

HEARTS GROUP, LLC  
902 EAST NORTH STREET  
TALLADEGA, AL 35160,

Petitioner,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MISC. 12-541

### **FINAL ORDER**

Hearts Group, LLC (“Petitioner”) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a) concerning the Department’s denial of a motor vehicle dealer’s license requested by the Petitioner. A hearing was conducted on July 19, 2012. The Petitioner’s owner, Charles Obi, attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The Petitioner applied to the Department for a motor vehicle dealer’s license pursuant to Code of Ala. 1975, §40-12-390, et seq. The Petitioner’s business location listed on the application was 902 North Street East in Talladega, Alabama.

A Department examiner visited the above address to determine if the location complied with the requirements of Code of Ala. 1975, §40-12-392. That statute requires that a motor vehicle dealer must conduct business at a permanent location; that the location must have a space to display vehicles for sale and have an appropriate sign; and that the location must be suitable for the licensee to in good faith conduct business and maintain business records.

The examiner observed that the building at 902 North Street East in Talladega had a sign on the front indicating that “Hearts Group LLC, d/b/a Hearts Cars,” was located on the site. A table and some chairs were in the building, and the sign at the location also had a

telephone number for the business. The examiner dialed the number, and the telephone in the building did not ring. Rather, the call was forwarded to a voice mail system. The examiner also observed that there was no one at the building, and that there otherwise was no activity at the location.

The Petitioner had applied to the Department for a motor vehicle dealer's license on three previous occasions. In each of those cases, the Department had investigated and denied the application because the locations on the applications did not satisfy the requirements of §40-12-392.

The Petitioner had also used the services of Rizwan Poonawalla when it first applied for a dealer's license. In two prior motor vehicle dealer license appeals decided by the Administrative Law Division, Poonawalla was identified as operating a business, Retail Auto Broker, that promised to help applicants obtain an Alabama motor vehicle dealer license, which would allow them to obtain unlimited dealer tags. The Division affirmed the Department's refusal to issue dealer licenses to the applicants in the two cases because there was no evidence that the applicants intended in good faith to regularly conduct business at the locations. "Consequently, . . . the license applications were correctly denied because there is no evidence that the applicants in good faith intended to regularly conduct business at the locations in Alabama." *Elite Auto LLC and Interstate Auto Wholesalers, LLC v. State of Alabama*, Docket Nos. MISC. 11-356 and MISC. 11-357 (Admin. Law Div. 7/25/2011) at 6. See also, *Metro Auto Source, Inc. v. State of Alabama*, Docket No. MISC. 11-331 (Admin. Law Div. 7/25/2011).

Based on the Department examiner's inspection of the location, and the Petitioner's prior involvement with Poonawalla, the Department determined that the Petitioner's 902

North Street East location was also unsuitable, and consequently denied the Petitioner's application. The Petitioner appealed.

The Petitioner explained at the July 19 hearing that he is in the business of buying damaged vehicles, repairing them, and then selling them to buyers in Africa. He claims he was only briefly involved with Poonawalla. He also testified that he in good faith intends to operate out of the 902 North Street East location. He is in a business relationship with a local auto repair shop owner in Talladega, and that while he will be at the Talladega location on occasion, his local business partner will regularly conduct business there.

I understand the Department's concern about the improper use of dealer tags. The Petitioner in this case is a licensed Alabama wholesaler, and uses Alabama dealer tags when transporting vehicles to the Port of Baltimore, Maryland for shipment to Africa. The Department indicated that the State of Maryland has contacted it concerning the dealer tags "being used inappropriately" in Maryland. See, Department's Answer at 2. But if my understanding is correct, a licensed Alabama wholesaler can use an Alabama dealer tag when transporting a vehicle to a purchaser, which, I assume, would include transporting a vehicle into another state for subsequent shipment outside of the country.

The Petitioner leases the building at 902 North Street East in Talladega. The building has operating utilities, including a telephone, and also a sign identifying the location as a motor vehicle dealership. The Department is concerned that no business has been conducted at the location, but the Petitioner's owner explained that he could not conduct business at the location without first obtaining a license from the Department.

The evidence establishes that the Petitioner has met the §40-12-392 requirements for obtaining an Alabama motor vehicle dealer's license. And unlike in the two cases cited

above, there is evidence in this case that the Petitioner in good faith intends to conduct business at the location. The fact that the Petitioner's owner used the services of Rizwan Poonawalla when he first applied for a dealer's license also should not, by itself, prevent the Petitioner from now obtaining a license. There is also no evidence that the Petitioner has improperly used Alabama dealer tags. If there is evidence that the Petitioner or the Petitioner's owner has improperly used Alabama dealer tags, or that the Petitioner has otherwise not complied with Alabama law, the Department should apply for a rehearing and so inform the Administrative Law Division. Otherwise, the Department should issue the Petitioner a motor vehicle dealer's license in due course. The Department may, of course, also monitor the Petitioner to insure that it is actively conducting business in good faith at the Talladega location.

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

Entered August 6, 2012.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: Keith Maddox, Esq.  
Charles Obi  
Janet Stathopoulos  
Randy Winkler