



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JOHN E. DINNELLA,

Applicant.

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Case No. 165823

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On March 1, 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 John E. Dinnella. 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. John E. Dinnella, ("Dinnella") is a Missouri resident with an address of record of 820 Campion Lane, Florissant, Missouri, 63031.
2. On December 5, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Dinnella's 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. Dinnella signed the Application in the "Applicant's Certification and Attestation" section under oath before a notary.

6. 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[.]

7. Dinnella marked “Yes” to Question No. 1. With his Application, Dinnella included a written statement that listed and described the following cases, along with brief explanations for each (Dinnella’s characterizations are quoted below):

- a. Case No. 01CR128975, “Stealing”;
- b. Case No. 01CR128988, “Stealing”;
- c. Case No. 01CR130543, “Assault 2nd degree”;
- d. Case No. 01CR131887, “Trespassing”;
- e. Case No. 04CR129782, “Possession with intent to distribute a controlled substance”;
- f. Case No. 1111-CR01087, “Theft/stealing misdemeanor”.

8. Dinnella explained his “Possession with intent to distribute a controlled substance” conviction with a statement that read, in its entirety: “In March of 2003 I sold a ¼ bag of marijuana to an undercover cop that was with one of my friends.”
9. Nowhere in the Application did Dinnella disclose any further criminal history, except that

Dinnella attached printouts from Missouri Case.net¹ of the "Charges, Judgments and Sentences" page for each of the cases he disclosed in his written statement.

10. Contrary to Dinnella's sworn attestation that all of the information submitted in his application and attachments was true and complete, Dinnella's criminal history is more extensive than what Dinnella disclosed in his application:
 - a. On November 6, 2002, in Case Nos. 2101R-04125-01, 2101R04303-01 and 2101R-04137-01, **Dinnella was convicted, upon a plea of guilty, of three (3) counts of the Class C Felony of Stealing** in the Circuit Court of St. Louis County. The court sentenced Dinnella to consecutive one (1) year terms of imprisonment in the custody of the Department of Justice Services of St. Louis County in Case Nos. 2101R-04125-01 and 2101R04303-01, and to seven (7) years of imprisonment in the custody of the Department of Corrections in Case No. 2101R-04137-01. The court suspended execution of the sentence in Case No. 2101R-04137-01 but later revoked Dinnella's probation and ordered that the seven-year sentence be executed. *State of Missouri v. John E. Dinnella*, St. Louis Co. Cir. Ct, Case No. 2101R-04125-01; *State of Missouri v. John E. Dinnella*, St. Louis Co. Cir. Ct, Case No. 2101R04303-01; and *State of Missouri v. John E. Dinnella*, St. Louis Co. Cir. Ct, Case No. 2101R-04137-01.
 - b. On June 28, 2002, in Case No. 2101R130543-01, **Dinnella was convicted, upon a plea of guilty, of the Class C Felony of Assault in the Second Degree** in the Circuit Court of St. Charles County, Missouri. The court sentenced Dinnella to one year's confinement in the custody of the St. Charles County Jail, to be served consecutively to the sentence issued for the felony count in case number 2101R128988-01, and concurrently with the sentence issued for the misdemeanor count in 2101R128988-01 and with the sentence issued in case number 2101R128975-01. *State of Missouri v. John E. Dinnella*, St. Charles Co. Cir. Ct, Case No. 2101R130543-01.
 - c. Also on June 28, 2002, in Case No. 2101R128988-01, **Dinnella was convicted, upon a plea of guilty, of a Class C Felony count of Stealing and a Class A Misdemeanor count of Stealing** in the Circuit Court of St. Charles County, Missouri. For the felony count, the court sentenced Dinnella to seven (7) years' imprisonment in the custody of the Missouri Department of Corrections. For the misdemeanor count, the court sentenced Dinnella to seven (7) years' imprisonment in the custody of the Missouri Department of Corrections, to be served concurrently with the sentence for the felony count. On or about November 5, 2002, the court ordered Dinnella released on probation, with the probation set for a period of five (5) years. On or about

¹ Missouri Case.net, located at: <https://www.courts.mo.gov/casenet/base/welcome.do>, is a website maintained by the State of Missouri Office of the State Courts Administrator that provides docket and other information concerning cases filed in Missouri circuit courts.

January 26, 2006, Dinnella's probation was revoked when he was convicted of two felony counts of Distribution, Delivery, Manufacture or Production of a Controlled Substance. *State of Missouri v. John Edward Dinnella*, St. Charles Co. Cir. Ct, Case No. 2101R128988-01.

