



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

CHARLES S. HAMILTON, III,

Applicant.

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Case No. 140826635C

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On December 3, 2014, 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 Charles S. Hamilton, III. 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, III, ("Hamilton") is a Missouri resident with a residential address of record of 10331 Bellefontaine Road, Bellefontaine Neighbors, 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 ("2013 Application").
3. Background Question No. 1 of the 2013 Application asked the following, in relevant part:

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

* * *

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:
 - a. 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. 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. 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 each 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.

State of Missouri v. Charles S. Hamilton, St. Louis Co. Cir. Ct., No. 2191R-01506-01, *aff'd*, *State v. Hamilton*, 892 S.W.2d 371 (Mo. App. E.D. 1995).

6. Hamilton attached to his 2013 Application a written explanation in which he stated that he 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 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 added that he was released from parole in August 2012.
7. Hamilton's account in his 2013 Application explanation differs drastically from the facts recounted by the Missouri Court of Appeals, in the light most favorable to the jury verdict:

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.

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

8. Hamilton marked "Yes" in answer to Background Question No. 2 that asks, in relevant part: "Have you ever been named or involved as a party in an administrative proceeding or action regarding any professional or occupational license . . . ?"
9. Hamilton attached to his 2013 Application a letter dated March 21, 2000 from the Missouri Department of Elementary & Secondary Education revoking his certificate of license to teach.
10. On May 9, 2014, the Director issued his Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License that refused Hamilton's 2013 Application for a motor vehicle extended service contract ("MVESC") producer license under § 385.209.1(5) RSMo (Supp. 2012) because Hamilton had been convicted of fourteen (14) felonies.
11. Hamilton did not appeal the Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License to the Administrative Hearing Commission.
12. On August 7, 2014, the Department received Hamilton's Application for MVESC Producer License ("2014 Application").
13. Hamilton answered "Yes" to the criminal background question, provided court and other records, seven letters of reference, and a letter of explanation with his 2014 Application. Hamilton's records disclosed his fourteen (14) felonies.
14. In his written explanation with his 2014 Application, Hamilton stated, verbatim, in relevant part:

I am not able to change those horrible past mistakes, what I have changed is the man I am. I did take that case to trial and I fought my conviction all the way through the Missouri Judicial System.

I am currently a sane, sober, law abiding citizen who prays for the opportunity to work again in this profession.

15. Hamilton also marked "Yes" to Background Question No. 2 that asks, in relevant part: "Have you ever been named or involved as a party in an administrative proceeding or action regarding any professional or occupational license . . . ?"

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

- a) a written statement identifying the type of license and explaining the circumstance of each incident,
 - b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
 - c) a certified copy of the official document which demonstrates the resolution of the charges and/or a final judgment.
16. Hamilton attached to his 2014 Application the Director's May 9, 2014 Order Refusing to Issue Motor Vehicle Extended Service Contract Producer License.
17. However, Hamilton did not provide a written statement regarding nor a copy of the March 21, 2000 letter from the Missouri Department of Elementary & Secondary Education revoking his certificate of license to teach.

CONCLUSIONS OF LAW

18. Section 385.209 RSMo (Supp. 2013) 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;

* * *

(9) Been refused a license or had a license revoked or suspended by a state regulator of service contracts, financial services, investments, credit, insurance, banking, or finance[.]

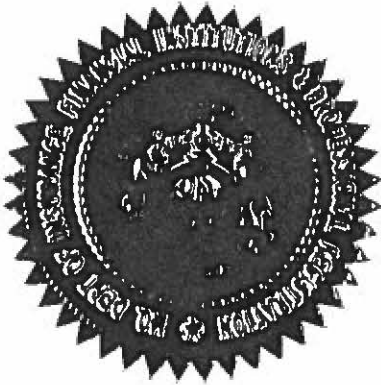
19. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants, but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), the purpose of § 385.209 is not to punish applicants for a motor vehicle extended service contract producer license, but to protect the public.
20. The Director may refuse to issue an MVESC producer license to Hamilton pursuant to § 385.209.1(3) for attempting to obtain a license through material misrepresentation. By signing the application under oath, Hamilton certified that all of the information submitted was true and complete. However, Hamilton omitted pertinent or material information when he failed to disclose with his 2014 Application the administrative proceeding against him by the Missouri Department of Elementary & Secondary Education revoking his certificate of license to teach.
19. The Director may refuse to issue an MVESC producer license to Hamilton under § 385.209.1(5) because Hamilton has been convicted of fourteen (14) felonies. *State of Missouri v. Charles S. Hamilton*, St. Louis Co. Cir. Ct., No. 2191R-01506-01, *aff'd*, *State v. Hamilton*, 892 S.W.2d 371 (Mo. App. E.D. 1995).
20. The Director may also refuse to issue an MVESC producer license to Hamilton under § 385.209.1(9) because Hamilton has been refused a license by a state regulator of service contracts. *In re: Charles S. Hamilton, DIFP Case No. 203108*.
21. Although over twenty years have passed, those fourteen felony convictions resulted from a jury finding that Hamilton committed egregious acts of violence and depravity, including burglary, kidnapping and rape. In addition, Hamilton failed to disclose on his 2014 Application the revocation of his certificate of license to teach.
22. The Director has considered Hamilton's history and all of the circumstances surrounding his 2014 Application. Granting Hamilton an MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Hamilton an MVESC producer license.
23. 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, III, is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 3RD DAY OF DECEMBER, 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 4th day of December, 2014 a copy of the foregoing Order and Notice was served upon the Applicant by UPS, signature required, at the following address:

Charles S. Hamilton, III
10331 Bellefontaine Road
Bellefontaine Neighbors, MO 63137

No. 1Z0R15W84294710007



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