



State of Missouri

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

IN RE:)
)
 VAUGHN E. WHITE,) **Case No. 180924877C**
)
 Applicant.)

ORDER REFUSING TO ISSUE
MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On October 4, 2018, 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 Vaughn E. White. After reviewing the Petition, Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Vaughn E. White (“White”) is a Missouri resident with a residential address of record of 7305 Fox Chase Drive, St. Charles, MO 63301.
2. On April 26, 2018, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received White’s Application for Motor Vehicle Extended Service Contract Producer License (“Application”).
3. 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.

* * *

 4. I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state or federal

income tax obligation and I have provided all information and documentation requested in Background Information Question 36.4.

5. I further certify, under penalty of perjury, that a) I have no child support obligation, b) I have a child support obligation and I am currently in compliance with that obligation, or c) I have a child support obligation that is in arrears, I am in compliance with a repayment plan to cure the arrears, and I have provided all information and documentation requested in Background Information Question 36.7.

4. On April 9, 2018, White signed the “Applicant’s Certification and Attestation” section of the Application under oath before a notary public.

5. Background Information Question No. 36.1 of the Application asked:

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?

“Crime” includes a misdemeanor, felony, or a military offense. You may exclude any of the following if they are/were misdemeanor traffic citations or misdemeanors: driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude misdemeanor juvenile convictions.

“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, having entered an Alford Plea, or having been given probation, a suspended sentence, or a fine.

“Had a judgment withheld or deferred” includes circumstances in which a guilty plea was entered and/or a finding of guilt was 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”).

Unless excluded by the language above, you must disclose convictions that have been expunged.

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) a certified copy of the charging document, and
- c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. White answered “yes” in response to Background Information Question No. 36.1 on his Application.

7. White submitted a letter explaining his response to Background Question No. 36.1 as well as court records disclosing that on July 1, 2015, White pled guilty to, and was convicted of, Burglary in the First Degree, a Class B Felony in violation of § 569.160, RSMo¹ and Theft/Stealing (Value of Property or Services is \$500 or More But Less Than \$25,000), a Class C felony, in violation of § 570.030 RSMo. White was sentenced to five (5) years' incarceration but the Court suspended the execution of his sentence, ordering five (5) years' probation. *State of Missouri v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, 15SL-CR02118.
8. An investigation conducted by the Consumer Affairs Division ("Division"), revealed the additional following criminal history:
 - a. On June 23, 2008, White pled guilty to Burglary in the Second Degree, a Class C Felony and Theft/Stealing (Value of Property or Services is \$500 or More But Less Than \$25,000), a Class C felony. The Court Suspended Imposition of Sentence, and placed White on probation for five (5) years. *State of Missouri v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, 07SL-CR07100.
 - b. On September 23, 2013, White pled guilty in two separate cases to two counts of Violations of Rules and Regulations of Rapid Transit, Car, Bus or Other Conveyance, an unclassified misdemeanor, in violation of § 70.441 RSMo. The court sentenced White to one (1) days' incarceration but suspended the execution of his sentence, ordering three (3) years' probation. *State of Missouri v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, 888118921, and *State of Missouri v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, 888118920.
9. It is inferable, and hereby found as fact, that White failed to disclose the full extent of his criminal history in his response to Background Question No. 36.1 of the Application in order to misrepresent to the Director that his criminal history was limited to a single offense in 2015, and consequently improve the chances that the Director would approve his Application and issue him a motor vehicle extended service contract ("MVESC") producer license.
10. Background Information Question No. 36.4 of the Application asked:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

Answer "Yes" if the answer to either question (or both) is "Yes."

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each administrative or court order,

¹ All criminal statutory references are to the version of the statute under which the court rendered its judgment.

- b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.),
- c) a certified copy of each administrative or court order, judgment, and/or lien, and
- d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).

