felony of Nonsupport in Each of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is in Excess of \$5,000, in violation of § 568.040. On June 11, 2004, the court suspended the imposition of sentence, placed Granberry on five years' probation, and ordered Granberry to pay \$1000.00 immediately and \$500.00 per month in child support--\$302.00 per month for current support and \$198.00 per month toward arrearages.¹
- b. On March 25, 2005, the court revoked Granberry's probation, sentenced Granberry to one year's incarceration in the Department of Justice Services, suspended execution of the sentence, again placed Granberry on five years' probation, and again ordered Granberry to pay \$500.00 per month in child support.
- c. On June 20, 2005, the court suspended Granberry's probation and scheduled a probation revocation hearing. Granberry failed to appear and the hearing was never held, but on September 7, 2012, the court discharged Granberry from his probation.

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:

¹ *State of Missouri v. Paul N. Granberry*, St. Louis Co. Cir. Ct., No. 2103R-02104-01.

- 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. Granberry answered "No" to Background Question No. 7.
- 9. Granberry attached a written explanation to the Application, which stated, verbatim in its entirety (except for a redacted phone number):

There's a charge that's in my name for the year 1980. My name is also my fathers name so I am a Jr. I just wanted to state that I was born 11/5/1967. I was in Grade School durement 1980 and I graduated from High School 1986. I want to indicate that I did have a child support issue. But that was taken care of in 2002. I pay out-of-pocket every month and is now current. The reason why I fell behind is I was unemployed at the time and fell behind. But again everything is current. If there are any questions I can be contacted at [phone number]. If proof is needed I am able to provide.

- 10. Contrary to Granberry's answer to Question No. 7 and his representations in his written explanation, as of the date of the Application Granberry owed \$192,505.68 in child support arrearages:
 - a. On February 3, 1998, an administrative order was filed in the St. Louis County Circuit Court at the relation of G.M., which ordered Granberry to pay G.M. \$252.00 per month in child support.² As of the date Granberry submitted the Application, he was \$37,997.83 in arrears on this obligation. As of April 29, 2014, Granberry was \$39,005.83 in arrears on this obligation and had not made a payment on the obligation since December 2012.
 - b. As of the date Granberry submitted the Application, Granberry owed C.G. \$30,643.59 in child support arrearages. As of April 29, 2014, Granberry owed \$31,247.59 in arrearages on this obligation. The total child support payment Granberry is obligated to pay each month on this obligation is \$453.00—\$302.00 per month for current support and \$151.00 per month toward arrearages.
 - c. As of the date Granberry submitted the Application, Granberry owed A.F. \$57,156.95 in child support arrearages. As of April 29, 2014, Granberry owed \$58,848.95 in arrearages on this obligation and had not made a payment on the obligation since December 2012. The total child support payment Granberry is obligated to pay each month on this obligation is \$423.00.

² *State of Missouri ex rel. G.M. v. Paul Nelson Granberry, Jr.*, St. Louis Co. Cir. Ct., No. 2198FC-01085.

- d. As of the date Granberry submitted the Application, Granberry owed N.W. \$35,261.20 in child support arrearages. As of April 29, 2014, Granberry owed \$36,393.20 in arrearages on this obligation and had not made a payment on the obligation since December 2012. The total child support payment Granberry is obligated to pay each month on this obligation is \$283.00.
 - e. On July 2, 2004, a default judgment was entered against Granberry in the St. Louis City Circuit Court, ordering Granberry to pay \$262.00 per month in child support to J.B.³ As of the date Granberry submitted the Application, Granberry owed J.B. \$31,446.11 in child support arrearages. As of April 29, 2014, Granberry owed \$32,494.11 in arrearages on this obligation and had not made a payment on the obligation since December 2012.
- 11. As of April 29, 2014, Granberry owed a total of \$197,989.68 in child support arrearages.
 - 12. At no time has Granberry provided the Department with any evidence of a child support repayment agreement or of compliance with any repayment agreement.
 - 13. On December 26, 2013, Consumer Affairs Division investigator Andrew Engler mailed Granberry a written inquiry, noting Granberry's "No" answer to Background Question No. 1 in spite of his Felony Nonsupport conviction, and requesting that Granberry provide an explanation of the circumstances surrounding the conviction, copies of the Information, Complaint, or other charging document from the Felony Nonsupport case, and the current status of his child support.
 - 14. On January 15, 2014, having received no response from Granberry, Engler mailed Granberry a second letter, extending the time for Granberry's response to February 4, 2014.
 - 15. On January 27, 2014, Engler received a written response from Granberry stating, verbatim in its entirety:

I am a desperate man trying to do the best that I can. I realize that I am responsible for my actions and want to support my children. I have been passed up on many good jobs because of the Child Support Felony. OR, I have been let go after one or two days for the same reason. I know that Child Support is a Felony. But when I answered the question I was looking at it like something noncriminal, not like murder or thief. If I don't have a Driver's License I can't go to work. Therefore, I can't pay Child Support. I just got a decent job after a year, (since being laid off from my last job). I'm finally in a position to pay some Child Support. My 64 year old mother pays it for me when she can. It would be a relief not to have to worry about being stopped by the police every time I drive.

³ *Missouri Department of Social Services, Division of Child Support Enforcement v. Granberry*, St. Louis City Cir. Ct., No. 22027-01714.

Enclosed is a copy of my last court judgement for Child Support which was resolved through my lawyer.

