JURISDICTION:	OKLAHOMA TAX COMMISSION
CITE:	2005-01-06-20
ID:	SJ-04-017-K
DATE:	JANUARY 6, 2005
DISPOSITION:	REVOKED
TAX TYPE:	TITLE REGISTRATION
APPEAL:	NONE TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A request dated August 4, 2004, for revocation of Title No. #123C, a transfer title, issued to Respondent on a 2000 Honda, Vehicle Identification No. VIN123ABC1, was filed by Complainant with the Division. The complaint was forwarded to the Office of the Administrative Law Judges for further proceedings consistent with the Oklahoma Vehicle License and Registration Act[1], the Uniform Tax Procedure Code[2] and the Rules of Practice and Procedure Before the Oklahoma Tax Commission[3].

On October 8, 2004, a *Notice to Show Cause Why the Application Should Not Be Refused* was forwarded to the parties. The *Notice* scheduled the show cause proceedings for hearing on October 28, 2004.

Neither Complainant nor Respondent were present at the hearing held on October 28, 2004. The Division's Exhibits A through E were identified and admitted into evidence.

FINDINGS OF FACT

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

1. That on or about July 10, 2000, Certificate of Title No. ORIGINAL TITLE, was issued to ORIGINAL OWNER, Jay, Oklahoma, listing XYZ BANK as lien holder. The type of title was an "original" title issued upon presentment of a Certificate of Origin for a Vehicle, a Lien Entry Form, and an Application for Oklahoma Certificate of Title.[4]

2. That on or about June 17, 2002, Certificate of Title No. TITLE A, was issued to ORIGINAL OWNER, Muskogee, Oklahoma. The type of title was a "lien release" title issued upon surrender of the "original" title and a lien release from XYZ BANK.[5]

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[1] 47 O.S. 2001, § 1102 et seq.

[2] 68 O.S. 2001, § 201 et seq.

[3] Rules 710:1-5-20 through 710:1-5-47 of the Oklahoma Administrative Code (*"OAC"*).

[4] Division's Exhibit A.

[5] Division's Exhibit B.

3. That on or about April 22, 2004, Certificate of Title No. TITLE B, was issued to BUYER, Stillwater, Oklahoma. The type of title was a "transfer" title issued upon surrender of the "A" title which was assigned to CAR DEALER of Stillwater by ORIGINAL OWNER and reassigned to BUYER by CAR DEALER of Stillwater, an odometer disclosure statement, and a copy of a sales contract dated March 27, 2004, indicating Complainant purchased the vehicle at issue from Respondent.[6]

4. That on or about April 28, 2004, Certificate of Title No TITLE C, was issued to CAR DEALER of Stillwater, Stillwater, Oklahoma. The type of title was a "transfer" title issued when Respondent presented an *Affidavit for Transfer When Assigned Title is Lost* for a 1991 Oldsmobile, an odometer disclosure statement, and a copy of a sales contract dated March 27, 2004, listing the 1991 Oldsmobile as a trade-in when the vehicle at issue was purchased. The *Affidavit* erroneously listed the vehicle identification number of the vehicle at issue rather than the 1991 Oldsmobile for which a title was being requested.[7]

5. The revocation request filed by Complainant recites that "This title was issued in error due to Agent No. XXX error." The Division's memorandum dated October 4, 2004, which transmitted the revocation request to the Office of the Administrative Law Judges, states that "Agent XXX should not have issued the transfer to the dealership, as the dealer did not supply proof of purchase from the legal owner on file."[8]

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law:

1. That jurisdiction over the parties and subject matter of this proceeding is vested in the Tax Commission. 47 O.S. 2001, § 1106 and 68 O.S. 2001, § 212.

2 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).

3. That the revocation of a certificate of title is not a positive determination of ownership of title to the vehicle. ***Id.***

4. 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.

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[6] Division's Exhibit C.

[7] Division's Exhibit D.

[8] Division's Exhibit E.

5. 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.

6. That a *"Transfer Affidavit"* is acceptable only when accompanied by supporting documentation, *OAC*, Rule 710:60-5-94(b)[9]; and that in this cause, the sales contract dated March 27, 2004 does not supply proof of the purchase of the vehicle at issue from the legal owner of record, but rather shows the purchase of the vehicle at issue from Respondent and the trade-in of the vehicle for which title was requested. The *Affidavit* simply misidentifies, by vehicle identification number, the vehicle for which title was requested.

7. That based on the facts presented, the "C" title was erroneously issued.

DISPOSITION

Therefore, it is ORDERED that Registration and Certificate of Title No. TITLE C issued to Respondent, CAR DEALER, on the 2000 Honda, Vehicle Identification No. VIN123ABC1, be revoked.

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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.

[9] This rule provides:

> **Supporting documentation required.** The Transfer Affidavit (OTC Form 777) is acceptable when accompanied by supporting documentation, such as a notarized Bill of Sale, canceled check, Sales Contract or notarized statement of a witness to the transaction.