

PEKOLO, INC.  
803 OAKWOOD AVENUE  
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. MV. 06-314

### FINAL ORDER

The Revenue Department revoked the designated agent status of Pekolo, Inc. ("Petitioner"). The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-8(a). A hearing was conducted on August 31, 2006. The Petitioner's representative was notified of the hearing by certified mail, but failed to appear. Assistant Counsel John Breckenridge represented the Department.

The issue in this case is whether the Department properly revoked the Petitioner's status as a designated agent of the Department.

The Petitioner is a licensed motor vehicle dealer in Huntsville, Alabama. In May 2005, Aaron Thomas Lanier complained to the Department that he had purchased a 1991 Honda Accord from the Petitioner in May 2004, but had still not received a title for the vehicle. The Department searched its records and found that no title application had been received. The Department contacted the Petitioner on May 18, 2005 and asked the Petitioner to explain why the title application had not been submitted. The letter stated that if no response was received within ten days, the Petitioner's designated agent status would be revoked.

The Petitioner failed to respond to the May 18 letter. The Department consequently notified the Petitioner on June 15, 2005 that it intended to revoke the Petitioner's

designated agent status.

On June 17, 2005, the Department received a fax in which the Petitioner explained that it was trying to obtain a title for the vehicle. The Petitioner notified the Department again on June 30, 2005 that it was trying to obtain a title.

On January 12, 2006, Aaron Lanier again complained to the Department that he still did not have a title for his vehicle. The Department notified the Petitioner on February 27, 2006 that its designated agent status was being revoked. The Petitioner appealed.

Code of Ala. 1975, §32-8-35(g) specifies that a designated agent of the Department must submit all title applications to the Department by the close of the next business day. The Petitioner sold the vehicle in question to Aaron Lanier in May 2005. It had apparently purchased the vehicle from Mike's Wrecker Service in Huntsville, Alabama. The Petitioner apparently failed, however, to obtain a title for the vehicle from the seller. It nonetheless subsequently sold the vehicle to Lanier without a title.

The Department is authorized to revoke a motor vehicle dealer's designated agent status if the dealer fails to faithfully perform his duties as a designated agent. Code of Ala. 1975, §32-8-3(a)(4). The Petitioner clearly failed to faithfully perform its duties as a designated agent when it (1) purchased the subject vehicle without a title; (2) sold the vehicle without a title; and (3) failed to timely respond to the Department's inquiries concerning the title. In an attempt to obtain a title, the Petitioner also falsely claimed that the vehicle was an abandoned motor vehicle. The above improper actions are clearly sufficient to warrant revocation of the Petitioner's designated agent status. The Department's revocation of the Petitioner's designated agent status is affirmed.

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

Entered September 5, 2006.

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BILL THOMPSON  
Chief Administrative Law Judge

bt:dr

cc: John J. Breckenridge, Esq.  
Lucette Azubika  
Mike Gamble