I can use all the help I can get.

16. Granberry's explanation of his "No" answer to Background Question No. 1 of the Application and of his failure to disclose his conviction of the Class D Felony of Nonsupport is not credible. Granberry admits in his explanation that he is aware that Criminal Nonsupport is a felony. The Application plainly asks "Have you ever been convicted of a *crime*" (emphasis added), defines "crime" as including "a misdemeanor, felony or a military offense," and explicitly excludes only misdemeanor driving-related offenses. Granberry states that he "was looking at it like something noncriminal, not like murder or thief," but it is not reasonable to conclude from the language of Background Question No. 1 that only felonies on the order of murder or theft need to be disclosed in response.
17. It is inferable, and hereby found as fact, that Granberry falsely answered "No" to Question No. 1 and failed to disclose his conviction of the Class D Felony of Nonsupport in Each of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is in Excess of \$5,000, in order to falsely represent to the Director that he had no criminal history and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
18. It is inferable, and hereby found as fact, that Granberry falsely answered "No" to Question No. 7 of the Application, failed to disclose his child support arrearages, and falsely indicated in his written statement attached to his Application that he "did have a child support issue" that was "taken care of in 2002," but that he was "now current" on his child support, when in actuality he owed \$192,505.68 in arrearages, in order to conceal from the Director the extent of his failure to comply with administrative and court orders imposing child support obligations and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

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:

* * *

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud;

* * *

(5) Been convicted of any felony;

* * *

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

20. 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.
21. The Director may refuse to issue an MVESC producer license to Granberry under § 385.209.1(5) because Granberry has been convicted of a felony:
 - a. The Class D Felony of Nonsupport in Each of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is in Excess of \$5,000, in violation of § 568.040.
22. The Director also may refuse to issue an MVESC producer license to Granberry under § 385.209.1(3) because Granberry attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Question No. 1 and failed to disclose his conviction of the Class D Felony of Nonsupport in Each of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is in Excess of \$5,000, in order to falsely represent to the Director that he had no criminal history and, accordingly, 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 an MVESC producer license to Granberry under § 385.209.1(3) because Granberry attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Question No. 7 of the Application, failed to disclose his child support arrearages, and falsely indicated in his written statement attached to his Application that he "did have a child support issue" that was "taken care of in 2002," but that he was "now current" on his child support, when in actuality he owed \$192,505.68 in arrearages, in order to conceal from the Director the extent of his failure to comply with administrative and court orders imposing child support obligations and, accordingly, to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

24. The Director also may refuse to issue Granberry an MVESC producer license under § 385.209.1(12) because Granberry has failed to comply with administrative and court orders imposing child support obligations:
- a. Granberry was convicted of the Class D Felony of Nonsupport in Each of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is in Excess of \$5,000;
 - b. On February 3, 1998, an administrative order was filed in the St. Louis County Circuit Court at the relation of G.M., which ordered Granberry to pay G.M. \$252.00 per month in child support.⁴ As of the date Granberry submitted the Application, he was \$37,997.83 in arrears on this obligation. As of April 29, 2014, Granberry was \$39,005.83 in arrears on this obligation and had not made a payment on the obligation since December 28, 2012.
 - c. As of the date Granberry submitted the Application, Granberry owed C.G. \$30,643.59 in child support arrearages. As of April 29, 2014, Granberry owed \$31,247.59 in arrearages on this obligation. The total child support payment Granberry is obligated to pay each month on this obligation is \$453.00—\$302.00 per month for current support and \$151.00 per month toward arrearages.
 - d. As of the date Granberry submitted the Application, Granberry owed A.F. \$57,156.95 in child support arrearages. As of April 29, 2014, Granberry owed \$58,848.95 in arrearages on this obligation. The total child support payment Granberry is obligated to pay each month on this obligation is \$423.00.
 - e. As of the date Granberry submitted the Application, Granberry owed N.W. \$35,261.20 in child support arrearages. As of April 29, 2014, Granberry owed \$36,393.20 in arrearages on this obligation. The total child support payment Granberry is obligated to pay each month on this obligation is \$283.00.
 - f. On July 2, 2004, a default judgment was entered against Granberry in the St. Louis City Circuit Court, ordering Granberry to pay \$262.00 per month in child support to J.B.⁵ As of the date Granberry submitted the Application, Granberry owed J.B. \$31,446.11 in child support arrearages. As of April 29, 2014, Granberry owed \$32,494.11 in arrearages on this obligation.

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⁵ *Missouri Department of Social Services, Division of Child Support Enforcement v. Granberry*, St. Louis City Cir. Ct., No. 22027-01714.

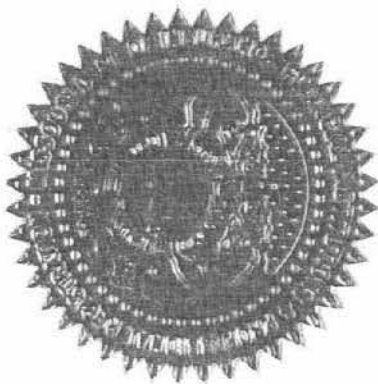
26. The Director has considered Granberry's history and all of the circumstances surrounding Granberry's Application. Granting Granberry an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license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


ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Paul N. Granberry, Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF MAY, 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 21st day of May, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Paul N. Granberry
2320 Collett
St. Louis, Missouri 63136

Certified No. 7009 3410 0001 9254 7882



Angie Gross

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