State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
AMOS PRESTON PATRICK,	)	**Case No. 150324225C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On May 11, 2015, 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 Amos Preston Patrick. 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. Amos Preston Patrick ("Patrick") is a Missouri resident with a residential address of 8108 Mathilda Avenue, Affton, Missouri 63123.

2. On October 22, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Patrick'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. Patrick accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.

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4. Patrick accepted the "Applicant's Certification and Attestation" section by signing the Application under oath and before a notary public.

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 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. Patrick answered "No" in response to Background Question No. 1.

7. During its investigation, the Consumer Affairs Division ("Division") discovered the following criminal history that Patrick failed to disclose on his Application:

   a. On February 13, 2007, Patrick pled guilty to one (1) count of Distribution/Possession with Intent to Distribute a Controlled Dangerous Substance Within 1000 Feet of School, a Third Degree Felony, in violation of N.J. Stat § 2C:35-7. On March 16, 2007, the court sentenced Patrick to two (2) years' probation. On June 29, 2007, the court found that Patrick violated his

probation and sentenced him to three (3) years' incarceration. Said sentence was ordered concurrent with the sentence entered in IND/ACC No. A-1607-05-07. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. I-3618-10-06.

b. On May 9, 2007, Patrick pled guilty to one (1) count of Possession with Intent to Distribute a Controlled Dangerous Substance, a Third Degree Felony, in violation of N.J. Stat. § 2C:35-5b(3). On June 29, 2007, the court sentenced Patrick to three (3) years' incarceration. Said sentence was ordered concurrent with the sentence entered in IND/ACC No. I-3618-10-06. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. A-1607-05-07.

c. On June 28, 2010, Patrick pled guilty to one (1) count of Escape From Detention, a Third Degree Felony, in violation of N.J. Stat. § 2C:29-5A. On August 20, 2010, the court sentenced Patrick to two (2) years' probation and ordered drug and alcohol screening. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. 08-10-03118-I.

8. On October 29, 2014, after reviewing Patrick's Application and his criminal record, Special Investigator Andrew Engler of the Division sent an inquiry letter to Patrick at his residential address. Said inquiry letter requested additional documentation and information about Patrick's criminal history and why Patrick failed to disclose it. The inquiry letter further requested a response by November 18, 2014, and warned Patrick that a failure to respond could result in the Department refusing to issue him a motor vehicle extended service contract ("MVESC") producer license.

9. The United States Postal Service did not return the October 29, 2014 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Patrick.

10. Patrick failed to provide a written response to the Division's October 29, 2014 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

11. On November 18, 2014, Special Investigator Engler sent a second inquiry letter to Patrick at his residential address that again requested additional documentation and information about Patrick's criminal history and why Patrick failed to disclose it. The inquiry letter further requested a response by December 8, 2014, and warned Patrick that a failure to respond could result in the Department refusing to issue him a MVESC producer license.

12. The United States Postal Service did not return the November 18, 2014 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Patrick.

13. Patrick failed to provide a written response to the Division's November 18, 2014 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

14. It is inferable, and hereby found as fact, that Patrick failed to disclose his criminal history on his Application in order to misrepresent his criminal history to the Director, and accordingly, in order to improve the chances that the Director would approve his Application and issue him a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)[1] states, 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; [or]
>
> * * *
>
> (5) Been convicted of any felony[.]

16. 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.

[1] All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement, unless otherwise indicated.

17. "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).

18. 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 MVESC producer license, but to protect the public.

19. The Director may refuse to issue a MVESC producer license to Patrick under § 385.209.1(2) because Patrick failed to adequately respond to two (2) inquiry letters from the Division and failed to provide a reasonable justification for the delay, thereby twice violating 20 CSR 100-4.100(2)(A), a rule of the Director.

20. Each violation of a rule of the Director is a separate and sufficient ground for refusal pursuant to § 385.209.1(2).

21. The Director may refuse to issue a MVESC producer license to Patrick under § 385.209.1(3) because Patrick attempted to obtain a MVESC producer license through material misrepresentation or fraud in that he failed to disclose the following criminal history on his Application:

    a. Distribution/Possession with Intent to Distribute a Controlled Dangerous Substance Within 1000 Feet of School, a Third Degree Felony. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. I-3618-10-06.

    b. Possession with Intent to Distribute a Controlled Dangerous Substance Within 1000 Feet of School, a Third Degree Felony. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. A-1607-05-07.

    c. Escape From Detention, a Third Degree Felony. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. 08-10-03118-I.

22. Each attempt to obtain a MVESC producer license through material misrepresentation or fraud is a separate and sufficient ground for refusal under § 385.209.1(3).

23. The Director may refuse to issue a MVESC producer license to Patrick under § 385.209.1(5) because Patrick has been convicted of three (3) felonies:

    a. Distribution/Possession with Intent to Distribute a Controlled Dangerous Substance Within 1000 Feet of School, a Third Degree Felony. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. I-3618-10-06.

    b. Possession with Intent to Distribute a Controlled Dangerous Substance Within

1000 Feet of School, a Third Degree Felony. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. A-1607-05-07.

c. Escape From Detention, a Third Degree Felony. *New Jersey v. Amos P. Patrick*, Camden Co. Sup. Ct., IND/ACC No. 08-10-03118-I.

24. Each felony conviction is a separate and sufficient ground for refusal under § 385.209.1(5).

25. The Director has considered Patrick's history and all of the circumstances surrounding Patrick's Application. Granting Patrick 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 Patrick.

26. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Amos Preston Patrick** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 11th **DAY OF** May**, 2015.**

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 13th day of May, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Amos Preston Patrick
8108 Mathilda Avenue
Affton, Missouri 63123

Tracking No. 1Z0R15W84290651669

Kathryn Latimer

Kathryn Latimer
Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov