

KARS INTERNATIONAL, INC.
3211 South Broad Street
Scottsboro, AL 35769,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MV. 00-796

FINAL ORDER

Kars International, Inc. (APetitioner@) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-8(a) concerning the Department's proposed revocation of its designated agent status. A hearing was conducted on March 27, 2001. William Eric Colley represented the Petitioner. Assistant Counsel John Breckenridge represented the Department.

The issue in this case is whether the Petitioner's designated agent status should be revoked.

The Petitioner is a licensed used motor vehicle dealer in Alabama, and, as such, is a designated agent for purposes of submitting title applications to the Department. Code of Ala. 1975, § 32-8-34.

On October 30, 1996, the Petitioner purchased a 1992 Chevrolet truck from State Farm Insurance at a salvage disposal sale in Georgia. The sales agreement indicated that the vehicle was sold for Aparts only.@ No certificate of title was involved in the sale.

The Petitioner sold the vehicle to Cooks Auto Parts in Michigan in January 1997. The bill of sale did not indicate that the vehicle had previously been sold for parts only. Cooks Auto Parts applied to the State of Michigan for a title under bond for the vehicle. On March 13, 1997, the State of Michigan issued a certificate of title under bond for the vehicle. Cooks Auto Parts resold the vehicle to the Petitioner on March 26, 1997, and assigned the Michigan certificate of title to the Petitioner at that time.

On April 1, 1997, the Petitioner sold the vehicle to Steven Cleaver. The Petitioner submitted Cleaver's application for title to the Department, with the assigned Michigan title. The Department processed the application, and issued Cleaver a title for the vehicle.

A Revenue Department investigation later determined that Cleaver is the brother-in-law of Perry Guffey, who owns the Petitioner. Cleaver was subsequently arrested and convicted of night hunting in Jackson County, Alabama. As a result, the subject vehicle was condemned and sold at auction by the Jackson County Sheriff. The Department's investigation report indicates that before the sale, Guffey advised the Jackson County Sheriff that the vehicle could not be taken back to Georgia because it had been purchased for parts only, and Georgia does not issue titles for parts only vehicles.

Based on the investigation, the Department asked the Petitioner to explain if it had deliberately and knowingly circumvented Alabama law by first obtaining a clear title for the vehicle in the State of Michigan. The Petitioner's response was unsatisfactory. Consequently, the Department notified the Petitioner that it intended to revoke its status as a designated agent. The Petitioner appealed.

As a designated agent of the Department, the Petitioner was required to faithfully comply with Alabama's motor vehicle titling laws. Alabama law specifies that an Alabama certificate of title shall not be issued for any motor vehicle which is sold for **Aparts only.**@

Code of Ala. 1975, § 32-8-87(j). The vehicle in question was sold for parts only, and thus cannot be titled in Alabama.

As a designated agent of the Department, the Petitioner was or should have been aware of the above provision. The evidence indicates, however, that the Petitioner intentionally attempted to circumvent Alabama law by selling the vehicle to a Michigan dealer, having that dealer obtain a clean Michigan title for the vehicle, and then repurchasing the vehicle with a clean title. The Petitioner's owner, Guffey, subsequently sold the vehicle to his brother-in-law, who obtained an Alabama title for the vehicle. Guffey clearly knew, or should have known, that the vehicle had been sold for parts only, and could not be titled in Alabama.

Code of Ala. 1975, § 32-8-3(b)(4) authorizes the Department to revoke the designated agent status of a dealer that fails to faithfully perform his duties as a designated agent. The Petitioner in this case knowingly attempted to circumvent the Alabama statute that prohibits the issuance of a title for any vehicle previously sold for parts only. Consequently, the Petitioner's status as a designated agent was properly revoked by the Department.

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

Entered May 24, 2001.