11. White answered “no” in response to Background Information Question No. 36.4 on his Application.

12. During its investigation, the Division discovered that on March 17, 2017, the St. Louis County Circuit Court entered a judgment against White for unpaid state income tax for the 2015 filing year as follows:

The Director of Revenue, under Section 143.902, RSMo, hereby certifies that the following assessment of tax, interest, additions to tax, penalties, and fees have been made and become final [in the amount of \$1,143.00]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Dep't of Revenue v. Vaughn E. White, St. Louis Co. Cir. Ct., Missouri, Case No. 17SL-MC02904.

13. White did not submit any documentation showing that the delinquency for the 2015 filing year has been satisfied or that he is in compliance with a payment plan.

14. It is inferable, and hereby found as fact, that White failed to disclose his state income tax obligation in his response to Background Question No. 36.4 of the Application in order to misrepresent to the Director that he did not have any delinquent income tax obligation, and consequently improve the chances that the Director would approve his Application and issue him a motor vehicle extended service contract (“MVESC”) producer license.

15. Background Information Question No. 36.7 of the Application asked:

Do you currently have or have you had a child support obligation?

If you answer yes:

- a) are you in arrearage?
- b) by how many months are you in arrearage? _____ months
- c) what is the total amount of your arrearage? _____
- d) are you currently subject to a repayment agreement to cure the arrearage? (if you answer yes, provide documentation showing an approved repayment plan from the appropriate state child support agency.)
- e) are you in compliance with said repayment agreement? (If you answer yes, provide documentation showing proof of current payments from the appropriate state child support agency.)

- f) 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.)
- g) have you ever been convicted of a misdemeanor or felony for failure to pay child support?

16. White answered “yes” in response to Background Information Question No. 36.7. White responded to subpart “b)” by indicating that he was not in arrears as of April 9, 2018, the date he certified the Application.
17. During its investigation, the Division discovered that White is subject to a child support order. White was ordered to pay \$241.00 per month for the support of his minor child beginning April of 2016. *Realiti S. Allen v. Vaughn E. White*, St. Louis City Co. Cir. Ct., Missouri, Case No. 1422-AD01003.
18. In April, 2018, White had an arrearage owed on his child support obligation of \$2,439.43.
19. White did not submit any statement explaining his partial answer to Background Information Question No 36.7. Nor did White provide any documentation indicating that he is in compliance with the administrative or court orders imposing child support obligations or that he has entered into a payment plan to cure his arrears.
20. It is inferable, and hereby found as fact, that White failed to disclose his arrearage in his response to Background Question No. 36.7 of the Application in order to misrepresent to the Director that he did not owe an arrearage on his child support obligation, and consequently improve the chances that the Director would approve his Application and issue him an MVESC producer license.
21. Special Investigator Andrew Engler (“Engler”), sent an inquiry letter dated June 27, 2018 to White’s address of record on his application. This inquiry letter requested White provide a payment agreement or a letter of compliance from the Department of Revenue, as well as a statement explaining White’s child support arrearage and his failure to disclose the arrearage. This inquiry letter cited 20 CSR 100-4.100 and informed White “[f]ailure to respond could result in an administrative action against your MVESC license.”
22. The United States Postal Service did not return the June 27, 2018 inquiry letter to the Division as undeliverable.
23. White failed to provide a written response to the Division’s June 27, 2018 inquiry letter and failed to demonstrate a reasonable justification for the delay.
24. Engler sent another inquiry letter to White, dated July 23, 2018. This inquiry letter requested White provide a payment agreement or a letter of compliance from DOR as well as a statement explaining White’s child support arrearage and his failure to disclose

the arrearage. This inquiry letter cited 20 CSR 100-4.100 and informed White “[f]ailure to respond could result in a refusal to issue your MVESC license.”

