

07-0271  
Motor Vehicle Salesperson License  
Signed 05/23/2007

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	07-0271
v.	)		
	)	Tax Type:	Motor Vehicle
MOTOR VEHICLE ENFORCEMENT	)		Salesperson License
DIVISION, UTAH STATE TAX	)		
COMMISSION,	)	Judge:	Robinson
	)		
Respondent.	)		

---

**Presiding:**

R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, *pro se*, by telephone

For Respondent: RESPONDENT REPRESENTATIVE, from the Motor Vehicle Enforcement Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Sec. 59-1-502.5, on March 27, 2007.

Based on the information disclosed by Petitioner on his January 29, 2007, Motor Vehicle Salesperson Application, the Division denied Petitioner's salesperson application. The Division notified Petitioner of its decision in a letter dated February 21, 2007. The Petitioner appealed the denial on February 28, 2007.

Following the hearing, the Commission directed Respondent to provide Petitioner's criminal history to the Commission and the Petitioner. The information in Petitioner's criminal history has been considered in this decision.

APPLICABLE LAW

Utah Code Ann. §41-3-209 provides statutory guidance concerning the issuance of motor vehicle salesperson licenses, as follows in pertinent part:

- (1) If the administrator finds that an applicant is not qualified to receive a license, a license may not be granted.
- (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;

- (vii) a violation of any state or federal law involving motor vehicles;

.....

- (x) a violation of any state or federal law involving fraud;

.....

DISCUSSION

Petitioner filed an application for a motor vehicle salesperson license on January 29, 2007. His application listed a theft conviction and a forgery conviction. In a letter dated February 21, 2007, the Division denied Petitioner's application based on the information in his application.

Petitioner appealed, stating he was an accomplice to the theft of his grandmother's check by his girlfriend. He was with her when she stole the check, and when she cashed it. He said

he did not know the check was stolen. He said he pled guilty to the forgery charge to avoid being also charged with theft of the check.

Petitioner also acknowledged he was charged with a felony theft for stealing a stereo from a friend's house. He was convicted of the felony theft. At the hearing, he stated he believed the conviction for the forgery was entered in either 2003 or 2004, more likely in 2004. He said he had completed probation.

The Division said the primary basis for its decision to deny Petitioner's application was the forgery charge. It said the application was sufficient basis for denying Petitioner's application. It did not provide a copy of Petitioner's criminal history at the hearing.

The Commission has a duty to oversee the issuance of motor vehicle salesperson licenses. Petitioner listed two convictions on his application, one of which, forgery, is listed in 41-3-209 as a basis requiring the Administrator deny, suspend, or revoke a license. Additional convictions are contained in his criminal history.

Petitioner stated he is no longer on probation. However, Petitioner did not disclose all of the convictions listed in his criminal history. Petitioner pled guilty to theft of gasoline, a Class B misdemeanor, on April 29, 2003. This involves motor vehicles. On August 12, 2003 he pled guilty to retail theft, a Class B misdemeanor. On October 30, 2003, he pled guilty to retail theft, a Class B misdemeanor. On November 10, 2003, he pled guilty to forgery, a third degree felony. This involves fraud. On December 22, 2003, he pled guilty to theft, a third degree felony, and theft by deception, a Class A misdemeanor. Theft by deception involves fraud. On January 25, 2004, he

Appeal No. 07-0271

pled guilty to forgery, a third degree felony. Forgery involves fraud. Of the above convictions, Petitioner reported two. His criminal history suggests a pattern of criminal conduct.

For these reasons and based on the information provided at the Initial Hearing, the Commission sustains the decision of the Administrator.

DECISION AND ORDER

Based on the foregoing, the Commission sustains the decision of the Administrator denying Petitioner's Utah motor vehicle salesperson license. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
R. Spencer Robinson  
Administrative Law Judge

Appeal No. 07-0271

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 \_\_\_\_\_, 2007.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

RSR/07-0271.int