

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

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:

RANDY MICHAEL ZAGARRI,

Applicant.

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Case No. 170823356C

CONSENT ORDER

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Mark J. Rachel, and Randy Michael Zagarrri have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

1. Chlora Lindley-Myers is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Director” of the “Department”) whose duties, pursuant to Chapters 374, 375, and 385, RSMo¹ include the licensure, supervision, and discipline of motor vehicle extended service contract (“MVESC”) producers.

2. The Consumer Affairs Division of the Department (the “Division”) has the duty of conducting investigations into the qualifications of MVESC producer license applicants and

has been authorized by the Director to initiate actions before the Director to enforce the MVESC laws of Missouri, including MVESC producer license application refusal.

3. On December 3, 2010, Applicant Randy Michael Zagarri (“Zagarri”) pled guilty to, and was convicted of, Discharge of Firearm from Motor Vehicle, a Class B Felony, in violation of § 571.030, and Property Damage in the First Degree, a Class D Felony, in violation of § 571.015;² the court sentenced him to fifteen years and four years of incarceration, respectively and concurrently, but suspended execution of the sentences and ordered Zagarri to complete five years’ supervised probation. *State v. Randy Michael Zagarri*, St. Louis Co. Cir. Ct., Case No. 10SL-CR04196-01.

4. On or about September 20, 2012, the Department received Zagarri’s first Application for Motor Vehicle Extended Service Contract Producer License (“2012 Application”).

5. While reviewing his 2012 Application and qualifications for licensure, the Division mailed Zagarri inquiry letters requesting additional information and documents.

6. Zagarri did not adequately respond to the Division’s inquiry letters within twenty days, nor did he demonstrate any reasonable justification for his delays in responding.

7. On May 1, 2013, the Director refused Zagarri’s 2012 Application pursuant to § 385.209.1(2) and (5) in the administrative action known as *In re Randy Zagarri*, DIFP Case No. 184444.

8. On September 24, 2014, the Department received Zagarri’s second Application for Motor Vehicle Extended Service Contract Producer License (“2014 Application”).

9. Zagarri answered “No” to Background Information Question 2 of the 2014

² All criminal statutory references are to those versions pursuant to which the judgment was rendered.

Application which asked, 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 ... ?

* * *

“Involved” ... includes ... having a license application denied or the act of withdrawing an application to avoid a denial.

10. By not disclosing the refusal of his 2012 Application as required, Zagarri’s 2014 Application materially misrepresented his qualifications for MVESC producer licensure.

11. On December 10, 2014, the Director refused Zagarri’s 2014 Application pursuant to § 385.209.1(2), (3), (5) and (9) in the administrative action known as *In re Randy Michael Zagarri*, DIFP Case No. 141022693C.

12. Zagarri was discharged from probation on December 2, 2015.

13. On July 17, 2017, the Department received Zagarri’s third Application for Motor Vehicle Extended Service Contract Producer License (“2017 Application”).

14. Zagarri disclosed his convictions and prior MVESC producer license refusals on the 2017 Application, as required.

15. Zagarri understands and agrees that pursuant to § 385.209.1(2) the Director may refuse to issue Zagarri a MVESC producer license because he violated a rule of the Director, specifically 20 CSR 100-4.100, when he failed to provide timely and adequate responses to the Division’s inquiry letters during its investigation of his 2012 Application.

16. Zagarri understands and agrees that pursuant to § 385.209.1(3) the Director may refuse to issue Zagarri a MVESC producer license because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose the refusal of his 2012 Application on his 2014 Application, as required.

17. Zagarri understands and agrees that pursuant to § 385.209.1(5) the Director may refuse to issue Zagarri a MVESC producer license because he has been convicted of felonies.

18. Zagarri understands and agrees that each of his felony convictions is a separate and sufficient ground for refusal of his 2017 Application pursuant to § 385.209.1(5).

19. Zagarri understands and agrees that pursuant to § 385.209.1(9) the Director may refuse to issue Zagarri a MVESC producer license because his 2012 Application and 2014 Application were refused.