25. The United States Postal Service did not return the July 23, 2018 inquiry letter to the Division as undeliverable.
26. White failed to provide a written response to the Division’s July 23, 2018 inquiry letter and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

27. Section 385.209² provides, in relevant 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;
* * *
- (12) Failed to comply with an administrative or court order imposing a child support obligation; [or]
- (13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

28. 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.

² All civil statutory references are to the Revised Statutes of Missouri 2016, unless otherwise indicated.

29. Section 143.902.1(2) provides, in relevant part:

If any taxpayer fails to pay any tax, interest, additions to tax or penalties imposed by this chapter when due and the assessment for which has become final, the director may file ... [a] certificate of lien specifying the amount of the tax, interest, additions to tax and penalties due and the name of the liable taxpayer. ... From the time of the filing of the certificate of lien or certificate of delinquency with the clerk of the circuit court, the amount of the tax, interest, additions to tax and penalties specified therein shall have the full force and effect of a default judgment of the circuit court until satisfied.

30. “[A] default judgment for nonpayment of state income taxes [is] a ‘court order directing payment of state ... income tax[]’ ... under § 385.209.1(13).” *Greenwalt v. Director, Dep’t of Ins., Fin. Insts. & Prof’l Reg.*, No. 12-0566 DI (Mo. Admin. Hrg. Comm’n July 9, 2012).

31. “There is a presumption that a letter duly mailed has been received by the addressee.” *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

32. The Director may refuse to issue an MVESC producer license to White pursuant to § 385.209.1(2) because White failed to respond to two inquiries from the Division without demonstrating reasonable justification for his failure to respond, thereby violating 20 CSR 100-4.100(2), a rule of the Director.

33. Each instance in which White violated a rule of the Director is a separate and sufficient cause for refusal pursuant to § 385.209.1(2).

34. The Director may refuse to issue an MVESC producer license to White pursuant to § 385.209.1(3) because White attempted to obtain an MVESC producer license through material misrepresentation or fraud when he failed to fully disclose his criminal history, his tax lien, and his child support arrearages.

35. The Director may refuse to issue an MVESC producer license to White pursuant to § 385.209.1(5) because White has been convicted of two felonies:

a. Burglary in the Second Degree, a Class C Felony and Theft/Stealing (Value of Property or Services is \$500 or More But Less Than \$25,000), a class C felony. The Court Suspended Imposition of Sentence, and placed White on probation for five (5) years. *State of Missouri v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, 07SL-CR07100.

b. Burglary in the First Degree, a Class B Felony in violation of 569.160, RSMo³ and Theft/Stealing (Value of Property or Services is \$500 or More But Less Than

³ All criminal statutory references are to the version of the statute under which the court rendered its judgment.

\$25,000), a Class C felony in violation of § 570.030 RSMo. *State of Missouri v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, 15SL-CR02118

36. Each felony conviction is a separate and sufficient cause for refusal pursuant to § 385.209.1(5).
37. The Director may refuse to issue an MVESC producer license to White pursuant to § 385.209.1(12) because White failed to comply with one or more administrative or court orders imposing child support obligations as evidenced by his substantial arrearages. *Realiti S. Allen v. Vaughn E. White*, St. Louis City Co. Cir. Ct., Missouri, Case No. 1422-AD01003.
38. The Director may refuse to issue an MVESC producer license to White pursuant to § 385.209.1(13) because White failed to comply with an administrative or court order directing payment of Missouri state income tax for the 2015 filing year. *Dep't of Revenue v. Vaughn E. White*, St. Louis Co. Cir. Ct., Missouri, Case No. 17SL-MC02904.
39. For all of the reasons given in this Petition, the Director should consider White's history and all of the circumstances surrounding White's Application, and exercise her discretion to refuse to issue White an MVESC producer license.
40. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Vaughn E. White** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 12th DAY OF AUGUST, 2019.



Chlora Lindley-Myers

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

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 13th of August, 2019, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Vaughn E. White
7305 Fox Chase Drive
St. Charles, MO 63301

No. 1Z0R15W84296652835



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