

STATE OF FLORIDA
DEPARTMENT OF REVENUE

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Petitioner,

vs.

COLORCARS EXPERIENCED
AUTOMOBILES, INC. N/K/A
EXPERIENCED VEHICLES, INC.,

Respondent.

_____ /

DOR 2013-001 - FOF
FILED

Department of Revenue – Agency Clerk
Date Filed: *January 24, 2013*
By: *April Warner*

DOR Case No.: DOR-12-41 AC
DOAH Case No.: 12-1956

FINAL ORDER

This cause came before the State of Florida, Department of Revenue ("Department"), for the purpose of issuing a final order. On April 24, 2012, the Department issued an Administrative Complaint ("Complaint") against Respondent. A true and correct copy of the Complaint is attached hereto and incorporated herein by reference as Exhibit 1. The Complaint sought to revoke Respondent's certificate of registration/permit/license, in accordance with Sections 212.18 and 213.692, Florida Statutes, due to Respondent's non-compliance with Chapter 212, Florida Statutes.

In response to the Complaint, Respondent elected a disputed fact hearing pursuant to Subsection 120.57(1), Florida Statutes, which was held by the Division of Administrative Hearings on September 20, 2012. Judge Elizabeth W. McArthur issued a recommended order on December 13, 2012. A true and correct copy of the recommended order is attached hereto and incorporated by reference as Exhibit 2.

RULINGS ON EXCEPTIONS

On December 26, 2012 Respondent timely filed thirteen (13) exceptions to the Recommended Order. Pursuant to Subsection 120.57(1)(k), Florida Statutes, a Final Order issued as a result of a Recommended Order:

[S]hall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, **or** that does not include appropriate and specific citations to the record. (emphasis added)

This statutory pleading requirement provides a three-prong threshold for exceptions to a Recommended Order that must be explicitly ruled upon in a Final Order. While each of Respondent's exceptions identifies the page number and paragraph to which exception is being taken, none include a specific citation to the record, and most do not include any legal basis for the exception. Thus, Respondent's exceptions do not meet the pleading requirements set forth in Chapter 120 of the Florida Statutes. A true and correct copy of the Respondent's exceptions filed herein is attached hereto and incorporated herein by reference as Exhibit 3.

FINDINGS OF FACT

The Department hereby adopts and incorporates by reference the findings of fact as set forth in the recommended order as the factual findings herein.

CONCLUSIONS OF LAW

The Department hereby adopts and incorporates by reference the conclusions of law as set forth in the recommended order as the conclusions of law herein.

DETERMINATION

Accordingly, it is ORDERED:

That Respondent's Certificate of Registration, numbered 68-8011915593-0 is hereby revoked.

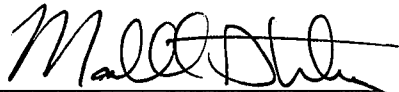
ENGAGING IN THE BUSINESS OF SELLING OR LEASING TANGIBLE PERSONAL PROPERTY OR SERVICES OR ACTING AS A DEALER AFTER A CERTIFICATE HAS BEEN REVOKED IS PROHIBITED AND CONSTITUTES A CRIME PUNISHABLE AS PROVIDED IN SECTION 775.082 OR SECTION 775.083, FLORIDA STATUTES.

NOTICE OF RIGHT TO JUDICIAL REVIEW

Any party who is adversely affected by this final order has the right to seek judicial review of the order under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.190 of the Florida Rules of Appellate Procedure with the Agency Clerk of the Department of Revenue in the Office of the General Counsel, Post Office Box 6668, Tallahassee, Florida 32314-6668 [FAX (850) 488-7112], **AND** by filing a **copy** of the notice of appeal accompanied by the applicable filing fees with the District Court of Appeal, First District or with the District Court of Appeal in the appellate district where the party resides. **The notice of appeal must be filed within 30 days from the date this order is filed with the clerk of the Department.**

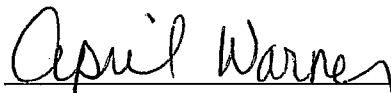
ENTERED in Tallahassee, Leon County, Florida, this 24th day of January, 2013.

State of Florida
DEPARTMENT OF REVENUE


Marshall Stranburg
Interim Executive Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Final Order has been filed in the official records of the Florida Department of Revenue and that a true and correct copy of the Final Order has been furnished by United States mail, both regular first class and certified mail return receipt requested, to Respondent at: 2311 North Tamiami Trail, Nokomis, Florida 34275-3474; POB 803 Osprey, Florida 34229; and C/O Robert Brian Resnick at POB 1872, Boca Raton, Florida 33429-1872 this 24th day of January, 2013.


Agency Clerk

Copies:

Judge Elizabeth W. McArthur
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

John Mika
Assistant Attorney General
Office of the Attorney General
The Capitol – Revenue Litigation Section
Tallahassee, Florida 32399-1050