



**State of Missouri**

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

**IN RE:** )  
 )  
**RYAN MARSHALL FAIN,** ) **Case No. 170619305C**  
 )  
**Applicant.** )

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

On July 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 Ryan Marshall Fain. After reviewing the Petition, the Investigative Report, and other relevant documents, the Director issues the following findings of fact, conclusions of law and order:

**FINDINGS OF FACT**

1. Ryan Marshall Fain (“Fain”) is a Missouri resident.
2. On December 8, 2016, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Fain’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”). Fain provided additional information, upon the Department’s request, on December 21, 2016. On his Application, Fain listed his residential address as 38 Trailside Ct., St. Peters, Missouri 63303.<sup>1</sup>
3. Background Information Question Number 1 of the Application 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?
4. Fain answered “Yes” to Background Information Question Number 1 on his

<sup>1</sup> Upon information and belief, Fain currently resides at the Cremer Therapeutic Community Center, Route O, Fulton, Missouri 65251. See ¶ 13, *infra*.

Application. Fain provided documentation regarding the following convictions:

On January 16, 2007, Fain pled guilty to the Class C Felony of Domestic Assault in the Second Degree, in violation of § 565.073,<sup>2</sup> and the Class A Misdemeanor of Domestic Assault in the Third Degree, in violation of § 565.074. *State v. Ryan Fain*, St. Louis City Cir. Ct., Case No. 22051-01180. The court suspended imposition of sentence on Count I and placed Fain on supervised probation for three years. *Id.* The court also suspended imposition of sentence on Count II and placed Fain on unsupervised probation for two years. *Id.* On February 8, 2008, the court found that Fain had violated his probation and sentenced him to seven years in the Department of Corrections on Count I, with institutional treatment. *Id.* On Count II, the court sentenced Fain to 120 days to be served concurrently. *Id.*

5. The Division's initial investigation revealed that Fain had another misdemeanor conviction that Fain did not disclose in response to Background Information Question Number 1 on his Application:

On June 6, 2016, Fain pled guilty to the Class A Misdemeanor of Domestic Assault in the Third Degree, in violation of § 565.074. *State v. Ryan M. Fain*, Cape Girardeau Co. Cir. Ct., Case No. 16CG-CR00848. The court sentenced Fain to 45 days in jail. *Id.*

6. On December 23, 2016, Division Special Investigator Andrew Engler ("Engler") sent an inquiry letter via first class mail, postage prepaid, to Fain at his residential address, 38 Trailside Ct., St. Peters, Missouri 63303. In his letter, Engler asked Fain for an explanation as to why he failed to disclose his 2016 misdemeanor conviction in Cape Girardeau County. Engler asked for a response within twenty days and stated that, "[f]ailure to respond could result in a refusal to issue your MVESC license."<sup>3</sup>
7. The United States Postal Service did not return Engler's December 23, 2016 inquiry letter to the Division as undeliverable and it is presumed received.
8. Fain did not respond timely or at all to Engler's December 23, 2016 inquiry letter and he did not demonstrate reasonable justification for any delay.
9. Again on January 17, 2017, Engler sent another inquiry letter to Fain via first class mail, postage prepaid, to Fain's residential address. In his letter, Engler again asked Fain for an explanation as to why he failed to disclose his 2016 misdemeanor

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<sup>2</sup> This and all criminal statutory citations are to that version of RSMo in effect at the time of the crime.

<sup>3</sup> An MVESC license is a motor vehicle extended service contract producer license.

conviction in Cape Girardeau County. Engler requested a response within twenty days and indicated that “[f]ailure to respond could result in an administrative action.”

10. The United States Postal Service did not return Engler’s January 17, 2017 inquiry letter to the Division as undeliverable and it is presumed received.
11. Fain did not respond timely or at all to the Division’s January 17, 2017 inquiry letter and he did not demonstrate reasonable justification for any delay.
12. It is inferable, and hereby found as fact, that Fain failed to disclose his Cape Girardeau County misdemeanor conviction on his Application in the hopes that the Director would look more favorably upon his Application and issue a license to him.
13. Further Division investigation revealed that, after Fain submitted his Application, Fain was charged in another criminal case and pled guilty, as follows:

On May 12, 2017, Fain entered an *Alford*<sup>4</sup> plea to the Class E Felony of Unlawful Use of a Weapon, in violation of § 571.030.1(4), and to the Class E Felony of Domestic Assault in the Fourth Degree, in violation of § 565.076. *State v. Ryan M. Fain*, St. Charles Co. Cir. Ct., Case No. 1711-CR00001-01. Also on May 12, 2017, the court sentenced Fain to four years in the Missouri Department of Corrections on each count, with those sentences to run consecutively. *Id.* The court sentenced Fain to the Institutional Treatment Program under § 559.115.3. *Id.* Also on May 12, 2017, the state filed its “State’s Motion to Preclude Defendant from Receiving Earned Compliance Credits” and the defendant and his attorney apparently acquiesced to this motion by signing it; the judge found that Fain’s waiver of his rights in this regard was made knowingly, intelligently, and voluntarily. *Id.*

### CONCLUSIONS OF LAW

14. Section 385.209.1 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:

\* \* \*

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<sup>4</sup> See *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

(2) Violated any provision in sections 385.200 to 385.220, or violated any rules, subpoena, or order of the director;

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

\* \* \*

(5) Been convicted of any felony[.]

