



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

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

IN RE:

THOMAS MICHAEL BORNFLETH,

Respondent.

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Case No.140902646C

CONSENT ORDER

JOHN M. HUFF, 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 legal counsel Mark J. Rachel, and Thomas Michael Bornfleth have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director" of the "Department") whose duties, pursuant to Chapter 385, RSMo. (Supp. 2013),¹ include the licensure, regulation, and discipline of motor vehicle extended service contract producers.

¹ All statutory references are to the Revised Statutes of Missouri (2000) as updated by the RSMo. Supplement 2013 unless otherwise noted.

2. The Consumer Affairs Division (“Division”) of the Department has the duty of conducting investigations into the qualifications of motor vehicle extended service contract (“MVESC”) producer license applicants under the insurance laws of Missouri and has been authorized by the Director to investigate and initiate actions before the Director to enforce the insurance laws of Missouri, including MVESC producer license application refusal.

3. On August 30, 2012, the Department issued Respondent Thomas Michael Bornfleth (“Bornfleth”) a MVESC producer license, which expired on August 30, 2014.

4. On October 22, 2013, Bornfleth pled guilty to Driving While Intoxicated – Persistent Offender, a Class D Felony, in violation of § 577.010, RSMo. (Supp. 2011). The court convicted Bornfleth and sentenced him to three years’ incarceration, but suspended execution of the sentence and ordered Bornfleth to serve five years’ supervised probation. *State v. Thomas Michael Bornfleth*, St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01.

5. Bornfleth did not report to the Director the felony prosecution against him in *State v. Thomas Michael Bornfleth*, St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01, within thirty days of the initial pretrial hearing date or arraignment.

6. On June 25, 2014, the Department received Bornfleth’s Application for Motor Vehicle Extended Service Contract Producer License Renewal (“Application”).

7. Bornfleth disclosed his felony conviction on his Application.

8. Bornfleth acknowledges and understands that under § 385.209.1(2) the Director may refuse to renew his MVESC producer license because Bornfleth violated a provision in sections 385.200 to 385.220, specifically § 385.209.7, when he failed to report to the Director his prosecution for a felony in *State v. Thomas Michael Bornfleth*, St. Charles

Co. Cir. Ct., Case No. 1311-CR02113-01, within thirty days of the initial pretrial hearing date or arraignment.

9. Bornfleth acknowledges and understands that under § 385.209.1(5) the Director may refuse to renew his MVEESC producer license because Bornfleth has been convicted of a felony. *Id.*

10. On or about September 26, 2014, counsel for the Division provided a written description of the specific conduct for which discipline may be sought and a citation to the laws allegedly violated, together with copies of any documents upon which it based the allegations, and the Division's settlement offer, specifically this Consent Order, in accordance with § 621.045.4(1). Counsel for the Division further advised Bornfleth that he had sixty (60) days to review the relevant documents and consider the proposed settlement offer in accordance with § 621.045.4(2).

11. Bornfleth acknowledges and understands that he has the right to consult an attorney at his own expense.

12. Bornfleth further acknowledges that he has been advised that he may, either at the time this Consent Order is signed by all parties, or within fifteen (15) days thereafter, submit this Consent Order to the Administrative Hearing Commission for determination that the facts agreed hereby do not constitute grounds for refusal of his Application.

13. Except as provided in the preceding paragraph, Bornfleth 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 Director and his agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

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

15. Each signatory to this Consent Order certifies by signing that he or she is fully authorized, in his or her own capacity or by the named party he or she represents, to accept the terms and provisions of this Consent Order in their entirety and agrees, in his or her personal or representative capacity, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

16. The facts hereby admitted by Bornfleth constitute cause for the Director to refuse his Application pursuant to § 385.209.1(2) and (5).

17. The Director may issue orders in the public interest pursuant to § 374.046.

18. 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 renew Thomas Michael Bornfleth's motor vehicle extended service contract producer license, subject to the conditions set forth herein and the following special conditions:

1. Thomas Michael Bornfleth shall report to the Consumer Affairs Division any violation of or failure to comply with Missouri insurance regulations and Missouri insurance laws, including those set forth in Chapter 385, within five (5) business days of such violation or failure to comply.

2. Thomas Michael Bornfleth shall respond to all inquiries from the Department in accordance with 20 CSR 100-4.100(2)(A).

