



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

CHARLEY M. HUNT,

Applicant.

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Case No. 200326

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On January 30, 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 Charley M. Hunt. 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. Charley M. Hunt ("Hunt") is a Missouri resident with a residential address of record of 1560 Estrada #10, St. Louis County, Missouri, 63138.
2. On August 5, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hunt's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. By signing the Application, Hunt attested and certified that "all of the information submitted in this application and attachments is true and complete."
4. 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[.]

- 5. Hunt answered "Yes" to Question No. 1.
- 6. Hunt attached to his Application court and probation documents, and a written statement, disclosing that on September 6, 2007, Hunt pleaded guilty in the United States District Court, Eastern District of Missouri, to two federal felonies: Transferring and Possessing a Machine Gun, in violation of § 18 U.S.C. 922(o) and Felon in Possession of Firearms, in violation of § 18 U.S.C. 922(g)(1). The court sentenced Hunt to 40 months' imprisonment on each count, to be served concurrently. The court also assessed a criminal monetary penalty of \$200.¹
- 7. Hunt did not disclose any further criminal history in his Application.
- 8. Investigation by the Consumer Affairs Division disclosed that in fact Hunt had been convicted of four prior felonies, all in one case. On September 9, 1993, in the St. Louis County Circuit Court, Hunt pleaded guilty to the Class B Felony of Attempted Sodomy, a violation of § 566.060, and entered an Alford plea to the two counts of the Class D Felony of Sexual Abuse, violations of § 566.100, and one count of the Class A Felony of Forcible Sodomy, a violation of § 566.060. The court sentenced Hunt to nine years' imprisonment each on the Sodomy count and the Forcible Sodomy count, and to five years' imprisonment on each of the two Sexual Abuse counts, with the sentences to be served concurrently.²
- 9. The Class B Felony of Attempted Sodomy to which Hunt pleaded guilty was alleged in the Amended Information in Lieu of Indictment as follows (victim's name redacted):

That Charles Hunt, in violation of Section 566.060, RSMo, committed the felony of sodomy, punishable under Section 566.060.2 RSMo, by life imprisonment or a term of years not less than five years, in that, between August 1, 1989 and October 1, 1989, at 260 Kingston Drive, in the County

¹ *U.S. v. Charley M. Hunt, Jr.*, U.S. Dist. Ct., E.D. Mo., No. S1-4:07CR121CAS.

² *State of Missouri v. Charles Hunt*, St. Louis Co. Cir. Ct., No. 92CR-004660 (Case.net No. 2192R-04660-01).

of St. Louis, State of Missouri, Charles Hunt attempted to have deviate sexual intercourse with [the victim], to whom defendant was not married, and who was then less than fourteen years old.³

10. On August 26, 2013, in response to a written inquiry from the Consumer Affairs Division about his 1993 convictions in Case No. 92CR-004660 and his failure to disclose those convictions, Hunt wrote, verbatim in the entirety of that explanation:

To Whom it may concern:

My name is Charley M Hunt Jr

Twenty-one years ago in Oct,1992 I was charged with attempted sodomy. I was sentenced to 6 years in state prison,I came home in 1998 were I was released off parole early for doing good. At first I didn't have to register every 90 days, but after my second offense that all changed. Now I have to register with the State of Missouri every 90 days. I am now living a productive life and working, trying to get my (MVESC producer License) so i can take care of my family.

11. Hunt did not offer any explanation of his failure to disclose his convictions in Case No. 92CR-004660. He did, however, explain in further comments addressed directly to the Department's investigator why he had not been able to get certified copies of the court documents in that case as the investigator had requested.
12. Due to Hunt's failure to disclose his convictions in Case No. 92CR-004660, Hunt's attestation and certification that "all of the information submitted in this application and attachments is true and complete" was false.
13. As Hunt himself notes in his written explanation, he has been required to register with the Missouri State Highway Patrol as a sex offender. Although he was convicted over twenty years ago of the felonies he failed to disclose, he spent six years in prison for those convictions and has been further reminded of those convictions every 90 days for the past five years.
14. It is inferable, and is hereby found as fact, that Hunt intentionally failed to disclose his convictions of the Class B Felony of Attempted Sodomy, one count of the Class A Felony of Forcible Sodomy, and two counts of the Class D Felony of Sexual Abuse in Case No. 92CR-004660, and falsely attested and certified to the Director that all of the information in his Application was true and complete, in order to misrepresent to the Director that he had no further criminal history beyond his conviction of the federal felonies in Case No. S1-4:07CR121CAS, and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.