15. 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.

16. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).
17. The Director may refuse to issue a motor vehicle extended service contract producer license to Fain under § 385.209.1(2) because Fain violated 20 CSR 100-4.100(2)(A) in that Fain failed to respond to two written inquiries from the Division and Fain failed to demonstrate reasonable justification for any delay.
18. Each violation of 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient ground for the Director to refuse to issue a motor vehicle extended service contract producer license to Fain under § 385.209.1(2).
19. The Director may refuse to issue a motor vehicle extended service contract producer license to Fain under § 385.209.1(3) because Fain attempted to obtain a license through material misrepresentation or fraud because while he disclosed on his Application his felony and misdemeanor domestic assault convictions from St. Louis City in 2008, *State v. Ryan Fain*, St. Louis City Cir. Ct. Case No. 22051-01180, he failed to disclose his 2016 misdemeanor domestic assault conviction from Cape Girardeau County. *State v. Ryan M. Fain*, Cape Girardeau Co. Cir. Ct., Case No. 16CG-CR00848.

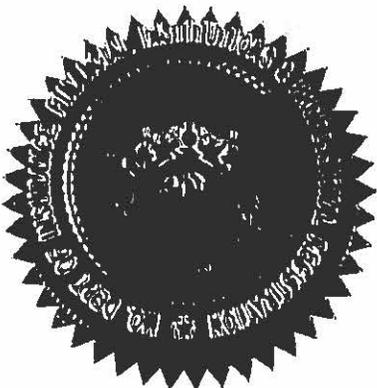
20. The Director may refuse to issue a motor vehicle extended service contract producer license to Fain under § 385.209.1(5) because Fain has been convicted of a felony. More particularly, Fain has been convicted of three felonies – one conviction for the Class C Felony of Domestic Assault in the Second Degree, in violation of § 565.074, *State v. Ryan Fain*, St. Louis City Cir. Ct., Case No. 22051-01180, and two convictions from St. Charles County for the Class E Felony of Unlawful Use of a Weapon, in violation of § 571.030.1(4), and the Class E Felony of Domestic Assault in the Fourth Degree, in violation of § 565.076. *State v. Ryan M. Fain*, St. Charles Co. Cir. Ct., Case No. 1711-CR00001-01.
21. Each felony conviction constitutes a separate and sufficient ground for the Director to refuse to issue Fain a motor vehicle extended service contract producer license under § 385.209.1(5).
22. The above-described instances are grounds upon which the Director may refuse to issue Fain a motor vehicle extended service contract producer license. Fain has three felony convictions and Fain failed to disclose a misdemeanor conviction in response to Background Information Question Number 1 on the Application. Finally, Fain failed to respond to two Division inquiry letters and he did not demonstrate reasonable justification for any delay.
23. The Director has considered Fain's history and all of the circumstances surrounding Fain's Application. Issuing a motor vehicle extended service contract producer license to Fain would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Fain a motor vehicle extended service contract producer license.
24. This Order is in the public interest.

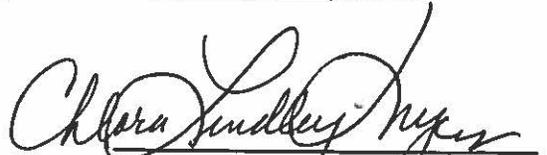
**ORDER**

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license Application of Ryan Marshall Fain is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 21<sup>st</sup> DAY OF September, 2017.



  
**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.

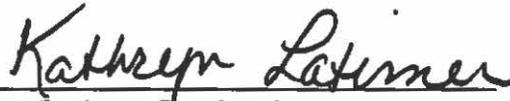
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of September, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Ryan Marshall Fain  
38 Trailside Ct.  
St. Peters, MO 63303

Tracking No. 1Z0R15W84294873627



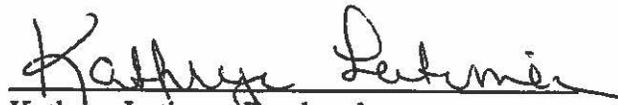
Kathryn Latimer, Paralegal  
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301 West High Street, Room 530  
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Email: [kathryn.latimer@insurance.mo.gov](mailto:kathryn.latimer@insurance.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of October, 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:

Ryan Marshall Fain  
38 Trailside Ct.  
St. Peters, MO 63303

Certified No. 7016 3010 0000 4563 1489



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](mailto:kathryn.latimer@insurance.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of December, 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:

Ryan Marshall Fain  
38 Trailside Ct.  
St. Peters, MO 63303



Kathryn Latimer, Paralegal  
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