

07-0462  
Sales Person License  
Signed 05/29/2007

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)		
	)	<b>ORDER</b>	
Petitioner,	)		
	)	Appeal No.	07-0462
v.	)		
	)		
MOTOR VEHICLE ENFORCEMENT	)	Tax Type:	Sales Person License
DIVISION, UTAH STATE TAX	)		
COMMISSION,	)	Judge:	Phan
	)		
Respondent.	)		

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner:     PETITIONER  
For Respondent:    RESPONDENT REPRESENTATIVE 1  
                          RESPONDENT REPRESENTATIVE 2, Officer, 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 May 17, 2007. Petitioner is appealing the denial of his application for motor vehicle salesperson licenses. The license was denied by letter dated March 28, 2007. Petitioner's Petition for Redetermination form was undated, but received in the Appeals Section on April 24, 2007.

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; (vii) a violation of any state or federal

law involving motor vehicles; (viii) a violation of any state or federal law regarding controlled substances; (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any court of competent jurisdiction for a violation of any state or federal law involving motor vehicles; (x) a violation of any state or federal law involving fraud; or (xi) a violation of any state or federal law involving a registerable sex offense under Section 77-27-21.5. . . (Utah Code Sec. 41-3-209(2)).

### DISCUSSION

Respondent denied issuance of the motor vehicle salesperson license to Petitioner based on the fact that Petitioner had disclosed on his Motor Vehicle Sales Person application that he had been convicted in 1998 of a felony drug charge.

At the hearing Petitioner explained that the conviction occurred nine years ago. He had served his sentence of 1 year and 9 months time, as well as completed probation. He was released from probation in June or July 2000. He had also completed a drug rehabilitation program during this period and paid all the fines. He indicated that he has had no convictions since the 1998 convictions. Petitioner also indicated that he had not had any “run ins” with the law since then, except for an incident which occurred in November, 2006. The November incident involved him retrieving some of his belongings from the residence of a former girlfriend. He states that just within the last couple of weeks he had received notice that the District Attorney may proceed on misdemeanor trespass charges. He indicates, however, that he recently spoke with the District Attorney, who at this point is still considering whether to drop the charges or go forward. There had not been a conviction for trespassing indicated in Petitioner’s Criminal History Report, which was provided by Respondent on May 18, 2007.

Petitioner’s Criminal History Report confirmed that Petitioner has had no convictions since 1998. There was listed under “Date of Last Arrest,” the date of April 30, 2007, which may coincide with when

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Petitioner learned of the new trespassing charges. There was no other information relating to the November incident and no other arrests or charges that occurred after 1998.

DECISION AND ORDER

Due to the fact that Petitioner successfully completed the probation and drug treatment program by 2000 and has had no new convictions since 1998, it is the determination of the Commission that Petitioner be issued a motor vehicle salesperson licenses at this time. Should Petitioner be convicted of one of the crimes specified in the statute, or that would otherwise give Respondent cause, Respondent should suspend the license at that time. It would be the Commission's conclusion, however, that even if Petitioner were convicted of a misdemeanor trespass charge, it would not be cause under the statute to suspend Petitioner's license, assuming there were no other charges or convictions.

Based on the forging, Petitioner's appeal is granted and Respondent is hereby ordered to issue a motor vehicle salesperson license to Petitioner.

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

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

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

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Jane Phan  
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

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