

HAWKINS USED AUTO &
TRUCK PARTS
648 Hawkins Lane
Greenville, AL 36037,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NOS. MV. 00-255
MV. 00-359

FINAL ORDER

These appeals involve the Department's proposed revocation of the designated agent status of Hawkins Used Auto & Truck Parts. Mark Hawkins (APetitioner@), the owner of Hawkins Used Auto & Truck Parts, appealed to the Administrative Law Division pursuant to Code of Ala. 1975, ' 40-2A-8(a). A hearing was conducted on September 13, 2000. The Petitioner appeared at the hearing. Assistant Counsels John Breckenridge and Keith Maddox represented the Department. William Coon (ACoon@) also attended the hearing.

The issue in this case is whether the Department should revoke the Petitioner's designated agent status as authorized at Code of Ala. 1975, ' 32-8-3(b)(4).

The Department claims the Petitioner's status as a designated agent of the Department should be revoked because he failed to properly perform his duties as a designated agent relating to two vehicles, a 1986 Ford truck, VIN 1FTEF14N4GLA06103, and a 1995 Pontiac Grand Am, VIN 1G2WJ52M4SF231301.

The 1986 Ford.

The Petitioner sold the 1986 Ford in question to Coon on February 2, 2000. The Petitioner gave Coon a permit copy of the title application, which Coon used to obtain a tag for the vehicle. However, when Coon failed to receive a title in due course, he inquired

with the Petitioner concerning the title. The Petitioner responded that he had not yet received the outstanding title from the auction where he had purchased the vehicle.

The Petitioner subsequently received the outstanding title and sent it directly to Coon. The Petitioner testified that he did not send the title along with a title application directly to the Department, as required by law, because a title clerk in Butler County told him they would no longer process his title work.

Coon took the outstanding title to the Butler County Courthouse to get a title. Licensing officials at the Courthouse refused to give Coon a title because the chain of title on the outstanding title was incomplete. Coon contacted the Revenue Department. The Department investigated and determined that the Petitioner had failed to faithfully perform his duties as a designated agent. The Department thus notified the Petitioner that it intended to revoke his status as a designated agent. The Petitioner appealed.

The 1995 Pontiac.

The Petitioner sold the 1995 Pontiac in issue to Carolyn Bowie in September 1999. The Petitioner submitted a title application for the vehicle to the Department on December 28, 1999. The Department denied the application because the Petitioner failed to also submit the outstanding certificate of title for the vehicle.

Bowie complained to the Department by letter dated January 18, 2000 that she had not received a title for the vehicle. The Department wrote the Petitioner on January 21, 2000 inquiring about the title. The Petitioner responded that he had lost the outstanding title for the vehicle, but would apply for a replacement title as soon as possible. The Petitioner failed to apply for a replacement title in due course. The Department

consequently notified the Petitioner a second time that it intended to revoke his status as a designated agent. The Petitioner again appealed.

All motor vehicle dealers in Alabama qualify as a designated agent of the Department for the purpose of processing title applications. Code of Ala. 1975, '32-8-34(b). A designated agent is required to submit a title application for a vehicle to the Department by the close of the next business day. Code of Ala. 1975, '32-8-35(g). The Petitioner clearly failed to comply with that statute concerning both vehicles in question. The Petitioner never submitted a title application for the 1986 Ford, and did not even have the outstanding title when he sold the vehicle to Coon. The Petitioner submitted the application for the 1986 Pontiac, without the outstanding title, approximately three months after the sale.

Further, both the first and second reassignments on the back of the title to the 1986 Ford are undated, and thus incomplete. The Petitioner also improperly signed on behalf of Ocean Leasing as Abuyer.®

From listening to the Petitioner's testimony at the September 13 hearing, it is clear that he attempted in good faith to obtain titles for the subject vehicles. It is also obvious, however, that the Petitioner failed to faithfully perform his duties as a designated agent, both by failing to apply for titles by the close of the next business day, and also by failing to properly complete the assignment section on the back of the outstanding title for the 1986 Ford. Under the circumstances, I have no choice but to affirm the Department's revocation of the Petitioner's status as a designated agent of the Department.

As discussed at the September 13 hearing, the Petitioner may in due course reapply for his designated agent status if he can demonstrate to the Department's Motor Vehicle Division that he is familiar with and will faithfully perform the duties of a designated agent.

Concerning title to the 1986 Ford, the Department agreed at the September 13 hearing that Coon could apply to the Department for a title under bond for the vehicle. The Department will, if it has not already done so, process the application and issue Coon a title under bond for the vehicle.

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

Entered September 28, 2000.

BILL THOMPSON
Chief Administrative Law Judge