

DOS SANTOS ENTERPRISES, LLC  
d/b/a SALES AUTO BROKERS  
178 STONE HILL DRIVE  
HUNTSVILLE, AL 35811,

Petitioner,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MISC. 08-819

### FINAL ORDER

Dos Santos Enterprises, LLC (“Petitioner”) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a) concerning the Department’s refusal to renew its motor vehicle dealers license. A hearing was conducted on November 20, 2008. Alex Dos Santos represented the Petitioner. Assistant Counsel Mark Griffin represented the Department.

The Petitioner opened for business as a motor vehicle dealer in the Fall of 2007. Before opening, the Petitioner applied for and received a motor vehicle dealers license from the Department. It also submitted a \$10,000 surety bond to the Department, as required by Code of Ala. 1975, §40-12-398. The bond was issued by Old Republic Surety Company.

The Petitioner applied to the Department in September 2008 to renew its dealers license for the fiscal year October 2008 through September 2009. It also submitted a “Continuation Certificate” issued by Old Republic on September 19, 2008. That certificate continued in effect for the October 2008 through September 2009 license year the original bond previously submitted by the Petitioner.

The Department was unable to process the renewal application because (1) the

Petitioner had paid an insufficient license amount; (2) the required photographs of the Petitioner's place of business were not on photographic paper; and (3) the Department "need(s) bond rider changing the name of the LLC (dropping members)."<sup>1</sup>

There is some discrepancy concerning the facts in this case because the Department stated at the November 20 hearing that the original bond submitted by the Petitioner included the names of Alex and Frieda Dos Santos, the owners of the business. The Department's Answer states, however, that because "the individual names of the members of the LLC were not stated on the surety bond, the Department questioned whether in fact the Continuation Certificate was sufficient." In any case, the Department contacted the company that had issued the bond and requested a copy of the Petitioner's bond on file with the company.

The Department compared the original bond submitted by the Petitioner and the copy submitted by the issuing company and found certain discrepancies. Specifically, the bond submitted by the issuing company included only the name Dos Santos Enterprises, LLC, d/b/a Salex Auto Brokers. As indicated, however, the bond submitted by the Petitioner also included the names of the individual owners, Alex and Frieda Dos Santos. The company also notified the Department that the surety agent's name on the bond submitted by the Petitioner did not contain the agent's legal signature. Finally, the Department determined that the surety company seal on the bond submitted by the Petitioner had been tampered with. The Department consequently refused to renew the Petitioner's dealers license.

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<sup>1</sup> The Department had issued a notice in August 2008 indicating that a dealer "will no longer be required to list each member of the LLC" on a motor vehicle dealers bond.

As indicated, the evidence in this case is confusing and sometimes conflicting. The Department claims in its Answer that because the surety bond did not include the names of the individual owners, the Department questioned whether the bond continuation certificate submitted with the Petitioner's renewal application was sufficient. It is assumed that the surety bond being referred to was the original bond initially submitted by the Petitioner, which, as indicated, did include the names of the owners. This is confirmed by the Department's October 2, 2008 memorandum, which rejected the renewal application for the 08/09 license year and directed the Petitioner to submit a bond rider *dropping* the names of the owners from the bond.

Alex Dos Santos testified at the November 20 hearing that after he was notified that his bond should not include the names of the owners (see, October 2, 2008 memorandum from Department), he directed an employee to go to the issuing company and have the names removed. This may explain why the bond on file with the issuing company does not include the names of the owners.

In any case, I agree with Alex Dos Santos that he would have no reason to alter the bond issued by the issuing company. Alabama law only requires that a motor vehicle dealer must provide the Department with a \$10,000 bond issued by a surety licensed to do business in Alabama. It is undisputed that Old Republic Surety issued a valid \$10,000 bond with the Petitioner as principle and Old Republic as surety. There is thus a valid original bond, a copy of which was submitted to the Department by the Peck-Glasgow Agency in Hartselle, Alabama, as agent for Old Republic. Further, the Peck-Glasgow Agency also issued a continuation certificate on September 19, 2008 continuing in force and effect for the 08/09 license year the original valid bond issued by Old Republic for the

prior license year.

Under the circumstances, and despite the confusion caused by the two dissimilar bonds, the Petitioner has complied with the bonding provisions in §40-12-398. The Department should thus issue the Petitioner a license for the 08/09 fiscal year as soon as the Petitioner remits the correct license amount and provides the Department with a photograph of its place of business on photographic paper.

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

Entered December 4, 2008.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: John J. Breckenridge, Esq.  
C. Alex Dos Santos  
Janet Stathopoulos