

07-0842
Salesperson License
Signed 08/07/2007

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER,</p> <p>Petitioner,</p> <p>v.</p> <p>MOTOR VEHICLE ENFORCEMENT DIVISION, UTAH STATE TAX COMMISSION,</p> <p>Respondent.</p>	<p>ORDER</p> <p>Appeal No. 07-0842</p> <p>Tax Type: Salesperson License</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE, Assistant Director, Motor Vehicle Enforcement Division

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 August 2, 2007. Petitioner is appealing the denial of his application for motor vehicle salesperson license. The license was denied by letter from Respondent dated May 30, 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

Petitioner had been working as a motor vehicle salesperson in Utah for about twenty years. When he became employed at a new dealership he filled out an application for Motor Vehicle Salesperson License and submitted it to Respondent on May 22, 2007. Question 3 on that form asks if the applicant had any felony or misdemeanor convictions during the past 10 years. Petitioner had check “yes” and listed “DUI, possession, assault, threat to life and property” Based on the convictions that Petitioner listed on the application, Respondent denied the license.

Petitioner explained he was an alcoholic and the convictions were generally related to that problem. He states that he has been sober for four years and that he was released from probation a few months early in the spring or early summer 2005. He indicates that he continues to volunteer his time to help others and offered letters of recommendation from a number of individuals that indicated he was an honest and responsible person.

From the criminal history report submitted, Petitioner did have a number of convictions. Nine incidents were listed on the criminal history. Six of these incidents occurred over a three-month period from November 2002 to January 2003. Considering all the convictions, seven of the nine incidents appeared to be DUI /disorderly conduct type issues, most during that three month period. Petitioner did appear to have one felony conviction related to a controlled substance with an arrest date in January 2003 and one involving

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issuing a bad check which also occurred in 2003. There have been no incidents indicated on Petitioner's criminal history since 2003.

DECISION AND ORDER

Upon review of the information presented, although there were a number of criminal incidents in Petitioner's past, there are none for the past four years and Petitioner was released from probation approximately two years ago.

Based on the forgoing, 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

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

DATED this _____ day of _____, 2007.

Jane Phan
Administrative Law Judge

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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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