

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

**GEORGIA STATE BOARD OF
REGISTRATION OF USED MOTOR
VEHICLE DEALERS AND USED
MOTOR VEHICLE PARTS DEALERS,
Petitioner,**

v.

**HAYSSAM F. HAMADE d/b/a UNITED
MOTOR CARS, INC.,
License No. UCAR037731
Respondent.**

**Docket No. OSAH-PLBD-PARTS-1705373-
67-Woodard**



**FILED
OSAH**

OCT 25 2016

Kevin Westray

Kevin Westray, Legal Assistant

INITIAL DECISION

I. INTRODUCTION

Petitioner, the Georgia State Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers, pursued disciplinary action against Respondent, Hayssam F. Hamade, the owner and operator of United Motor Cars, Inc. Petitioner seeks to revoke Respondent's license number UCAR037731 ("License") which allows him to operate as a used motor vehicle dealer in the State of Georgia. A hearing for the matter was held before the undersigned administrative law judge at the Georgia Office of State Administrative Hearings on the morning of October 4, 2016. Attorney Bryon Thernes represented Petitioner. Mary Owens and Robert Worle testified on behalf of Petitioner. Neither Respondent nor any counsel for Respondent attended the hearing. For the reasons described below, Petitioner's decision to revoke Respondent's License is hereby **AFFIRMED**.

II. FINDINGS OF FACT

1.

At all times relevant to this decision, Respondent was licensed to operate as a used motor vehicle dealer in the State of Georgia. On September 19, 2016, Respondent was mailed both a Notice of Hearing and a statement of Matters Asserted and Statutes and Rules Involved (“Statement of Matters Asserted”) detailing Petitioner’s decision to seek the revocation of Respondent’s License. The Statement of Matters Asserted alleged three reasons justifying this disciplinary action: 1) Respondent failed and refused to apply for a title in the retail purchaser’s name within 30 calendar days after the date of sale; 2) Respondent issued multiple temporary operating permits after the date of vehicle sale, in violation of the law; and 3) Respondent knowingly sold vehicles to purchasers who would register the vehicles in covered emissions counties without first obtaining a passing emissions inspection.

2.

On September 29, 2016, Petitioner filed a Motion to Amend Matters Asserted and Statutes and Rules Involved (“Motion to Amend”). The Motion to Amend added a fourth reason to justify the revocation of Petitioner’s License: that Respondent had failed to maintain an established place of business as required by O.C.G.A. § 43-47-2(3) and Board Rule 681-6-.01. At the hearing on this matter, the undersigned granted Petitioner’s Motion to Amend.

3.

Mary Owens, an Inspector for Georgia’s Secretary of State, regularly makes inspections to ensure that licensed car dealers are maintaining an established place of business. Around noon on Friday, September 30, 2016, she visited the registered location of United Motor Cars, Inc. Ms. Owens found the site to be clearly vacated. It lacked a sign, motor vehicles, cabinets, desks,

and any signs of recent business activity. Although the location was previously operated as a used car dealership, Ms. Owens did not see any vehicles on the premises. In Ms. Owens' opinion, the location did not meet the requirements for an established place of business. (Exhibit A-1; Testimony of Mary Owens).

4.

Robert Worle, a Program Manager for the Georgia Department of Revenue, also testified. Mr. Worle reviewed documents and a report he had produced in the normal course of business demonstrating that Respondent had failed to apply on multiple occasions for a title in the retail purchaser's name within 30 calendar days after the date of sale of a vehicle. Additionally, Mr. Worle demonstrated that Respondent had filed for multiple Temporary Ownership Permits for the same vehicle transaction. By law, Respondent could only file for one Temporary Ownership Permit per transaction, but Respondent was able to file for more by omitting a number from a vehicle's correct Vehicle Identification Number in the application. (Exhibit B; Testimony of Robert Worle).

III. CONCLUSIONS OF LAW

1.

As this matter concerns the termination of Respondent's Used Motor Vehicle Dealer License, the burden of proof is on Petitioner. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

Notice was sent by certified mail to the last business address on file for Respondent and was additionally attempted by certified mail at Hamade's residential address. Therefore, it was held at the hearing that service of process was perfected under statute. Ga. Comp. R. & Regs.

295-6-.01. Respondent failed to appear at the call of the case at the scheduled hearing without good cause being shown for non-appearance and, accordingly, is in default. O.C.G.A. § 50-13-13(a)(4); Ga. Comp. R. & Regs. 616-1-2-.30.

3.

The Petitioner has the authority to revoke a licensee's used motor vehicle dealer license if a licensee has "[k]nowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of a business or profession licensed under this title...or practiced fraud or deceit or intentionally made any false statement in obtaining a license to practice..." O.C.G.A. § 43-1-

19(a)(2).

4.

The Petitioner may also revoke a used motor vehicle dealer license when a licensee has "[e]ngaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice materially affects the fitness of the licensee or applicant to practice a business or profession licensed under this title..." O.C.G.A. § 43-1-19(a)(6).

5.


Finally, the Petitioner may revoke a used motor vehicle dealer license if a licensee has "[v]iolated a statute, law, or any rule or regulation of this state...when the licensee or applicant knows or should know that such action is violative of such statute, law, or rule..." O.C.G.A. § 43-1-19(a)(8).

6.

¹ The evidence presented by Petitioner supports three of the four allegations, including that: (1) Respondent failed to apply for a title in the retail purchaser's name within 30 calendar days after the date of sale, (2) issued multiple temporary operating permits after the date of vehicle sale, and (3) failed to maintain an established place of business. Accordingly, Petitioner met its burden of proof and demonstrated, by a preponderance of the evidence, that its decision to revoke Respondent's License was proper. The administrative law judge did not require Petitioner to present evidence regarding the fourth allegation that Respondent knowingly sold vehicles to purchases who would register the vehicles in covered emissions counties without first obtaining a passing emissions inspection, as the other three allegations are supported by sufficient evidence and support the disciplinary action requested by Petitioner in this matter.

IV. DECISION

Accordingly, and based upon on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that Petitioner's decision to revoke Respondent's License is **AFFIRMED**. **IT IS SO ORDERED**, this 25th day of October, 2016.


PATRICK WOODARD
Administrative Law Judge