

DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:

ERIC PINKNEY,

Applicant.

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Case No. 1909100951C

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

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance (the "Director"), takes up the above matter for consideration and disposition. 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. Eric Pinkney ("Pinkney") is a Maryland resident with a mailing address of 309 Limestone Valley Dr., Cockeysville, MD 21030.
2. On March 22, 2019, the Department of Insurance, Financial Institutions and Professional Registration ("DIFP")¹ received Pinkney's motor vehicle extended service contract ("MVESC") producer license application ("Application").
3. Background Information Question Number 1 of the Application asks, in relevant part:

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?
4. Pinkney answered "No" to Background Information Question Number 1.

¹ The Department of Insurance, Financial Institutions and Professional Registration is the predecessor agency of the Department of Commerce and Insurance. See Executive Order 19-02.

5. As a condition of submission, Pinkney accepted the Applicant's Certification and Attestation section of his Application, which stated, in relevant part:

I hereby certify, under penalty of perjury, that all 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.

6. An investigation conducted by the Consumer Affairs Division ("Division") of DIFP revealed that Pinkney has been convicted of several misdemeanors. On May 10, 2001, Pinkney pled guilty to Possession – Marihuana², a misdemeanor. *State of Maryland v. Pinkney, Eric D. Jr.*, Anne Arundel County D. Ct., Case No. 6A00084251. On September 16, 2002, Pinkney pled guilty to False Statement to Peace Officer, a misdemeanor. *State of Maryland v. Pinkney, Eric Duncan*, Anne Arundel County D. Ct. Case No. 5A00108883. On April 23, 2008, Pinkney pled guilty to Possession – Marihuana, a misdemeanor. *State of Maryland v. Pinkney, Eric D. Jr.*, Anne Arundel County D. Ct., Case No. 6A00172129. And lastly, on February 10, 2011, Pinkney pled guilty to Assault – Second Degree, a misdemeanor. *State of Maryland v. Pinkney, Eric D. Jr.*, Baltimore City Cir. Ct., Case No. 810027046.
7. On April 2, 2019, Special Investigator Andrew Engler with the Division sent an inquiry letter to Pinkney requesting a statement from Pinkney explaining the circumstances of the above-stated misdemeanor convictions, why he failed to disclose them on his Application, and to provide documentation for them. The inquiry letter cited 20 CSR 100-4.100 and informed Pinkney that failure to respond could be grounds for discipline or refusal of his license. The inquiry letter was mailed to the address provided by Pinkney in the Application.
8. The United States Postal Service did not return the Division's April 2, 2019 inquiry letter to the Division, and therefore it is presumed received by Pinkney.
9. Pinkney did not respond to the Division's April 2, 2019 letter, nor did he demonstrate reasonable justification for the delay.
10. On April 29, 2019, Special Investigator Andrew Engler sent a second inquiry letter to Pinkney again requesting a statement and documentation from Pinkney regarding his convictions. The second inquiry letter was again mailed to the address provided by Pinkney in the Application. On May 23, 2019, the second inquiry letter was returned and marked "Not deliverable as addressed."

² Marihuana, rather than marijuana, is the spelling used in the court documents for Case No. 6A00084251 and Case No. 6A00172129.

11. On May 23, 2019, Special Investigator Andrew Engler, after conducting a search for a newer listed address for Pinkney, mailed a third inquiry letter to 317 Lord Byron Ln, Cockeysville, MD 21030.
12. The United States Postal Service did not return the Division's May 23, 2019 inquiry letter to the Division, and therefore it is presumed received by Pinkney.
13. Pinkney did not respond to the Division's May 23, 2019 letter, nor did he demonstrate reasonable justification for the delay.
14. It is inferable and hereby found as fact that Pinkney failed to disclose his misdemeanor convictions and charges on his Application in order to misrepresent to the Director that he was without any misdemeanor convictions and increase the chance that the Director would exercise her discretion to issue him a MVESC producer license.

CONCLUSIONS OF LAW

15. Section 385.209, RSMo (2016),³ states, in relevant 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) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director; [or]
 - (3) Obtained or attempted to obtain a license through material misrepresentation or fraud [.]
16. Title 20 CSR 100-4.100(2)(A) is a rule of the Director and provides:

Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

³ All civil statutory references are to the Revised Statutes of Missouri (2016) unless otherwise indicated.

17. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000).
18. The Director may refuse to issue Pinkney a MVESC producer license under § 385.209.1(2) because he violated a rule of the director, specifically 20 CSR 100-4.100(2)(A), when he failed to provide a response to the Division's inquiry letter regarding his misdemeanor convictions.
19. The Director may refuse to issue Pinkney a MVESC producer license under § 385.209.1(3) because he attempted to obtain a license through material misrepresentation or fraud by concealing on his application that he had been convicted of four misdemeanors and charged with several others that resulted in either nolle prosequi or Stet. On May 10, 2001, Pinkney pled guilty to Possession – Marihuana, a misdemeanor. *State of Maryland v. Pinkney, Eric D. Jr.*, Anne Arundel County. D. Ct., Case No. 6A00084251. On September 16, 2002, Pinkney pled guilty to False Statement to Peace Officer, a misdemeanor. *State of Maryland v. Pinkney, Eric Duncan*, Anne Arundel County. D. Ct. Case No. 5A00108883. On April 23, 2008, Pinkney pled guilty to Possession – Marihuana, a misdemeanor. *State of Maryland v. Pinkney, Eric D. Jr.*, Anne Arundel County. D. Ct., Case No. 6A00172129. And lastly, on February 10, 2011, Pinkney pled guilty to Assault – Second Degree, a misdemeanor. *State of Maryland v. Pinkney, Eric D. Jr.*, Baltimore City Cir. Ct., Case No. 810027046.
20. The Director has considered Pinkney's history and all the circumstances surrounding Pinkney's application.
21. This Order is in the public interest.

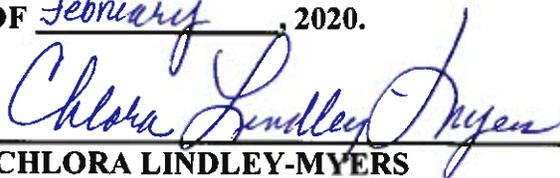
ORDER

IT IS THEREFORE ORDERED that the Motor Vehicle Extended Service Contract Producer License Application of **Eric Pinkney** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19th DAY OF February, 2020.




CHLORA LINDLEY-MYERS
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.

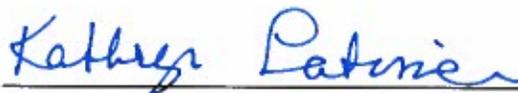
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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February, 2020, a copy of the foregoing Order and Notice was served upon the applicant in this matter by UPS, signature required service, at the following address:

Eric Pinkney
309 Limestone Valley Dr.
Cockeysville, MD 21030

No. 1Z0R15W84294846620



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