³ *Id.*

15. Background Question No. 4 of the Application asked the following:

Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

If you answer yes, identify the jurisdiction(s): _____

16. Hunt answered "No" to Background Question No. 4, and did not disclose any tax delinquencies in his Application.
17. Contrary to Hunt's answer to Background Question No. 4, Hunt had a delinquent Missouri state tax obligation of which he had been notified:
- a. On November 9, 2012, the Director of the Missouri Department of Revenue filed a Certificate of Tax Lien – Individual Income Tax in the St. Louis County Circuit Court, certifying that Hunt owed \$3,067.54 in delinquent taxes for tax year 2010, interest and penalties, which, upon filing, became the judgment of the court under § 143.902. The judgment remains unsatisfied.⁴
18. It is inferable, and hereby found as fact, that Hunt falsely answered "No" to Background Question No. 4 and failed to disclose his Missouri state income tax delinquency in order to misrepresent to the Director that he had no tax delinquencies and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVEESC producer license.

CONCLUSIONS OF LAW

19. 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:

* * *

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

* * *

(5) Been convicted of any felony;

⁴ *Department of Revenue v. Charley M. Hunt*, St. Louis Co. Cir. Ct., No. 12SL-MC15056.

- (13) Failed to comply with any administrative or court order directing payment of state or federal income tax [.]
20. 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.
 21. Under Missouri law, an Alford plea is a conviction so long as the sentence is imposed. *In re Gibson*, 168 S.W.3d 72, 75 (Mo. App. 2004).
 22. The Director may refuse to issue an MVESC producer license to Hunt under § 385.209.1(5) because Hunt has been convicted of six felonies:
 - a. Attempted Sodomy (Class B Felony in violation of § 566.060);
 - b. Sexual Abuse (Class D Felony in violation of § 566.100, two counts);
 - c. Forcible Sodomy (Class A Felony in violation of § 566.060);
 - d. Transferring and Possessing a Machine Gun (Federal Felony in violation of § 18 U.S.C. 922(o)); and
 - e. Felon in Possession of Firearms (Federal Felony in violation of § 18 U.S.C. 922(g)(1)).
 23. The Director also may refuse to issue Hunt an MVESC producer license under § 385.209.1(13) because Hunt has failed to comply with administrative and court orders directing payment of state income tax. On November 9, 2012, the Director of the Missouri Department of Revenue filed a Certificate of Tax Lien – Individual Income Tax in the St. Louis County Circuit Court, certifying that Hunt owed \$3,067.54 in delinquent taxes for tax year 2010, interest and penalties, which, upon filing, became the judgment of the court under § 143.902. The judgment remains unsatisfied.
 24. The Director also may refuse to issue an MVESC producer license to Hunt under § 385.209.1(3) because Hunt attempted to obtain an MVESC producer license through material misrepresentation or fraud when he intentionally failed to disclose his convictions of the Class B Felony of Attempted Sodomy, one count of the Class A Felony of Forcible Sodomy, and two counts of the Class D Felony of Sexual Abuse in Case No. 92CR-004660, and falsely attested and certified to the Director that all of the information in his Application was true and complete, in order to misrepresent to the Director that he had no further criminal history beyond his conviction of the federal felonies in Case No. S1-4:07CR121CAS, and, accordingly, in order to improve the

chances that the Director would approve his Application and issue him an MVESC producer license.

25. The Director also may refuse to issue an MVESC producer license to Hunt under § 385.209.1(3) because Hunt attempted to obtain an MVESC producer license through material misrepresentation or fraud when he falsely answered "No" to Background Question No. 4 and failed to disclose his Missouri state income tax delinquency in order to misrepresent to the Director that he had no tax delinquencies and, accordingly, in order to improve the chances that the Director would approve his Application and issue him an MVESC producer license.
26. The Director has considered Hunt's history and all of the circumstances surrounding Hunt's Application. Granting Hunt an 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 Hunt.
27. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Charley M. Hunt** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 4th DAY OF FEBRUARY, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

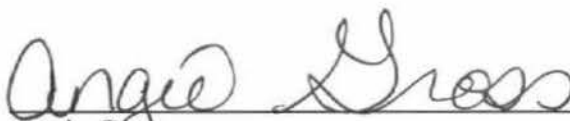
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 5th day of February 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail at the following addresses:

Charley M. Hunt
1560 Estrada #10
St. Louis County, Missouri 63138

Certified No. 7009 3410 0001 9254 6977



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Senior Office Support Assistant
Investigations Section
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