

07-0427  
Motor Vehicle Salesperson License  
Signed 05/15/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	07-0427
v.	)		
	)	Tax Type:	Motor Vehicle
MOTOR VEHICLE ENFORCEMENT	)		Salesperson License
DIVISION, UTAH STATE TAX	)		
COMMISSION,	)	Judge:	Robinson
	)		
Respondent.	)		

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

**Appearances:**  
For Petitioner: PETITIONER, *pro se*, via telephone  
For Respondent: RESPONDENT REPRESENTATIVE, from MVED

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 April 30, 2007.

The Petitioner filed an application for a motor vehicle salesperson license on February 22, 2007, which the Division denied in a letter dated March 30, 2007. The Petitioner appealed the denial on April 9, 2007.

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

.....

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

.....

DISCUSSION

The Division denied the Petitioner's application because of the crime for which he acknowledged he had been convicted within the last ten years. Petitioner listed auto theft, a third degree felony, which he said would be reduced to a Class A misdemeanor when he makes full restitution. Petitioner is currently on probation to the court.

Petitioner's probation officer, WITNESS of COMPANY, wrote a letter regarding Petitioner's case. He said he has been Petitioner's probation officer for three months. WITNESS said a review of Petitioner's file shows no violations since his probation began on March 31, 2004. WITNESS also said after he submitted a report requesting early termination of Petitioner's probation, ( X ) insisted on another report regarding Petitioner's payments. A hearing on that issue was pending when WITNESS wrote the undated letter submitted at the hearing in the above captioned case.

Section 41-3-209(2)(b)(vii) provides that a violation of a state or federal law involving motor vehicles is reasonable cause to deny an application for a salesperson's license. Accordingly, the Division's denial complies with Utah law.

The Commission has a duty to oversee the issuance of motor vehicle salesperson licenses. In this case, the Commission notes that Petitioner is still on probation for felony theft of a motor vehicle and has not made full restitution. His conviction is one of the listed reasons requiring the Administrator to deny the application. That Petitioner has not made full restitution is an additional concern.

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 his 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

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