

JURISDICTION: OKLAHOMA TAX COMMISSION  
CITE: 2006-01-24-06  
ID: SJ-05-024-K  
DATE: JANUARY 24, 2006  
DISPOSITION: SUSTAINED  
TAX TYPE: TITLE REVOCATION  
APPEAL: NONE TAKEN

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent[s], TRUCKING COMPANY, appears pro se. Complainant, LEASING COMPANY is represented by REPRESENTATIVE. The Motor Vehicle Division of the Tax Commission (hereinafter "Division") is represented by the General Counsel's Office of the Tax Commission, OTC ATTORNEY, Assistant General Counsel.

#### STATEMENT OF THE CASE

A request for revocation of Certificate of Title No. 123A, a transfer title, issued to Respondent on a 2003 CPS Dump Trailer, Vehicle Identification No. 123XYZ, was filed by Complainant with the Division on October 11, 2005. The Division forwarded its file in this cause to the Office of the Administrative Law Judges (ALJ's Office) on October 21, 2005. The case was docketed as Case No. SJ-05-014-K and assigned to ALJ, Administrative Law Judge.<sup>1</sup>

*A Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* was served on Respondent and Complainant in accordance with 47 O.S. 2001, § 1106. The Show Cause Hearing was held on November 21, 2005. Neither Respondent nor Complainant appeared at the show cause hearing. WITNESS, Administrator of the Title Section of the Motor Vehicle Division, testified regarding the records of the Division. Exhibits A through D were identified, offered and received into evidence. The Court also took official notice of Exhibit E, a print out of the computer screen with respect to the title history of the Trailer as of the date of the hearing, November 21, 2005. Thereafter, the hearing was concluded, the record was closed and the matter was submitted for decision.

#### 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. As of May 20, 2002, Complainant was the record owner of the Trailer having obtained an original Oklahoma certificate of title to the Trailer. Exhibits A and C.
2. Respondent applied for and received Title No. 123A, a transfer title, to the Trailer on April 26, 2005 upon presentment of Certificate of Title No. 123, the original title, which purportedly reflects an assignment of the Trailer to Respondent.

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<sup>1</sup> Rule 710:1-5-22(b) of the Oklahoma Administrative Code ("OAC").

3. The assignment was executed by INDIVIDUAL by and through a Power of Attorney. Exhibits C and D.

3. The Power of Attorney executed April 25, 2005 by OWNER of Heiman Leasing appoints "TRUCKING COMPANY my true and lawful attorney-in-fact, to apply specifically for a certificate of title and/or registration in LEASING COMPANY'S name, and such certificate of title shall be assigned to LEASING COMPANY, P.O. Box 999 ANYTOWN. KS 99999 as owner" of the Trailer. Exhibit B.

4. In the opinion of WITNESS, the assignment of title to the Trailer through the Power of Attorney was not a valid assignment since the language of the Power of Attorney did not authorize the assignment. Also in the opinion of WITNESS, the Power of Attorney was probably given in order for Respondent to keep the Oklahoma registration of the Trailer current.

#### CONCLUSIONS OF LAW

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

1. 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. 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 licensed vehicle, and the issuance or revocation of a certificate of title under the Act by the Commission is not a positive determination of ownership of title to the vehicle. *Lepley v. State of Oklahoma*, 69 Okla.Crim. 379, 103 P.2d 568, 572, 146 A.L.R. 1323 (1940).

3. 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. 2001, § 1107.

4. 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. 2001, § 1106.

5. Here, the records utilized by Respondent to apply for and receive title to the Trailer do not support the assignment or transfer of title to the Trailer to Respondent. Exhibits B and C.

6. Based on the evidence presented, the application for revocation of Certificate of Title No. 123A should be and the same is hereby sustained.

#### DISPOSITION

Therefore, it is ORDERED that Certificate of Title No. 123A issued to Respondent, TRUCKING COMPANY, on the 2003 CPS Dump Trailer, Vehicle Identification No. 123XYZ, be revoked.

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CAVEAT: This decision was NOT deemed precedential by the Commission. This means that the legal conclusions are 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.