

07-0373  
Denied Salesperson License  
Signed 04/30/2007

BEFORE THE UTAH STATE TAX COMMISSION

---

PETITIONER,	)	<b>ORDER</b>	
	)		
Petitioner,	)	Appeal No.	07-0373
	)		
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 1, from the Motor Vehicle Enforcement Division  
RESPONDENT REPRESENTATIVE 2, from the Motor Vehicle Enforcement Division

STATEMENT OF THE CASE

In a letter dated March 29, 2007, Respondent informed Petitioner that the Division had denied his application 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 24, 2007.

On March 16, 2007, Petitioner applied for a transfer of his license to sell motor vehicles, number #####. In answer to paragraph three of the Motor Vehicle Salesperson Application, Petitioner acknowledged multiple convictions. He acknowledged being convicted of robbery, forgery, resisting, assault, unlawful possession of a firearm, and evading.

The Division issued license number ##### to Petitioner in 2004. This was prior to a change in §41-3-209. In 2005, the Legislature added forgery to the list of offenses requiring the

Appeal No. 07-0373

Administrator to deny, suspend, or revoke. In its April 2005 newsletter, Respondent noted the change in the law.

On November 13, 2006, Respondent received notice from a COMPANY A dealership where Petitioner had been working that he had terminated his employment. In the hearing, Petitioner stated he switched to the COMPANY B, but that they “dropped the ball,” and did not send in the paperwork to transfer his license.

Petitioner acknowledged he was required to have a license. He said it was common for dealers to delay processing the paperwork while a new salesperson was in the dealer’s employ, in order to determine if it wished to continue to employ the newly hired salesperson. He did not follow up when the COMPANY B did not provide him with the card he knew he should have in his possession as proof of his license. Petitioner did not specify the duration of his employment with the COMPANY B.

Respondent stated it “grandfathered” transfers of licenses granted under the previous statute, if the only issue was convictions involving fraud, such as forgery, and the conviction had been entered prior to the change in the statute. However, Respondent did not see the application as an application to transfer, as it believed Petitioner had ceased selling motor vehicles in November of 2006. Therefore, it did not “grandfather” Petitioner’s license.

Petitioner’s application lists the employing dealer number as #####, and the dealer name as COMPANY C. This information is handwritten. Employing Dealer number, #####, and the Dealer name, COMPANY A, which were typewritten on the form, were crossed out.

On the reverse of the form, in the area to be completed by the employer, the space where the applicant’s name is to be listed is blank. The Dealer’s firm name, COMPANY A, is typewritten in the space provided. In the space for the signature of owner, partner, or corporate officer is the name ( X ). It is unknown whether ( X ) is authorized to sign for COMPANY A or COMPANY C.

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

DISCUSSION

In light of the inconsistencies in Petitioner's application, listing COMPANY C as the employing dealer, but apparently signed by someone on behalf of COMPANY A, and Respondent's information that Petitioner ceased working for a COMPANY A dealership in November of 2006, and has not been employed selling motor vehicles since, the Commission cannot approve the application. Petitioner may submit a corrected application to the Motor Vehicle Enforcement Division. Petitioner may appeal an adverse decision on the corrected application to the Commission. He may also appeal this decision, as outlined below.

DECISION AND ORDER

Based upon the foregoing, the Commission sustains the Administrator's decision denying Petitioner's current salesperson's license application. 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

Appeal No. 07-0373

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

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/07-0373.int