

07-0331  
Denied Salesperson License  
Signed 04/18/2007

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	07-0331
	)		
v.	)		
	)	Tax Type:	Denied Salesperson License
MOTOR VEHICLE ENFORCEMENT	)		
DIVISION OF THE UTAH STATE	)		
TAX COMMISSION,	)	Tax Year:	2007
	)		
Respondent.	)	Judge:	Robinson

---

**Presiding:**  
R. Spencer Robinson, Administrative Law Judge

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

STATEMENT OF THE CASE

In a letter dated March 6, 2007, Respondent informed Petitioner that the Division had denied his request to transfer his motor vehicle salesperson license. From this decision, Petitioner appeals. The appeal came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. 59-1-502.5, on April 5, 2007.

Petitioner previously had a license to sell motor vehicles (#####). He had done so for about one year at COMPANY A of CITY. He then obtained employment at COMPANY B.

Petitioner applied to transfer his license to sell motor vehicles. In answer to paragraph three of the Motor Vehicle Salesperson Application, Petitioner acknowledged multiple convictions. He acknowledged being convicted of two "simple assaults." He also acknowledged entering a plea in abeyance to a felony possession of methamphetamine charge. He entered this plea in late January of

2007. He will be on probation through 2007. The court will allow him to withdraw his plea, and will dismiss the charge, if he successfully completes his probation.

Respondent based its decision on the plea in abeyance to a felony methamphetamine charge. Respondent noted that the Commission has, in previous cases, treated pleas in abeyance as convictions for purposes of §41-3-209.

#### APPLICABLE LAW

Utah Code Ann. §41-3-209, provides as follows:

(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 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, in relation to the applicant or license holder or any of its partners, officers, or directors:

(viii) a violation of any state or federal law involving controlled substances;

#### DISCUSSION

Petitioner requests a favorable exercise of discretion in order to transfer his license. He entered his plea to the felony methamphetamine charge in January of 2007. He remains on probation until the end of 2007.

Under §41-3-209, and the Commission's decision to treat pleas in abeyance as convictions for purposes of applying the statute, the Administrator properly denied Petitioner's application to transfer his license. Petitioner's plea in abeyance to a felony possession of methamphetamine established one of the listed reasonable causes for denying, suspending or revoking a license.

Petitioner's plea is approximately three months old. He pled guilty to a felony involving controlled substances. He is on probation to the court, and will remain on probation for the rest of 2007.

Appeal No. 07-0331

While the Commission has discretion the Administrator does not, the facts do not support its favorable exercise on behalf of Petitioner at this time.

Petitioner may reapply after he has completed his probation and the court dismisses the charge. Should he reapply, the Administrator will review his new application in accordance with 41-3-209. If the Administrator denies Petitioner's application, he may appeal to the Commission.

DECISION AND ORDER

Based upon the foregoing, the Commission revokes Petitioner's 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. 07-0331

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

SR/07-0331.int