**JURISDICTION:** **OKLAHOMA TAX COMMISSION - DECISION**
**CITE:** **2003-06-10-05 / NOT PRECEDENTIAL**
**ID:** **SJ030046**
**DATE:** **06-10-03**
**DISPOSITION:** **REVOCATION DENIED**
**TAX TYPE:** **MOTOR VEHICLE TITLE**
**APPEAL:** **NO APPEAL TAKEN**

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

NOW on this 7th day of May, 2003, the above styled and numbered cause comes on for decision pursuant to a Notice to Show Cause Hearing held on April 10, 2003. Respondents are represented by Attorneys at Law. Applicant is represented by its Vice President. The Motor Vehicle Division of the Tax Commission (hereinafter "Division") is represented by AN Assistant General Counsel, General Counsel's Office of the Tax Commission.

Upon review of the file and records, including the record of the hearing and the exhibits received into evidence, the undersigned finds:

## FINDINGS OF FACT

(1) That on or about April 16, 2002, Certificate of Title No. AAAAAAAAAAAAA, referred to as the "A" title, on a 2001 Honda, Vehicle Identification No. XXXXXXXXXXXXXXXXX, was issued to MS. A AND MR. B listing APPLICANT as lien holder. The type of title was a transfer title issued upon surrender of the "original" title, bearing the signature of MR. C (co-owner), and listing APPLICANT and MR. C as lien holders. A lien release from MR. C and a Family Affidavit for the Transfer of Vehicle/Vessel/Outboard Motor Ownership Without the Assessment of Excise Tax were also presented.

(2) That on or about May 16, 2002, Certificate of Title No. BBBBBBBBBBBBB, referred to as the "B" title, on a 2001 Honda, Vehicle Identification No. XXXXXXXXXXXXXXXXX, was issued to RESPONDENTS listing XYZ Credit Company as lien holder. The type of title was a transfer title issued upon surrender of the "A" title, showing assignment of the vehicle to THE CAR DEALERSHIP from MR. B (co-owner), and reassignment to RESPONDENTS from THE CAR DEALERSHIP. A lien release from APPLICANT was also presented.

(3) That at the hearing Applicant's representative, testified as follows:

(a) That a loan officer at the bank was advised by MR. B that a payoff was to be received. The lien release was signed by the loan officer and dated April 25, 2002.

(b) That someone from the bank faxed a copy of the lien release to THE CAR DEALERSHIP and the lien release was then notarized at THE CAR DEALERSHIP as a true copy.

(c) That he does not believe the document was properly notarized as a true and exact copy since it was a faxed copy and his understanding of the law in Oklahoma is that only the actual page 4 (blue copy) of the lien form or a certified copy of the front page of the lien form can constitute a lien release.

(d) That he believed the copy was faxed by the bank without any fear of it being construed or accepted as a lien release.

(f) That the loan is in arrears and unsecured and it was never intended to be so.

(4) That upon cross-examination, APPLICANT'S REPRESENTATIVE admitted that the title of the vehicle is currently traceable to the proper owner.

(5) That at the hearing, THE Supervisor-Titles (Lien/Corrections), Motor Vehicle Division, testified on behalf of the Division, that in her opinion, the issuance of the "B" title was improper for the reason that a photocopy of the No. 4 was accepted and by policy of the Tax Commission and written instructions to the tag agents, a photocopy is unacceptable. She further testified that the only acceptable documentation is the original No. 4, a duplicate typed No. 4, a certified copy of the No. 1, or a letter release statement.

(6) That upon cross-examination, THE SUPERVISOR admitted that statute takes precedence over policy and that Section 1110(B)(2) of Title 47 of the Oklahoma Statutes provides in pertinent part, "The Commission shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the vehicle, and contains the signature of the secured party." She further admitted that the executed lien release form No. 4 presented with the transfer of title in question contained all information required by statute.

## CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission, 47 O.S. 1991, § 1106 and 68 O.S. 1991, § 212; that the Oklahoma Vehicle and Registration Act, 47 O.S. 1991, § 1101 et seq., was not enacted for the purpose of determining the ownership of a vehicle for which a license is to be obtained, Lepley v. State of Oklahoma, 69 Ok. Cr. 379, 103 P.2d 568 (1940); that the revocation of a certificate of title is not a positive determination of ownership of title to the vehicle, Id.; that the Tax Commission is merely a custodian of the records required to file and index certificates of title so that "at all times it is possible to trace title to the vehicle designated," 47 O.S. 1991, § 1107; that the Tax Commission upon determination that an Applicant is not entitled to register and title a vehicle may at any time refuse to issue or revoke the registration and certificate of title, 47 O.S. 1991, § 1106; that "[t]he Tax Commission shall not require any particular form for the release of a security interest" and "shall accept a release of a security interest in any form that identifies the debtor, the secured party, and the vehicle, and contains the signature of the secured party", 47 O.S. 2001, § 1110(B)(2); that administrative construction of a statutory provision cannot override plain statutory language, Neer v. Oklahoma Tax Commission, 1999 OK 41, 982 P.2d 1071 (Okla. 1999); and that in this cause, based on the facts presented, the "B" title should not be revoked.

## DISPOSITION

THEREFORE, IT IS DETERMINED that the Registration and Certificate of Title No. BBBBBBBBBBBBB, issued to RESPONDENTS on a 2001 Honda, Vehicle Identification No. XXXXXXXXXXXXXXXXX, not be revoked.

**OKLAHOMA TAX COMMISSION**

CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are not generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.