

06-0312
Motor Vehicle
Signed 05/30/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Petitioner,)	AND FINAL DECISION
)	
v.)	Appeal No. 06-0312
)	
MOTOR VEHICLE ENFORCEMENT)	Tax Type: Motor Vehicle
DIVISION OF THE UTAH STATE TAX)	Sales Person License
COMMISSION,)	
)	Judge: Robinson
Respondent.)	

Presiding:
 R. Spencer Robinson, Administrative Law Judge

Appearances:
 For Petitioner: PETITIONER, *pro se*
 For Respondent: RESPONDENT REPRESENTATIVE, Assistant Director, Motor Vehicle
 Enforcement Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on May 23, 2006. Based upon the evidence and testimony presented at the hearing, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner is appealing Respondent's decision to deny him a Motor Vehicle Salesperson license.
2. Petitioner's first Motor Vehicle Salesperson Application was dated April 27, 2005. On the application form Petitioner check the "No" box in response to the question whether he had been convicted of any misdemeanors or felonies during the past ten years.

Appeal No. 06-0312

3. Before turning in that application, Petitioner telephoned the Commission. The person with whom he spoke informed him a conviction for possession of controlled substances would probably result in a denial of his application.

4. Petitioner deliberately falsified this application. He did so because he had a family to support and bills to pay.

5. Petitioner knew his falsification would be discovered, but hoped to have developed a good history of customer service before that occurred.

6. Petitioner was on parole at the time he submitted the April 27, 2005 application. The Board of Pardons and Parole revoked his parole on December 27, 2005.

7. By the time Respondent discovered Petitioner had falsified his application, Petitioner was no longer employed selling motor vehicles. Therefore, Respondent took no action.

8. The Board of Pardons and Parole terminated Petitioner's sentence February 28, 2006.

9. In 2003 Petitioner received an Associates Degree in Building Construction from (X). However, he states he has been advised by a physician to avoid manual labor. He has arthritis in his neck and knees. Therefore, he persisted in seeking to work selling motor vehicles.

10. On March 14, 2006, Petitioner submitted a second Motor Vehicle Salesperson Application. Again, he affirmed he had no convictions for misdemeanors or felonies in Utah or any other state. He knew this was false.

11. Petitioner acknowledges that he did something wrong and points out that he has paid the price. He said there is a lot of prejudice toward persons convicted of felonies. He has been clean for seven years. He is no longer under supervision. He said he has turned his life around. His parents agree that he has.

Appeal No. 06-0312

12. Petitioner said he lied on his applications, but is honest selling cars. He said he is good at selling cars. Because he is not currently able to sell cars, he is on food stamps, is drawing unemployment compensation, and has been forced to cash in his 401K.

APPLICABLE LAW

(2)(a) If the administrator finds that there is a reasonable cause to deny, suspend, or revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the license. (b) Reasonable cause for denial, suspension, or revocation of a license includes . . . (vi) making a false statement on any application for a license under this chapter or for special license plates; . . . (viii) a violation of any state or federal law involving controlled substances. . . (Utah Code Sec. 41-3-209(2)).

CONCLUSIONS OF LAW

Respondent acted in accordance with the law when it denied Petitioner's March 17, 2006 application. Petitioner made a false statement on two applications. He has a felony conviction involving controlled substances. The administrator had no option but to act as he did.

DECISION AND ORDER

Petitioner has now served the sentence stemming from the conviction. Apparently, the Board of Pardons and Parole determined further supervision of Petitioner was not necessary. However, Petitioner twice falsified applications in an effort to obtain a license to sell motor vehicles, one within the last three months. Falsification of application is one of the statutory grounds for denial. Additionally, Petitioner has been convicted of a drug related felony, also a basis in the statute for denial, and has been unsupervised for less than one year.

Based upon the foregoing, the Tax Commission sustains the decision of the administrator to deny Petitioner's Motor Vehicle Salesperson Application. It is so ordered.

DATED this ____ day of _____, 2006.

R. Spencer Robinson
Administrative Law Judge

Appeal No. 06-0312

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

Palmer DePaulis
Commissioner

Marc B. Johnson
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.

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