3. If a consumer complaint is communicated directly to Thomas Michael Bornfleth, Thomas Michael Bornfleth shall send the Department 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.

4. Thomas Michael Bornfleth shall report to the Consumer Affairs Division any and all of the following incidents involving him: probation violation, probation revocation, arrest, guilty plea, Alford plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Thomas Michael Bornfleth shall report all such incidents to the Consumer Affairs Division within five (5) business days of their occurrence.

5. Thomas Michael Bornfleth shall voluntarily surrender his motor vehicle extended service contract producer license to the Department within five (5) business days of any of the following incidents involving him: probation violation, probation revocation, guilty plea, Alford plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor, regardless of whether any associated sentence is suspended or executed.

6. Thomas Michael Bornfleth shall report to the Consumer Affairs Division any administrative action taken against him by any other state or federal governmental agency in

Missouri or any other jurisdiction within five (5) business days of the final disposition of such administrative action.

7. The special conditions listed in paragraphs 1 through 6 above will expire upon the earlier of the expiration or renewal of Thomas Michael Bornfleth's two (2) year motor vehicle extended service contract producer license, or the refusal on renewal or revocation of Thomas Michael Bornfleth's motor vehicle extended service contract producer license.

IT IS FURTHER ORDERED that Thomas Michael Bornfleth shall comply fully with all court orders and other requirements relating to *State v. Thomas Michael Bornfleth*, St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01.

IT IS FURTHER ORDERED that Thomas Michael Bornfleth shall submit a completed and executed Statement of Compliance, attached hereto as Exhibit 1, within thirty (30) days of his completion or discharge of probation in *State v. Thomas Michael Bornfleth*, St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01.

IT IS FURTHER ORDERED and Thomas Michael Bornfleth agrees that this Consent Order authorizes the Director to access, without redaction, any and all court records, or the records of any other government entity, pertaining to any criminal proceeding against him, including *State v. Thomas Michael Bornfleth*, St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01. This authorization includes, but is not limited to, chemical test results, probation records and status, sentencing advisory reports, or other presentencing investigation reports.

IT IS FURTHER ORDERED that if Thomas Michael Bornfleth maintains his motor vehicle extended service contract producer license beyond the renewal term and complies with the terms of this Consent Order, Thomas Michael Bornfleth may apply to renew again

his motor vehicle extended service contract producer license and the Director shall consider the renewal application in accordance with Chapter 385 but without regard to the criminal prosecution, or the associated conduct, in *State v. Thomas Michael Bornfleth*, St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01.

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 and 385, including remedies for violation of, or failure to comply with, the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 9 DAY
OF October, 2014.



JOHN M. HUFF, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Thomas Michael Bornfleth has the right to a hearing, but that Thomas Michael Bornfleth has waived the hearing and consented to the issuance of this Consent Order.

Thomas Bornfleth

Thomas Michael Bornfleth, Respondent
2005 Ridgelawn Lane
Saint Peters, Missouri 63376-4346
Telephone: (314) 552-1545
Email: _____

10-3-14

Date

Counsel for Respondent

Name: _____

Missouri Bar No. _____

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Date

Mark J. Rachel

Mark J. Rachel, Missouri Bar #66167
Counsel for Consumer Affairs Division
Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Tel: (573) 751-2619
Fax: (573) 526-5492
Mark.Rachel@insurance.mo.gov

10/06/14

Date

RECEIVED
OCT 06 2014
MO. DEPT. OF INSURANCE,
FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

EXHIBIT 1

To: Missouri Department of Insurance, Financial
Institutions and Professional Registration
attn.: Legal Section
301 West High Street, Room 530
Jefferson City, Missouri 65101

Re: Statement of Compliance
State of Missouri v. Thomas Michael Bornfleth,
 St. Charles Co. Cir. Ct., Case No. 1311-CR02113-01
 DIFP Case No. 140902646C

I, Thomas Michael Bornfleth, hereby truthfully state under penalty of perjury that I completed all probation as ordered in *State of Missouri v. Thomas Michael Bornfleth*, Saint Charles County Circuit Court, Case No. 1311-CR02113-01, on the ____ day of _____, 20__.

Signed: _____ Date _____
Thomas Michael Bornfleth

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal
this ____ day of _____, 20__.

Notary

My commission expires: _____