

NATIONAL KIDNEY FOUNDATION §  
OF ALABAMA §  
P.O. Box 342 §  
Montgomery, AL 36101, §

Taxpayer, §

v. §

STATE OF ALABAMA §  
DEPARTMENT OF REVENUE. §

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MISC. 03-245

### FINAL ORDER

The National Kidney Foundation of Alabama (“Petitioner”) applied to the Revenue Department for a motor vehicle wholesale dealer’s license. The Department denied the application. The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a). A hearing was conducted on June 18, 2003. Mimi Rush, Britt Howard, and John Holloway represented the Petitioner. Assistant Counsel John Breckenridge represented the Department.

The issue in this case is whether the Department properly denied the Petitioner’s application because the Petitioner failed to provide the Department with proof of blanket liability coverage, as required by Code of Ala. 1975, §40-12-392(e).

The Petitioner is a charitable organization that raises money to fight kidney disease by selling donated motor vehicles at auction. The motor vehicles are sold at a dealers’ only auction in Montgomery, Alabama. To participate in the auction, the Petitioner must be licensed as a motor vehicle wholesale dealer.

The Petitioner applied to the Department for a wholesale dealer’s license in November 2002. The Petitioner also submitted a certificate of liability insurance to the Department. The certificate indicated that the insurance applied to “donated autos.” The

Department denied the application because the policy did not cover all automobiles owned by the Petitioner, and thus, according to the Department, was not a blanket liability policy as required by §40-12-392(e).

By Act 2000-554, the Alabama Legislature amended §40-12-392 to require that all motor vehicle dealers, reconditioners, rebuilders, and wholesalers “shall be required to maintain blanket motor vehicle liability insurance coverage. . . .” Section 40-12-392(e).

The Department argues that a blanket policy must specify that all motor vehicles owned by the licensee are covered. It thus rejected the policy proffered by the Petitioner because it only covered “donated autos.”

The Petitioner responds that the only motor vehicles it will own are the donated vehicles that will be sold at auction. It thus contends that its policy was in substance a blanket policy because it covered all motor vehicles that it currently owns.

I reluctantly agree with the Department. “Blanket motor vehicle liability coverage” is not defined by statute. However, Reg. 810-8-5-.06(4) provides that blanket coverage must include (a) any vehicle owned by the licensee, and (2) any non-owned vehicle in the licensee’s possession.

The Petitioner’s policy does not comply with Reg. 810-8-5-.06. While the Petitioner does not currently own, operate, or have in its possession any automobiles other than those donated for auction, it may own or possess such vehicles in the future. The broad language of the statute was intended to insure that any such vehicle that may be obtained in the future would also be covered.

Section 40-12-392(e) provides in part that “the application for license shall be denied if proof of liability insurance satisfactory to the commissioner (of revenue) is not provided.”

Consequently, because the insurance offered by the Petitioner does not cover any vehicle that may be owned or in the possession of the Petitioner, the Department properly disallowed the Petitioner's application.

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

Entered July 16, 2003.