



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

CHARLES S. HAMILTON,

Applicant.

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Case No. 203108

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On April 16, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract (MVESC) producer license to Charles S. Hamilton. After reviewing the Petition, the 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. Charles S. Hamilton ("Hamilton") is a Missouri resident with a residential address of record of 10331 Bellefontaine Road, St. Louis, Missouri, 63137.
2. On October 3, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hamilton's Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "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, or having been given probation, a suspended sentence or a fine.

"Had a judgement 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”).

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 judgement[.]

- 4. Hamilton answered “Yes” to Question No. 1 and disclosed that he had been convicted of fourteen (14) felonies.
- 5. On July 24, 1992, a jury in the St. Louis County Circuit Court found Hamilton guilty of fourteen (14) felonies:¹
 - a. The Class B Felony of Burglary in the First Degree, in violation of § 569.160. The court sentenced Hamilton to five (5) years’ imprisonment on this count;
 - b. The Class A Felony of Kidnapping, in violation of § 565.110. The court sentenced Hamilton to five (5) years’ imprisonment on this count;
 - c. Four (4) counts of the Class B Felony of Sodomy, in violation of § 566.060. The court sentenced Hamilton to twenty (20) years’ imprisonment on each count;
 - d. The Class B Felony of Rape, in violation of § 566.030. The court sentenced Hamilton to twenty (20) years’ imprisonment on this count; and
 - e. Seven (7) counts of the unclassified Felony of Armed Criminal Action, in violation of § 571.015. The court sentenced Hamilton to five (5) years’ imprisonment on this count.
 - f. The five-year sentences all ran concurrently with each other and the twenty-year sentences all ran concurrently with each other, but all the twenty-year sentences ran consecutively to the five-year sentences, so that Hamilton was effectively sentenced to twenty-five (25) years’ imprisonment.
- 6. Hamilton attached to his Application a written explanation of his criminal history. According to his explanation, Hamilton went to a friend’s house to purchase marijuana, but the friend was not home, but he stayed and smoked marijuana and drank alcohol with the friend’s wife. Hamilton explains that after a while the wife told him to leave and he refused; when the wife told him again to leave, he slapped her and stole the marijuana on his way out. In the explanation, Hamilton speculates that he was charged with rape “to

¹ *State of Missouri v. Charles S. Hamilton*, St. Louis Co. Cir. Ct., No. 2191R-01506-01.

explain the missing marijuana to her husband.” However, he also states that he “took full responsibility for these crimes[.]” He states that he “went through extensive, intensive therapy, [and] completed all conditions of [his] parole” and is now “working hard to put [his] life back in order.” He adds that he was released from parole in August 2012.

7. Hamilton’s account in his explanation differs drastically from the facts found at his criminal trial, as recounted by the Missouri Court of Appeals:

Viewed in the light most favorable to the verdict, the following evidence was adduced at trial. On February 27, 1991, A.R. left his home at approximately 7:00 a.m. to go to work. His wife L.R. was awake when he left. Their two-year-old son was asleep in the back of the house. Shortly after A.R. left, defendant drove up to the house and parked in front. Defendant stared at the house for awhile. He finally approached the door and knocked. L.R. knew defendant. She allowed him to come in to use the bathroom.

After defendant came out of the bathroom, he came up behind L.R. and began to stroke her hair, while making suggestive remarks. L.R. ran to the door and opened it, gesturing for defendant to leave. Defendant slammed the door shut, punched L.R., threatened her and her son and forced her to disrobe. After brandishing scissors, he then committed acts that constituted rape and four counts of sodomies. Before he left, he told her about his use of drugs, his theft of some money, and a plan to kill himself.²

CONCLUSIONS OF LAW

8. Section 385.209 RSMo, Supp. 2012, 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:

* * *

(5) Been convicted of any felony[.]

9. 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.

² *State v. Hamilton*, 892 S.W.2d 371, 374 (Mo. App. 1995).

10. The Director may refuse to issue an MVEESC producer license to Hamilton under § 385.209.1(5) because Hamilton has been convicted of fourteen (14) felonies:
- a. The Class B Felony of Burglary in the First Degree, in violation of § 569.160;
 - b. The Class A Felony of Kidnapping, in violation of § 565.110;
 - c. Four (4) counts of the Class B Felony of Sodomy, in violation of § 566.060;
 - d. The Class B Felony of Rape, in violation of § 566.030; and
 - e. Seven (7) counts of the unclassified Felony of Armed Criminal Action, in violation of § 571.015.
 - f. The five-year sentences all ran concurrently with each other and the twenty-year sentences all ran concurrently with each other, but all the twenty-year sentences ran consecutively to the five-year sentences, so that Hamilton was effectively sentenced to twenty-five (25) years' imprisonment.
11. The Director has considered Hamilton's history and all of the circumstances surrounding Hamilton's Application. Although over twenty years have passed, those fourteen felony convictions resulted from a jury finding that Hamilton committed several egregious acts of violence and depravity, including burglary, kidnapping and rape. Granting Hamilton an MVEESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a MVEESC producer license to Hamilton.
12. This order is in the public interest.

ORDER

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

SO ORDERED.

WITNESS MY HAND THIS 9TH DAY OF MAY, 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 12th day of May, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

Charles S. Hamilton
10331 Bellefontaine Road
St. Louis, Missouri 63137

Certified No. 7009 3410 0001 9254 7820


Angie Gross

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