



**FINAL ORDER**  
**EFFECTIVE**  
**01-27-17**

**State of Missouri**

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION

IN RE: )  
 )  
ROBERT CHARLES PENDERGRASS, ) Case No. 160309157C  
 )  
Applicant. )

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

On November 8, 2016, 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 Robert C. Pendergrass. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

**FINDINGS OF FACT**

1. Robert C. Pendergrass ("Pendergrass") is a Missouri resident with a residential address of 521 Pinehurst Woods Court, O'Fallon, Missouri 63366.
2. On November 12, 2015, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Pendergrass's completed 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. Pendergrass signed the "Applicant's Certification and Attestation" section under oath before a notary public on October 30, 2015.
5. Background Question No. 1 of the Application asks the following:

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 is 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 copy of the charging document, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Pendergrass answered "Yes" to Background Question No. 1 on his Application and disclosed the following:
  - a. On July 14, 2004, Pendergrass was charged with Stealing, a Class A Misdemeanor, in violation of § 570.030 RSMo. *State v. Robert C.*

*Pendergrass*, St. Charles Co. Cir. Ct., Case No. 03CR130662-01. On December 3, 2004, the charge in Case No. 03CR130662-01 was dismissed. *Id.*

- b. On May 12, 2009, Pendergrass was charged by Information with Failure to Return Leased Property, a Class A Misdemeanor, in violation of § 578.150 RSMo.<sup>1</sup> *State v. Robert C. Pendergrass*, St. Charles Co. Cir. Ct. Case No. 0711-CR07081-01. The court suspended imposition of sentence and placed Pendergrass on supervised probation for one (1) year. *Id.* On July 13, 2011, the court revoked Pendergrass's probation in Case No. 0711-CR07081-01, suspended execution of the nine (9) month jail sentence and placed Pendergrass on supervised probation for one (1) year. *Id.*
  - c. On January 28, 2015, Pendergrass was charged with Assault, 2<sup>nd</sup> Degree, a Class C Felony, in violation of § 565.060 RSMo. *State v. Robert C. Pendergrass*, St. Louis Co. Cir. Ct., Case No. 14SL-CR09939-01. This charge is still pending with the case set for trial on May 1, 2017. *Id.*
7. The Amended Information filed in Case No. 0711-CR07081-01 states that:

[B]etween July 4<sup>th</sup>, 2007 and July 7<sup>th</sup>, 2007, in the County of St. Charles, State of Missouri, the defendant, having signed a written agreement for the rental of trench equipment with United Rentals, Inc., purposely failed to return the property to United Rentals, Inc. by July 4, 2007, which place and time were specified in the written agreement for the return of the property, and that the defendant did so for the purpose of depriving United Rentals, Inc. and/or BSI Contractors thereof.

8. Pendergrass included a statement with his Application in which he explains the circumstances related to *State v. Robert C. Pendergrass*, St. Charles Co. Cir. Ct. Case No. 0711-CR07081-01, verbatim:

In May of 2009 I rented some trench boxes for a project my company working on. I paid over \$180,000 in rental fees for these trenches and could have purchased them outright for around \$100,000. I had spoken to the rental company and was under the impression that both parties had agreed that this was a purchase of the trench boxes. The rental company, later, did not honor the agreement of purchase. I returned the trench boxes and received probation.

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<sup>1</sup> All references to criminal statutes are to the Missouri Revised Statutes in effect at the time the court rendered judgment.

9. In the Employment History section of his Application, Pendergrass disclosed that he held the position of "superintendent" for a company named Concrete Strategies from April 2009 to October 2009.

10. Pendergrass also provided a statement with his application in which he explains that:

I have some other issues to disclose, but could not obtain any documentation on these incidents because they happened so long ago. ...As a teenager, I was arrested a couple of times for fighting. This was over 20 years ago. I could not obtain any documentation on these arrests.

11. Further investigation by the Consumer Affairs Division ("Division") of the Department revealed that:

- a. On May 18, 2012, Pendergrass was convicted of Stealing a Motor Vehicle, a Class C Felony, in violation of § 570.030 RSMo. *State v. Robert C. Pendergrass*, St. Louis Co. Cir. Ct., Case No. 10SL-CR00043. The court suspended execution of a three (3) year sentence of incarceration and placed Pendergrass on supervised probation for two (2) years. *Id.*
- b. On July 15, 1994, Pendergrass was convicted of Stealing, a Class C Felony, in violation of § 570.030 RSMo. *State v. Robert C. Pendergrass*, St. Louis Co. Cir. Ct., Case No. 93CR-004400B-01. The court suspended execution of a three (3) year sentence of incarceration and placed Pendergrass on three (3) years supervised probation with special conditions that Pendergrass complete forty (40) hours of community service and pay \$250.00 in restitution. *Id.*
- c. On April 5, 1993, Pendergrass was convicted of Unlawful Use of a Weapon, a Class D Felony, in violation of 571.030.1(4) RSMo, which involved Pendergrass knowingly exhibiting, in the presence of one or more persons, a handgun, a weapon readily capable of lethal use, in an angry or threatening manner. *State v. Robert C. Pendergrass*, St. Charles Co. Cir. Ct., Case No. CR192-2197FX. The court sentenced Pendergrass to one (1) year in jail and granted work release. *Id.*
- d. On October 7, 1992, Pendergrass was convicted of Sexual Misconduct, a Class A Misdemeanor, in violation of § 566.090 RSMo, which involved Pendergrass

having deviate sexual contact with S.K.,<sup>2</sup> to whom he was not married and who was then under the age of seventeen. *State v. Robert C. Pendergrass*, St. Charles Co. Cir. Ct., Case No. CR192-863M. The court suspended execution of a one (1) year sentence of incarceration and placed Pendergrass on supervised probation for two (2) years with a special condition that Pendergrass have no contact with the victim or the victim's family. *Id.* On July 6, 1993, the court revoked Pendergrass's probation in Case No. CR192-863F due to Pendergrass's Unlawful Use of a Weapons charge in Case No. CR192-2197FX and executed the one (1) year sentence of incarceration. *Id.* The sentence in Case No. CR192-863F was to be served concurrently with the one (1) year sentence in Case No. CR192-2197FX. *Id.*

12. Background Question No. 3 of the Application asks the following, in relevant part:

Have you or any business of which you are or were an owner, partner, officer or director, or member or manager of a Limited Liability Company ever been subject to a bankruptcy proceeding?

