

07-0565
Salesperson License
Signed 10/15/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>vs.</p> <p>MOTOR VEHICLE ENFORCEMENT DIVISION, UTAH STATE TAX COMMISSION,</p> <p>Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0565</p> <p>Tax Type: Salesperson License</p> <p>Judge: Jensen</p>
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Presiding:

Clinton D. Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

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 on June 28, 2007 in accordance with Utah Code Ann. §59-1-502.5. Petitioner is seeking a motor vehicle salesperson license. The Division has denied a license on the basis of Petitioner's prior criminal convictions.

On April 25, 2007, Petitioner submitted an application form for a motor vehicle salesperson license. On the form for the motor vehicle salesperson license, Petitioner had indicated "yes." In the space indicating, "If yes, please explain," Petitioner listed "Forgery F-3."

Respondent denied the Petitioner's application because the criminal conviction the Petitioner listed in response to question 3 was a crime for which Utah statute requires license denial. The Petitioner acknowledges his criminal conviction, but requests licensure on the basis of his progress following the conviction. The Petitioner testified that all of his convictions came as a result of the writing of stolen checks. He was currently paying his restitution and was staying current on payments in that regard. He was still on probation and was doing all that was required of him in regard to keeping his probation agreement. He thought that he could be released from probation in as early as 18 months.

At hearing, the Division representative provided evidence of the Petitioner's criminal violations. In addition to the current forgery charge, there was one prior conviction for shoplifting, a Class B Misdemeanor. The Division noted that the conviction date of shoplifting charge was August 18, 1998. However, the Division representative indicated that the Division was not asking for denial on the basis of failure to disclose this conviction because the violation date was March 21, 1997. Although the conviction date was technically within the last ten years and thus should have been disclosed, The Division's representative felt that this conviction was old enough that lack of disclosure was not a major problem for this license.

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 [or] (x) violation of any state or federal law involving fraud. (Utah Code Ann. § 41-3-209(2)).

DECISION AND ORDER

Petitioner has made positive steps since his conviction for forgery. He is making restitution payments and indicated that at the time of the hearing was current on his probation requirements. However, he remains under court supervision. The conviction for forgery is a "violation of [a] state or federal law involving fraud" which requires denial of a license. The facts presented do not warrant an exercise of discretion to grant a license to Petitioner with his criminal history. 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.

Appeal No. 07-0565

Clinton D. Jensen, 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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