



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

DEBRA MIDIRI,

Applicant.

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Case No. 140429439C

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

On September 17, 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 Debra Midiri. 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. Debra Midiri ("Midiri") is a Missouri resident with a residential address of 201 W. Sturgeon, Wellsville, Missouri 63384.

2. On or about March 4, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Midiri's¹ 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. Midiri signed the Application in the "Applicant's Certification and Attestation" section under oath and before a notary public.

5. Background Question No. 1 of the Application asks the following:

¹ The applicant listed her name on her Application as Debra K. Chiarella/Midiri. The applicant will be referenced herein as "Midiri." In addition, Midiri is formerly known as Debra K. Tindle and Debra K. Price.

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 was 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. Midiri marked "No" to Background Question No. 1.

7. Midiri did not disclose any criminal history in her Application.

8. The Consumer Affairs Division's ("Division") investigation into Midiri's Application revealed that, contrary to Midiri's response to Background Question No. 1, Midiri has been convicted of eight (8) felonies:

- a. In February 1989, the Texas County Circuit Court convicted Midiri of the Class D Felony of Passing Bad Checks and sentenced Midiri to two (2) years' incarceration, but suspended the execution of sentence and placed her on probation. *State v. Debra Kay Price, aka Debra Kay Tindle*, Texas Co. Cir. Ct., Case No. CR987-218FX.
- b. On April 3, 1989, Midiri pled guilty to two counts of Passing Bad Checks,

Class D Felonies, in violation of § 570.120. The court sentenced Midiri to two (2) years' incarceration on each count, with the sentences to run concurrently with each other and with the sentence in Texas Co. Cir. Ct., Case No. CR987-218FX. *State v. Debra Kay Price, aka Debra Kay Tindle*, Greene Co. Cir. Ct., Case No. CR587-1232FX3.

- c. On June 15, 1989, Midiri pled guilty to two counts of Passing Bad Checks, Class D Felonies, in violation of § 570.120, before the St. Louis County Circuit Court in two separate cases: *State v. Debra K. Tindle*, St. Louis Co. Cir. Ct., Case No. 21CCR-593840² and Case No. 21CCR593841.³ The court sentenced Midiri two (2) years' incarceration with the sentences to run concurrently. *State v. Debra K. Tindle*, St. Louis Co. Cir. Ct., Case No. 21CCR-593840 and Case No. 21CCR593841.
- d. On July 3, 1989, Midiri pled guilty to two counts of Passing Bad Checks, Class D Felonies, in violation of § 570.120, before the St. Charles County Circuit Court in two separate cases: *State v. Debra K. Tindle*, St. Charles Co. Cir. Ct., Case No. CR186-1636FX and Case No. CR187-0024FX. The court sentenced Midiri to two (2) years' incarceration with the sentences to run concurrently. The court also ordered the sentences to run concurrently "with the 2 yr. sentences defendant is presently serving for the offenses of passing bad checks imposed in Cause No. CR587-1232FX3, Green[e] County Circuit Court; Cause No. CR987-218FX, Texas Co. Circuit Court; and Cause Nos. 593840 and 21F884452, St. Louis Co. Circuit Court." *State v. Debra K. Tindle*, St. Charles Co. Cir. Ct., Case No. CR186-1636FX and Case No. CR187-0024FX.
- e. On April 20, 2009, Midiri pled guilty to Theft/Stealing (Value Of Property Or Services Is \$500 or More But Less Than \$25,000), a Class C Felony, in violation of § 570.030. The court sentenced Midiri to five (5) years' incarceration, suspended the execution of sentence, and placed Midiri on five (5) years' supervised probation. *State v. Debra Kay Midiri*, St. Charles Co. Cir. Ct., Case No. 0811-CR04748-01.

9. In February 2009, the St. Charles County prosecuting attorney charged Midiri by Information with one count of Stealing, in violation of a Missouri law, namely § 570.030, alleging that in between March 6, 2006 and May 6, 2008, Midiri appropriated "U.S. currency, of a value of at least [\$500] and less than [\$25,000] which property was owned by Edward Jones and [Midiri] appropriated such property without the consent of Edward Jones and with the purpose to deprive it thereof." *State v. Debra Kay Midiri*, St. Charles Co. Cir. Ct., Case No. 0811-CR04748-01.

10. On March 6, 2014, the Division sent an inquiry letter to Midiri requesting, *inter*

² The court records also identify this case as No. 21F88-4452.

³ The court records also identify this case as No. 21F88-3388.

alia, an explanation of circumstances surrounding the Theft/Stealing conviction and why she failed to disclose it on her application.

11. In response to the Division's inquiry, Midiri sent an undated response that stated, verbatim, in relevant part:

The charges were suppose to be dropped completely when I signed the house over to my now ex husband. He had been ill and I had his POA at the time and had used that POA to get a loan thru Edward Jones with Wells Fargo. . . . [W]hen we started our divorce this was used against me as criminal charges and I was tried in the court of law. The charges were not be just expunged but removed according to the lawyer when I signed over the house that we had custom built and that I alone had put a down pymt of 140,000.00. . . .

12. Also in response to the Division's inquiry, Midiri sent an email on March 31, 2014, that stated, verbatim:

I worked at Edward Jones⁴ for years and while working there I applied for a loan with WellsFargo which Edward Jones had an affiliation. No one at Edward Jones had to approve the loan but the loan was done thru Edward Jones. I was working at Edward Jones at the time of the loan application and the loan was given to me it was put in our Edward Jones account.