20. Zagarri stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order, and forever releases and holds harmless the Department, the Division, the Director, and her agents from all liability and claims arising out of, pertaining to, or relating to this matter.

21. Zagarri acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other jurisdictions. Zagarri further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications in this state and elsewhere, and that it is his responsibility to comply with the reporting requirements of each jurisdiction in which he may be licensed.

22. All signatories to this Consent Order certify by signing that they are fully authorized, in their own capacities, or by the named parties they represent, to accept the terms and provisions of this Consent Order in their entirety and agree, in their personal or representative capacities, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

23. 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:

* * *

(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]

* * *

(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[.]

24. Title 20 CSR 100-4.100(2)(A) is a rule of the Director and 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.

25. The foregoing facts hereby admitted by Zagarri constitute cause for the Director to refuse his 2017 Application pursuant to § 385.209.1(2), (3), (5), and (9).

26. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

27. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance of this Consent Order is in the public interest.

ORDER

IT IS ORDERED that the Department will issue a MVESC producer license to Randy Michael Zagarri, subject to the conditions set forth herein and the following special conditions:

1. Randy Michael Zagarri shall respond to all inquiries from the Consumer Affairs Division in accordance with 20 CSR 100-4.100.

2. If a consumer complaint is communicated directly to Randy Michael Zagarri, he shall send the Consumer Affairs Division a copy of the complaint and a copy of his response to the consumer within five (5) business days of receipt of the consumer complaint.

3. Randy Michael Zagarri shall report to the Consumer Affairs Division any administrative action initiated against him by any other state or federal governmental agency in Missouri or any other jurisdiction within five (5) business days after Zagarri receives notification of the initiation of such administrative action.

4. Randy Michael Zagarri shall report to the Consumer Affairs Division any of the following incidents involving him: the first court hearing or appearance in any criminal proceeding, guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction for a felony or misdemeanor. Randy Michael Zagarri shall report all such incidents to the Consumer Affairs Division within five (5) business days of their occurrence.

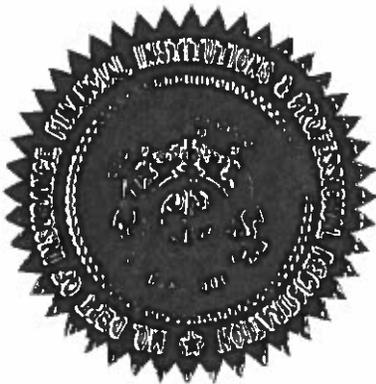
5. Randy Michael Zagarri shall voluntarily surrender his MVESC producer license to the Department within five (5) business days of any of the following incidents involving him: guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction for a felony, regardless of whether any associated sentence is suspended or executed.

6. The special conditions listed in the immediately preceding five (5) paragraphs shall expire upon the expiration, lapse, termination, revocation, or renewal of Randy Michael Zagarri's MVESC producer license, whichever occurs first.

IT IS FURTHER ORDERED that if Randy Michael Zagarri fully complies with the terms and conditions of this Consent Order, he may apply to renew or reinstate his MVESC producer license and the Director shall consider any renewal or reinstatement application in accordance with Chapters 374, 375, and 385, but without regard to Zagarri's convictions or conduct as detailed above.

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies as determined appropriate by the Director and without limitation, as authorized by Chapters 374, 375, and 385, including remedies for violating or failing to comply with the terms and conditions of this Consent Order.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 29th DAY OF March, 2018.



Chlora Lindley Myers
CHLORA LINDLEY-MYERS, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Randy Michael Zagarri has the right to a hearing, but that Randy Michael Zagarri has waived the hearing and agreed to the issuance of this Consent Order.



Randy Michael Zagarri, Applicant
3341 Suncrest Avenue
Saint Louis, Missouri 63114-2841

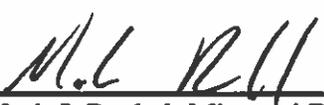
11/6/17

Date

Counsel for Applicant
Missouri Bar #: _____
Address: _____

Telephone: _____
Facsimile: _____
E-mail: _____

Date



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13 November 2017

Date