

HESHAM F. ELGADI
d/b/a R & H Auto Sales
2327-B1 Memorial Parkway NW
Huntsville, Alabama 35801,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MISC. 95-337

FINAL ORDER

Hesham F. Elgadi ("Petitioner") applied with the Department for a motor vehicle dealer, reconditioner, rebuilder, and wholesaler license ("motor vehicle dealer's license"). The Department denied the license and the Petitioner appealed to the Administrative Law Division. A hearing was conducted on December 27, 1995. The Petitioner's representative was notified of the hearing, but failed to appear. The representative subsequently notified the Administrative Law Division that he no longer represented the Petitioner. Assistant Counsel Claude Patton represented the Department.

The issue in this case is whether the Department properly refused to issue a motor vehicle dealer's license to the Petitioner.

The Petitioner applied for a "Act 539" motor vehicle dealer's license on June 21, 1995. The Department denied the license because (1) the Petitioner did not have an established place of business in Alabama, and (2) the Petitioner made material misstatements of fact on his application. The Petitioner

subsequently appealed to the Administrative Law Division.

Code of Ala. 1975, §40-12-392 sets out various requirements to be licensed as a motor vehicle dealer in Alabama. Code of Ala. 1975, §40-12-396 provides that the Department may refuse to issue a license if (1) there is a material misstatement of fact on the application, or (2) the applicant has no established place of business in Alabama.

In this case, the Petitioner's application indicates a mailing address of Unit B-1, 2327 North Memorial Parkway, Huntsville, Alabama. The Department checked the address with the U. S. Postal Service, and the Postal Service reported that "We have checked with our address information system and with the mail carrier on the appropriate route and have verified that 2327 B-1 N. Memorial Parkway is not a valid address." See, Department Exhibit 2. In addition, the Madison County License Inspector viewed the premises at the above address and reported that "Upon arriving at this location, I found an empty office area with R H Auto on the window with Stick letters. There was no furniture or phone in the office that I could observe." See, Department Exhibit 1. That is, the location was not an established place of business as required to be licensed under §40-12-392. Further, the Department verified that the federal employer identification number (63-1147390) on the Petitioner's application was not a valid number.

Based on the above, the Petitioner clearly made material

misstatements of fact on his license application. Consequently, the Department, pursuant to §40-12-396, properly refused to issue the Petitioner a license as an Alabama motor vehicle dealer, reconditioner, rebuilder, and wholesaler.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered January 4, 1996.

BILL THOMPSON
Chief Administrative Law Judge