13. Midiri's explanation regarding her failure to disclose the Theft/Stealing Class C Felony (to which she pled guilty in 2009) is not credible. Background Question No. 1 specifically states, in part: "Unless excluded by the language above, you must disclose convictions that have been expunged."

14. It is inferable, and hereby found as fact, that Midiri failed to disclose her seven (7) felony convictions for passing bad checks and her felony conviction for theft/stealing in order to mislead the Director into believing that she had no criminal history, and accordingly, to improve the chances the Director would approve her Application and issue her a motor vehicle extended service contract ("MVESC") producer license.

CONCLUSIONS OF LAW

15. Section 385.209 RSMo (Supp. 2013)⁵ 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

⁴ Edward Jones is a financial services and investment firm headquartered in St. Louis, Missouri.

⁵ All statutory references for § 385.209 are to RSMo (Supp. 2013).

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;

* * *

(7) Been found in violation of law by a court of competent jurisdiction in an action instituted by any officer of any state or the United States in any matter involving motor vehicle extended service contracts, financial services, investments, credit, insurance, banking, or finance;

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

16. A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruitt v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972).

16. 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.

17. Midiri may be refused an MVESC producer license pursuant to § 385.209.1(3) because she attempted to obtain a license through material misrepresentation or fraud when she failed to disclose the following convictions on her application:

- a. One count of Passing Bad Checks, a Class D Felony; *State v. Debra Kay Price, aka Debra Kay Tindle*, Texas Co. Cir. Ct., Case No. CR987-218FX;
- b. Two counts of Passing Bad Checks, Class D Felonies; *State v. Debra Kay Price, aka Debra Kay Tindle*, Greene Co. Cir. Ct., Case No. CR587-1232FX3;
- c. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*,

St. Louis Co. Cir. Ct., Case No. 21CCR-593840;⁶

- d. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Louis Co. Cir. Ct., Case No. 21CCR-593841;⁷
- e. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Charles Co. Cir. Ct., Case No. CR186-1636FX;
- f. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Charles Co. Cir. Ct., Case No. CR187-0024FX; and
- g. One count of Theft/Stealing (Value Of Property Or Services Is \$500 or More But Less Than \$25,000), a Class C Felony; *State v. Debra Kay Midiri*, St. Charles Co. Cir. Ct., Case No. 0811-CR04748-01.

18. Each failure to disclose a conviction on the Application is a separate and sufficient cause under § 385.209.1(3) to refuse to issue Midiri an MVESC producer license.

19. Midiri may be refused an MVESC producer license pursuant to § 385.209.1(5) because she has been convicted of eight felonies:

- a. One count of Passing Bad Checks, a Class D Felony; *State v. Debra Kay Price, aka Debra Kay Tindle*, Texas Co. Cir. Ct., Case No. CR987-218FX;
- b. Two counts of Passing Bad Checks, Class D Felonies; *State v. Debra Kay Price, aka Debra Kay Tindle*, Greene Co. Cir. Ct., Case No. CR587-1232FX3;
- c. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Louis Co. Cir. Ct., Case No. 21CCR-593840;
- d. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Louis Co. Cir. Ct., Case No. 21CCR-593841;
- e. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Charles Co. Cir. Ct., Case No. CR186-1636FX;
- f. One count of Passing Bad Checks, a Class D Felony; *State v. Debra K. Tindle*, St. Charles Co. Cir. Ct., Case No. CR187-0024FX; and
- g. One count of Theft/Stealing (Value Of Property Or Services Is \$500 or More But Less Than \$25,000), a Class C Felony; *State v. Debra Kay Midiri*, St. Charles Co. Cir. Ct., Case No. 0811-CR04748-01.

⁶ The court records also identify this case as No. 21F88-4452.

⁷ The court records also identify this case as No. 21F88-3388.

20. Each felony conviction is a separate and sufficient ground under § 385.209.1(5) to refuse Midiri an MVESC producer license.

21. Midiri may be refused an MVESC producer license pursuant to § 385.209.1(7) because she has been found in violation of a state law, § 570.030, Theft/Stealing (Value Of Property Or Services Is \$500 or More But Less Than \$25,000), a Class C Felony, in an action instituted by an officer of the state of Missouri, namely, the St. Charles County prosecutor, in a matter involving financial, services, credit, banking or finance; to wit: by her own admission, Midiri, who was employed with Edward Jones, used her husband's power of attorney to obtain a loan through Edward Jones with Wells Fargo, with the loan proceeds placed in their Edward Jones account. See *State v. Debra Kay Midiri*, St. Charles Co. Cir. Ct., Case No. 0811-CR04748-01.

22. Midiri may be refused an MVESC producer license pursuant to § 385.209.1(8) for demonstrating untrustworthiness or financial irresponsibility in the conduct of business in that she stole money from her employer, Edward Jones.⁸ See *State v. Debra Kay Midiri*, St. Charles Co. Cir. Ct., Case No. 0811-CR04748-01.

23. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service producer license application of **Debra Midiri** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 17th DAY OF SEPTEMBER, 2014.




JOHN M. HUFF
DIRECTOR

⁸ Edward Jones is a financial services and investment firm headquartered in St. Louis, Missouri.

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 17th day of September, 2014 a copy of the foregoing Order and Notice was served upon the Applicant by UPS, signature required, at the following address:

Debra Midiri
201 W. Sturgeon
Wellsville, MO 63384

Tracking No. 1Z0R15W84295779255



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