



State of Missouri

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

IN RE:)
)
 RANDY MICHAEL ZAGARRI,) Case No. 141022693C
)
 Applicant.)

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

On December 9, 2014, 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 Randy Michael Zagarrri. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusion of law, and order:

FINDINGS OF FACT

1. Randy Michael Zagarrri, (“Zagarrri”) is a Missouri resident with a residential address of record of 3341 Suncrest Avenue, St. Louis, Missouri, 63114.
2. On September 4, 2012, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Zagarrri’s Application for Motor Vehicle Extended Service Contract Producer License (“2012 Application”).
3. On May 1, 2013, the Director of the Department entered an Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License (“2013 Order”), refusing Zagarrri’s 2012 Application pursuant to § 385.209.1(2) and (5) for having been convicted of two felonies and violating a Department regulation, 20 CSR 100-4.100(2), for failure to respond to the Division’s inquiries. Twice Zagarrri failed to adequately respond to written inquiries without demonstrating a reasonable justification for the delay or failures to respond. *In re: Randy Zagarrri*, DIFP Case No. 184444.
4. Zagarrri did not appeal the Director’s Order to the Administrative Hearing Commission, and therefore, the 2013 Order is final.
5. On September 24, 2014, the Department received from Zagarrri another Application for Motor Vehicle Extended Service Contract Producer License (“2014 Application”).
6. 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.
7. Zagari signed the Application in the "Applicant's Certification and Attestation" section under oath and before a notary.
8. Zagari disclosed on his 2014 Application that he had been convicted of two felonies. He also provided certified court records and a written statement explaining the criminal convictions.
9. On December 3, 2010, Zagari pled guilty to and was convicted of the Class B Felony of Discharge of a Firearm from a Motor Vehicle and the Class D Felony of Property Damage in the First Degree. *State of Missouri v. Randy M. Zagari*, St. Louis Co. Cir. Ct., 10SL-CR04196-01. The court sentenced Zagari to 15 years' incarceration on the Class B Felony of Discharge of a Firearm from a Motor Vehicle and to four (4) years' incarceration for the Class D Felony of Property Damage in the First Degree, with sentences to run concurrently. The court suspended execution of the sentence for the Class B Felony of Discharge of a Firearm from a Motor Vehicle and placed Zagari on supervised probation for five (5) years.
10. Zagari's written statement submitted with his 2014 Application stated, in relevant part:

Prior to the year 2009, I had been best friends with a guy named Garret Foremann who I had known since elementary school. . . . [In 2008] Garret had stolen the spare keys without my knowledge and stole my car while I was at a friend's house. . . . 2009 super bowl night it came up missing once again and I was stunned. . . . [F]riends leaving my house spotted Garrett who had lied and said he was coming to see me but never showed up. . . . Since my car was totaled I had to get another one. So in the middle of the summer in the middle of the night a brick was thrown [through] my back windshield and gasoline was poured on my car. A lady coming out startled Garrett and his friend so they took off running before they could light it on fire. . . . Police said unless I had video evidence I wouldn't be able to really do anything. . . . So in October 2009, I had got off work and was relaxing, and now I have an alarm installed on my car. Out of nowhere I hear the alarm going off and a car speeding off I walk outside and they had thrown a piece of concrete at my hood while driving away, leaving gouches in the hood. Out of anger, I picked up a friend who had an idea to shoot their car to return the damages since we had little help from the police in prior events. I

have since then learned from my mistakes and realized that wasn't the right decision. I am trying to move on and to make better decisions moving forward.

11. Zagarri marked "No" to Background Question No. 2 on his 2014 Application that asks, 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 . . . ?"
12. Zagarri failed to disclose on his 2014 Application the Director's 2013 Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License.
13. It is inferable and hereby found as fact that Zagarri falsely answered the background question regarding administrative action involving a professional license in order to materially misrepresent to the Director his licensure history. By purposefully marking "No" to the question and failing to disclose the 2013 Order, despite attesting that the information in the 2014 Application was "true and complete[,]" Zagarri sought thereby to improve his chances that the Director would issue him a motor vehicle extended service contract ("MVESC") license.

CONCLUSIONS OF LAW

14. Section 385.209 RSMo (Supp. 2014)¹ 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:
 - * * *
 - (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;
 - * * *

¹ All statutory references are to the 2014 Supplement to the Revised Statutes of Missouri unless otherwise noted.

(9) Been refused a license or had a license revoked or suspended by a state regulator of service contracts, financial services, investments, credit, insurance, banking, or finance[.]

15. 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.
 16. Zagarri may be refused an MVESC producer license pursuant to § 385.209.1(5) because he has been convicted of two felonies:
 - a. Class B Felony of Discharge of a Firearm from a Motor Vehicle; and
 - b. Class D Felony of Property Damage in the First Degree.
- State of Missouri v. Randy M. Zagarri*, St. Louis Co. Cir. Ct., 10SL-CR04196-01.
17. The Director may refuse Zagarri an MVESC producer license under § 385.209.1(2) because he violated a rule of the Director, namely 20 CSR 100-4.100. Zagarri twice failed to adequately respond to written inquiries from the Division without demonstrating a reasonable justification for the failures to respond, violating 20 CSR 100-4.100 each time.
 18. The Director may also refuse to issue an MVESC producer license to Zagarri pursuant to § 385.209.1(3) for attempting to obtain a license through material misrepresentation. By signing the 2014 Application under oath, Zagarri certified that all of the information submitted was true and complete. However, by marking “No” to Background Question No. 2, Zagarri answered untruthfully and omitted pertinent or material information when he failed to disclose the Director’s May 1, 2013 Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License.
 19. The Director may also refuse to issue an MVESC producer license to Zagarri pursuant to § 385.209.1(9) because Zagarri has been refused a license by a state regulator of service contracts. *In re: Randy Zagarri*, DIFP Case No. 184444, May 1, 2013 Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License.
 20. Issuing an MVESC producer license to Zagarri would not be in the public’s interest. Zagarri has two felony convictions, attempted to obtain a license through material misrepresentation or fraud when he failed to disclose the 2013 Order, and failed to respond to two inquiries from the state regulator from whom he seeks a license.
 21. The Director has considered Zagarri’s history and all of the circumstances surrounding his Application. Granting Zagarri an MVESC producer license would not be in the

interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Randy Michael Zagarri an MVESC producer license.

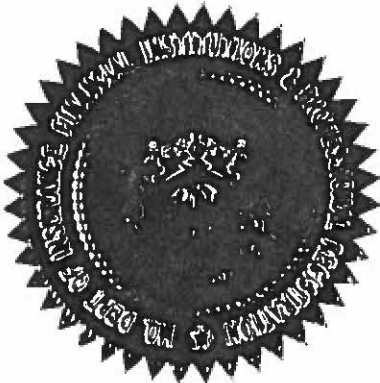
22. This Order is in the public interest.

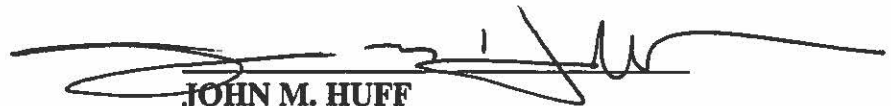
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of Randy Michael Zagarri is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 10th DAY OF DECEMBER, 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 11th day of December, 2014 a copy of the foregoing Order and Notice was served upon the Applicant by UPS, signature required, at the following address:

Randy Michael Zagarri
3341 Suncrest Avenue
St. Louis, MO, 63114

No. 1Z0R15W84296438344



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