

SAM'S AUTO SALES
c/o L. A. Marsal, Esq.
P.O. Box 1746
Mobile, AL 36633,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MV. 01-112

FINAL ORDER

Sam Wooldridge (Petitioner) appealed to the Administrative Law Division pursuant to Code of Ala. 1975, § 40-2A-8(a) concerning the Department's proposed revocation of the designated agent status of Sam's Auto Sales. A hearing was conducted on April 20, 2001 in Mobile, Alabama. Tony Marsal represented the Petitioner. Assistant Counsel Duncan Crow represented the Department.

The issue in this case is whether Sam's Auto Sales' designated agent status should be revoked.

In March 2000, John Tomlinson, the owner of Southern Wholesale, sold a 1995 Nissan to James and Heather Robbins. Tomlinson's wife had owned the vehicle, which had an outstanding lien in the name of Chase Manhattan Bank. Chase Manhattan thus had possession of the certificate of title to the vehicle.

Tomlinson had just opened Southern Wholesale, and was not yet authorized as a designated agent of the Department. Consequently, Tomlinson asked the Petitioner if he would submit the Robbins' title application to the Department. The Petitioner owns Sam's Auto Sales, and was Tomlinson's former employer. The Petitioner agreed.

The title clerk at Sam's Auto Sales filed out a title application for the Robbins, which listed Pen-Air Federal Credit Union as first lienholder. The Petitioner signed the application as designated agent on March

10, 2000. However, the title was not submitted to the Department because Tomlinson had not provided the Petitioner with the outstanding title for the vehicle.

When Tomlinson failed to provide a title for the vehicle in two or three weeks, the Petitioner inquired with him concerning the title. Tomlinson explained that he had paid Chase Manhattan for the vehicle, but that Chase Manhattan had lost the title and was applying for a replacement. After several more weeks, the Petitioner again inquired with Tomlinson concerning the title. However, Tomlinson had closed Southern Wholesale by that time, and refused to return the Petitioner's telephone calls. The Petitioner claims that Tomlinson is now working somewhere in the New Orleans, Louisiana area.

In October 2000, Pen-Air notified the Robbins that Chase Manhattan still had an outstanding lien on the vehicle, and that the Robbins were in danger of having the vehicle repossessed. The Robbins contacted the Department concerning the problem in November 2000. The Department in turn contacted the Petitioner. The Petitioner responded that he had been unable to contact Tomlinson and obtain the title for the vehicle.

The Department notified the Petitioner in late December 2000 that it intended to revoke his designated agent status because he failed to properly submit the Robbins' title application to the Department. The Petitioner appealed.

Pen-Air subsequently paid off Chase Manhattan and obtained the outstanding title for the vehicle. Pen-Air then applied to the Department for a title for the Robbins on April 18, 2001. The Department processed the application, and issued the Robbins a title on May 10, 2001.

It is the duty of a designated agent of the Department to insure as best as possible that the

ownership of and security interest in a motor vehicle is properly recorded with the Department. The Petitioner failed to properly perform that duty concerning the vehicle in issue.

The Petitioner did not, however, intentionally and knowingly attempt to circumvent the motor vehicle titling statutes. The Petitioner was also subsequently relieved of his obligation to properly title the vehicle when Pen-Air, another designated agent, assumed the responsibility of getting the vehicle properly titled in the Robbins= name. The Department also has had no prior problems with the Petitioner concerning his duties as a designated agent. Under the circumstances, the Petitioner=s designated agent status should not be revoked. He is on warning, however, that any subsequent failure to properly perform his duties as a designated agent may lead to the revocation of his designated agent status. If the Petitioner has any questions concerning his duties as a designated agent, he should contact the Department=s Motor Vehicle Division for clarification.

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

Entered May 23, 2001.