13. Pendergrass answered "No" to Background Question No. 3 on his Application.

14. Pendergrass did not disclose that on October 3, 2013, he filed a petition for bankruptcy. *In re: Robert C. Pendergrass*, E.D. Mo. Bankr., Case No. 13-49070. The court discharged Pendergrass's bankruptcy case on January 10, 2014. *Id.*

15. It is inferable, and hereby found as fact, that Pendergrass did not disclose his three prior felony convictions on his Application and downplayed his criminal history in the letter Pendergrass attached to his Application in order to misrepresent to the Director that Pendergrass did not have any felony convictions, and accordingly, in order to improve the chances that the Director would approve his Application and issue a MVEESC producer license to Pendergrass.

### CONCLUSIONS OF LAW

16. Section 385.209 RSMo<sup>3</sup> (Supp. 2013) 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

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<sup>2</sup> The identity of the victim has been protected by the use of initials.

<sup>3</sup> All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement unless otherwise noted.

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:

\* \* \*

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

\* \* \*

(5) Been convicted of any felony; [or]

(6) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere[.]

17. The Director may refuse to issue a MVESC producer license to Pendergrass pursuant to § 385.209.1(3) because Pendergrass attempted obtain a license through material misrepresentation or fraud when he did not disclose his three felony convictions and one misdemeanor conviction in response to Background Question No. 1 on his Application.
18. The Director may refuse to issue a MVESC producer license to Pendergrass pursuant to § 385.209.1(3) because Pendergrass attempted obtain a license through material misrepresentation or fraud when Pendergrass did not disclose the prior bankruptcy petition he initiated on October 3, 2013 in response to Background Question No. 3 on his Application. *In re: Robert C. Pendergrass*, E.D. Mo. Bankr., Case No. 13-49070.
19. The Director may refuse to issue a MVESC producer license to Pendergrass pursuant to § 385.209.1(5) because Pendergrass was convicted of three felonies:
  - a. Stealing a Motor Vehicle, a Class C Felony, in violation of § 570.030 RSMo. *State v. Robert C. Pendergrass*, St. Louis Co. Cir. Ct., Case No. 10SL-CR00043.
  - b. Stealing, a Class C Felony, in violation of § 570.030 RSMo. *State v. Robert C. Pendergrass*, St. Louis Co. Cir. Ct., Case No. 93CR-004400B.
  - c. Unlawful Use of a Weapon, a Class D Felony, in violation of 571.030.1(4) RSMo. *State v. Robert C. Pendergrass*, St. Charles Co. Cir. Ct., Case No.



CR192-2197FX.

20. The Director may refuse to issue a MVESC producer license to Pendergrass pursuant to § 385.209.1(6) because Pendergrass demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business when he, while working as a superintendent for a concrete business, with the purpose to deprive United Rentals, Inc. and/or BSI Contractors of the trench boxes, failed to return the trench boxes that he rented for a construction project to United Rentals, Inc. by the time specified in the written agreement. *See State v. Robert C. Pendergrass*, St. Charles Co. Cir. Ct. Case No. 0711-CR07081-01.
21. The Director has considered Pendergrass's history and all of the circumstances surrounding Pendergrass's Application. Granting Pendergrass a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVESC producer license to Pendergrass.
22. This order is in the public interest.

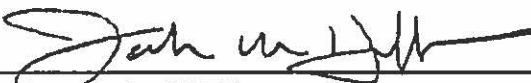
**ORDER**

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license application of **Robert Charles Pendergrass** is hereby **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 16<sup>th</sup> DAY OF November, 2016.



  
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**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.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of November, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, signature required, at the following address:

Robert Charles Pendergrass  
521 Pinehurst Woods Court  
O'Fallon, Missouri 63366

Tracking No. 1Z0R15W84291378847

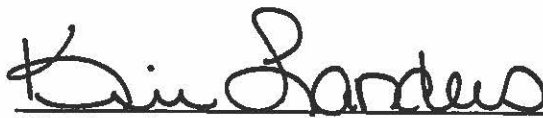
  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of November, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

Robert Charles Pendergrass  
521 Pinehurst Woods Court  
O'Fallon, Missouri 63366

Certified No. 7016-1370-0001-2035-6967



Kim Landers

Paralegal

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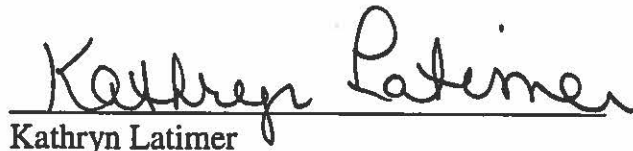
Facsimile: 573.526.5492

Email: Kimberly.Landers@insurance.mo.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on this 28<sup>th</sup> day of December, 2016, 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:

Robert Charles Pendergrass  
521 Pinehurst Woods Court  
O'Fallon, Missouri 63366



Kathryn Latimer

Paralegal

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