

06-0232
Motor Vehicle
Signed 11/07/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	AND FINAL ORDER OF REVOCATION
Petitioner,)	
)	Appeal No. 06-0232
v.)	
)	Tax Type: Motor Vehicle License Revocation
MOTOR VEHICLE ENFORCEMENT)	License Nos. Dealer's License #####-1
DIVISION OF THE UTAH STATE TAX)	Transporter's License #####-2
COMMISSION)	
)	Judge: Jensen
Respondent.)	

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE, Attorney for the Petitioner
For Respondent: RESPONDENT REPRESENTATIVE 1, Assistant Attorney General
 RESPONDENT REPRESENTATIVE 2, from the Motor Vehicle Enforcement
 Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on September 14, 2005. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. This matter is before the Utah State Tax Commission for appeal of the action of the Motor Vehicle Enforcement Division of the Utah State Tax Commission (the "Division") suspending the Petitioner's auto dealership license #####-1 and transporter license #####-2 effective March 2, 2006 as provided in a February 28, 2006 notice from the Division to the Petitioner. The Petitioner timely filed this appeal on March 3, 2006.

2. The Division issued its suspension after receipt of a January 19, 2006 letter from the City of CITY indicating that the Petitioner no longer had a business license to operate an auto business in CITY.

3. As of time of the formal hearing in this matter, the Petitioner did not have a business license to operate an auto business in any location.

4. At the formal hearing, the Petitioner did not dispute his lack of business license, but indicated that he was working to secure a license outside the city limits of CITY. The parties indicated that this may form the basis of stipulation resolving this matter and indicated that they may be presenting a stipulation after the formal hearing but before the issuance of a final order in the matter.

5. As of the date of the issuance of this order, the Commission has not received a stipulation from the parties and has no indication that a stipulation is forthcoming.

APPLICABLE LAW

UCA §41-3-202 lists those licenses that may be issued pursuant to the Utah Motor Vehicle Regulation Act. These licenses include a new motor vehicle dealer's license (subsection 41-3-202(1)), a used motor vehicle dealer's license (subsection 41-3-202(2)), and a transporter's license (subsection 41-3-202(7)).

UCA §41-3-210(1) provides that a holder of a motor vehicle license issued under Title 41, Chapter 3, is prohibited from engaging in a number of actions. Subsection 41-3-210(1)(s) specifically provides that a license holder may not "operate any principal place of business or additional place of business in a location that does not comply with local ordinances, including zoning ordinances[.]"

UCA §41-3-204(1)(a) provides that "[t]he following licensees must maintain a principal place of business: dealers, special equipment dealers, manufacturers, transporters, remanufacturers, dismantlers, crushers, and body shops." Subsection 41-3-201(2)(a) provides that "[i]f a licensee loses possession of a principal place of business, the license is automatically suspended and he shall immediately notify the administrator and upon demand by the administrator deliver the license, pocket cards, special plates, and

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temporary permits to the administrator.”

Utah Code Ann. §41-3-209(2)(a) provides that, upon the finding of reasonable cause, the motor vehicle enforcement administrator shall deny, revoke, or suspend a license issued under this chapter. Subsection 41-3-209(2)(b)(i) provides that “reasonable cause” includes the includes “lack of a principal place of business.”

CONCLUSIONS OF LAW

The Petitioner has substantially failed to comply with provision of the Utah Motor Vehicle Regulation Act by failing to maintain a principal place of business in a location in compliance with local ordinances. This constitutes reasonable cause for the Division to suspend the Petitioner’s auto dealership license #####-1 and transporter license #####-2 in accordance with Utah Code Ann. 59-12-106(1).

DECISION AND ORDER

Based upon the foregoing, the Tax Commission upholds the suspension of auto dealership license #####-1 and transporter license #####-2. It is so ordered.

DATED this ____ day of _____, 2005.

Clinton Jensen
Administrative Law Judge

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BY ORDER OF THE UTAH STATE TAX COMMISSION:

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this ____ day of _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63-46b-13 et. seq.

CDJ/06-0232.jof