JURISDICTION:	OKLAHOMA TAX COMMISSION
CITE:	2007-03-01-37 (Non-Precedential)
ID:	SJ-06-008-K
DATE:	MARCH 1, 2007
DISPOSITION:	SUSTAINED
TAX TYPE:	TITLE REVOCATION
APPEAL:	NONE

FINDINGS OF FACT AND CONCLUSIONS OF LAW

STATEMENT OF THE CASE

A request for revocation of Title No.123F issued to CREDIT UNION of ANYTOWN, Colorado ("Respondent") on a 2001 Dodge Durango, Vehicle Identification No. XXX, was requested by the Division on December 26, 2006. On even date, the Division's file was referred to the Office of the Administrative Law Judges (ALJ's Office) for further proceedings pursuant to 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]. The request was docketed as Case No. SJ-06-008-K and assigned to ALJ, Administrative Law Judge.[4]

A hearing was scheduled for January 24, 2007 by *Notice to Show Cause Why the Registration and Certificate of Title Should Not be Revoked* issued December 28, 2006. The *Notice* was served on Respondent in accordance with 47 O.S. 2001, § 1106.

The hearing was held as scheduled. Counsel's appearance on behalf of the Division, together with SUPERVISOR, Supervisor-Title Section of the Division, were noted for the record. It was further noted for the record that Respondent had received service of the *Notice*, that a representative for Respondent had not appeared and that it was the understanding of the undersigned that Respondent did not intend to appear because Respondent realized a mistake was made in the issuance of the aforementioned Certificate of Title. The certified copies of Exhibits A-1 through A-3, B-1 through B-6, C-1 through C-6 and D were admitted into evidence. Upon conclusion of the hearing, the record was closed and the case was submitted for decision.[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] *OAC*, 710:1-5-22(b).

[5] OAC, 710:1-5-39(a).

FINDINGS OF FACT

1. CAR DEALERSHIP of SUBURB, Oklahoma applied for and received the "D" title, a transfer title, to the vehicle in question on December 22, 2004, upon presentment of the assigned "C" title. Exhibits A-1 through A-3.[6]

2. FINANCE CO. of ANYTOWN, Colorado, obtained the "C" title, a repo title, to the vehicle in question on November 16, 2004, upon presentment of a Release of Lien - Lien Entry Form Verification, Repossession Affidavit, and a copy of its Retail Installment Sale Contract – Security Agreement.[7]

3. BUYER of RANDOM TOWN, Oklahoma, obtained the "E" title, a transfer title, to the vehicle in question on March 21, 2005, upon presentment of the assigned "D" title, a Vehicle Buyers Order dated March 12, 2005 from CAR DEALERSHIP 2 of SMALL TOWN, Oklahoma and Copy 6 of the Lien Entry Form. Exhibits B-1 through B-6. The Vehicle Title Receipt shows that the vehicle in question is subject to the lien of FINANCE CO. 2. Exhibits B-1, B-5 and B-6.

4. On August 15, 2005, Respondent applied for and received the "F" title, a repo title, to the vehicle in question upon presentment of a Release of Lien – Lien Entry Form Verification, Repossession Affidavit and a copy of a Motor Vehicle Retail Installment Sale Contract. Exhibits C-1 through C-6. The Release of Lien – Lien Entry Form Verification dated August 8, 2005 reflects that a 2002 Ford Explorer was repossessed by Respondent. Exhibit C-3. The Release of Lien – Lien Entry Form Verification shows the VIN of the vehicle in question rather than the VIN of the 2002 Ford Explorer. Exhibit C-3. The Repossession Affidavit shows that a 2002 Ford, VIN ZZZ was repossessed. Exhibit C-4. The Motor Vehicle Retail Installment Sale Contract reflects the purchase of a 2002 Ford Explorer, VIN ZZZ.

5. On December 14, 2005, the Division requested the revocation of the "F" title issued to Respondent on the vehicle in question and the restoration of the record of title to the vehicle in question to the "E" title in the name of BUYER subject to the lien of FINANCE CO. 2.

CONCLUSIONS OF LAW

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

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[6] Consists of certified copies of the vehicle title receipt issued to CAR DEALERSHIP (Exhibit A-1), Certificate of Title No. 123C, a repo title, issued to FINANCE CO. ANYTOWN, Colorado (Exhibit A-2) and the reverse side of the "C" title or assignment page (Exhibit A-3).

[7] Certified copies of the documents of this transaction were contained in the file received from the Division. Official notice of these records is taken. *OAC*, 710:1-5-36. The documents consist of copies of the Vehicle Title Receipt issued to FINANCE CO., computer screen printout, Release of Lien – Lien Entry Form Verification dated November 15, 2004, Vehicle/Boat/Outboard Motor/Manufactured Home Repossession Affidavit and the Retail Installment Sales Contract – Security Agreement. It is noted that the addresses for FINANCE CO. and Respondent are the same.

2. The Oklahoma Vehicle License 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. If at any time, the Tax Commission determines that an applicant for a certificate of title to a vehicle is not entitled thereto, it may refuse to issue such certificate or to register such vehicle and for a similar reason, after ten (10) days' notice and a hearing, it may revoke the registration and the certificate of title already acquired on any outstanding certificate of title. 47 O.S. 2001, § 1106.

5. Based on the evidence presented, the application for revocation of Certificate of Title No. 123F should be and the same is hereby sustained. Title to the vehicle in question should be restored to the "E" title in the name of BUYER subject to the lien of FINANCE CO. 2.

DISPOSITION

It is ORDERED that Certificate of Title No. 123F issued to Respondent, CREDIT UNION, on the 2001 Dodge Durango, Vehicle Identification No. XXX, be revoked.

OKLAHOMA TAX COMMISSION

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.