- d. Also on June 28, 2002, in Case No. 2101R128975-01, **Dinnella was convicted, upon a plea of guilty, of another Class C Felony count of Stealing** in the Circuit Court of St. Charles County, Missouri. The court sentenced Dinnella to seven (7) years of imprisonment in the custody of the Missouri Department of Corrections, to be served concurrently with the sentences in Case Nos. 2101R130543-01 and 2101R128988-01. On or about November 5, 2002, the court ordered Dinnella released on probation, with the probation set for a period of five (5) years. On or about January 26, 2006, Dinnella's probation was revoked when he was convicted of two felony counts of Distribution, Delivery, Manufacture or Production of a Controlled Substance. *State of Missouri v. John Edward Dinnella*, St. Charles Co. Cir. Ct, Case No. 2101R128975-01.
- e. On January 26, 2006, in case number 04CR129782, **Dinnella was convicted, upon a plea of guilty, of two Class B Felony counts of Sale of a Controlled Substance** in the Circuit Court of St. Charles County. The court sentenced Dinnella on each count to nine (9) years' imprisonment in the custody of the Missouri Department of Corrections, to be served concurrently and to be served concurrently with the sentences issued in cases numbered 01CR128975-01 and 01CR12988-01. *State of Missouri v. John E. Dinnella*, St. Charles Co. Cir. Ct, Case No. 04CR129782.

11. Contrary to Dinnella's written statement, according to the Indictment of Dinnella in case number 04CR129782, Dinnella sold not only marijuana but also cocaine HCl to an undercover police officer. *State of Missouri v. John E. Dinnella*, St. Charles Co. Cir. Ct, Case No. 04CR129782.

CONCLUSIONS OF LAW

12. Section 385.209 RSMo, Supp. 2012,² 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:

² Statutory references are to the 2012 version of the Revised Statutes of Missouri unless otherwise indicated and unless the reference is to a criminal statute, in which case the reference is to the version of the statute under which the defendant was charged and/or convicted.

* * *

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

* * *

(5) Been convicted of any felony[.]

13. 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.
14. Dinnella may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(3) because he attempted to obtain a motor vehicle extended service contract producer license through material misrepresentation or fraud:
 - a. Dinnella failed to fully disclose his criminal history and in his written statement sought to minimize what criminal history he did disclose, including by misrepresenting the conduct underlying his two felony convictions in case number 04CR129782 by describing it as though he had merely sold a “1/4 bag of marijuana” when in fact he had also sold cocaine.
 - b. It is unlikely that Dinnella merely forgot to disclose all of his criminal history. Even if Dinnella had forgotten some of his criminal history, before filing his Application he consulted Missouri Case.net to obtain printouts of the criminal history he did disclose. Reasonable attention to Missouri Case.net’s information would have reminded Dinnella of the undisclosed portion of his criminal history. It is more likely that Dinnella intentionally misrepresented the extent of his criminal history in an attempt to improve his chances of being granted a license.
15. Dinnella may be refused a motor vehicle extended service contract producer license under § 385.209.1(5) because he has been convicted of numerous felonies:
 - a. *State of Missouri v. John E. Dinnella*, St. Louis Co. Cir. Ct, Case No. 2101R-04125-01 (Class C Felony Stealing, in violation of § 570.030);
 - b. *State of Missouri v. John E. Dinnella*, St. Louis Co. Cir. Ct, Case No. 2101R04303-01 (Class C Felony Stealing, in violation of § 570.030);
 - c. *State of Missouri v. John E. Dinnella*, St. Louis Co. Cir. Ct, Case No. 2101R-04137-01 (Class C Felony Stealing, in violation of § 570.030);

- d. *State of Missouri v. John E. Dinnella*, St. Charles Co. Cir. Ct, Case No. 2101R130543-01 (Class C Felony Assault in the Second Degree, in violation of § 558.011);
 - e. *State of Missouri v. John Edward Dinnella*, St. Charles Co. Cir. Ct, Case No. 2101R128988-01 (Class C Felony Stealing, in violation of § 570.030);
 - f. *State of Missouri v. John Edward Dinnella*, St. Charles Co. Cir. Ct, Case No. 2101R128975-01 (Class C Felony Stealing, in violation of § 570.030);
 - g. *State of Missouri v. John E. Dinnella*, St. Charles Co. Cir. Ct, Case No. 04CR129782 (Class B Felony Distribution, Delivery, Manufacture or Production of a Controlled Substance, in violation of § 195.211);
 - h. *State of Missouri v. John E. Dinnella*, St. Charles Co. Cir. Ct, Case No. 04CR129782 (Class C Felony Distribution, Delivery, Manufacture or Production of a Controlled Substance, in violation of § 195.211).
16. The Director has considered Dinnella's history and all of the circumstances surrounding Dinnella's Application. Granting Dinnella a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Dinnella.
17. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **John E. Dinnella** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 5TH DAY OF MARCH, 2013.





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 6 day of MARCH, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

John E. Dinnella
820 Champion Lane
Florissant, Missouri 63031

Certified No. 7009 3410 0001 9254 4737



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