

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

TT & R ENTERPRISES, INC,

Petitioner,

v.

DEPARTMENT OF HIGHWAY SAFETY
AND MOTOR VEHICLES

Respondent.

HSMV CASE NO. : MS-20-396

DOAH Case No.: 20-005103

FINAL ORDER NO. : **FLHSMV 2021**

HSMV-21-0238-FOI-MS

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

FINAL ORDER

The Department of Highway Safety and Motor Vehicles (“Department”) hereby enters this Final Order for the above styled matter, pursuant to Section 120.57(2), Florida Statutes. On July 28, 2021, Kathryn Bischoff, the designated Hearing officer for the Department, presiding over the Administrative Hearing, issued the Recommended Order in this matter. That Recommended Order is attached to this Final Order and incorporated herein by reference. No exceptions have been filed to the Recommended Order.

PRELIMINARY STATEMENT

The Preliminary Statement contained in the Recommended Order is hereby adopted as the Preliminary Statement of the Department.

EVIDENCE RECIEVED

The Evidence Received contained in the Recommended Order is hereby adopted as the Evidence received by the Department.

FINDINGS OF FACT

The Findings of Fact contained in the Recommended Order are hereby adopted as the Findings of Fact of the Department.

MITIGATION AND AGGRAVATION TESTIMONY

The Mitigation and Aggravation Testimony contained in the Recommended Order is hereby adopted as the Mitigation and Aggravation Testimony received by the Department.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Department.

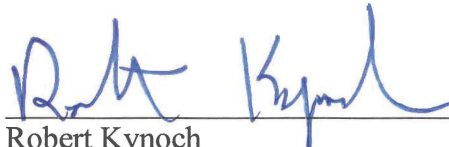
ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Administrative Hearing, it is hereby ORDERED that the:

1. Petitioner's Application for Independent Motor Vehicle Dealer and Application for Salvage Dealer shall be denied.

This Final Order shall take effect upon filing with the Department's Agency Clerk.

DONE AND ORDERED this 2nd day of September, 2021, at Tallahassee, Leon County, Florida.



Robert Kynoch
Director of Motorist Services
Department of Highway Safety and
Motor Vehicles
2900 Apalachee Parkway
Neil Kirkman Building
Tallahassee, Florida 32399

On September 2, 2021, copies were furnished to Wade M. Rolle, Esquire, The Law Office of Wade M. Rolle & Associates, P.A., 1054 Kings Avenue, Jacksonville, FL 32207, waderollelaw.com.

NOTICE OF RIGHT TO APPEAL

A party adversely affected by this final order may seek judicial review as provided in section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.190. Judicial review is initiated by filing a notice of appeal with the Agency Clerk, and a copy of the notice of appeal, accompanied by the filing fee, with the appropriate district court of appeal. The notice of appeal must conform to the requirements of Florida Rule of Appellate Procedure 9.110(d), and must be filed (i.e., received by the Agency Clerk) within thirty (30) days of rendition of this final order.

Filing with the Department's Agency Clerk may be accomplished via U.S. Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is Joseph Gillespie, DHSMV Agency Clerk, Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, A-432, MS-2, Tallahassee, Florida 32399. The facsimile number is (850) 617-5112. The email address is OGCFiling@flhsmv.gov.

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

TT&R ENTERPRISES, INC,
Petitioner,

HSMV CASE NO. : MS-20-396
DOAH Case No.: 20-005103

v.

DEPARTMENT OF HIGHWAY SAFETY
AND MOTOR VEHICLES,
Respondent

RECOMMENDED ORDER

Assistant General Counsel Hearing Officer, Kathryn Bischoff, conducted the administrative hearing of this case on July 28, 2021, on behalf of the Department of Highway Safety and Motor Vehicles, Division of Motorist Services, pursuant to Sections 120.569 and 120.57(2) Florida Statutes and Chapter 28-106 Florida Administrative Code.

APPEARANCES/PARTICIPANTS

Sena Lizenbee, Esquire
Senior Assistant General Counsel
Department of Highway Safety and Motor Vehicles
2900 Apalachee Parkway
Tallahassee, Florida 32399

Jaime Williams, Administrator
Dealer License Section, Bureau of Dealer Services, Division of Motorist Services
Department of Highway Safety and Motor Vehicles
2900 Apalachee Parkway
Tallahassee, Florida 32399

STATEMENT OF THE ISSUES

The issues presented are whether there are mitigating circumstances involved in the Intent to Deny Letter issued to the Petitioner August 21, 2020.

PRELIMINARY STATEMENT

On August 21, 2020, the Department of Highway Safety and Motor Vehicles, Respondent, issued an Intent to Deny letter which was served on Todd Robinson, President TT&R Enterprises, Inc.. The Petitioner requested an informal hearing to mitigate the denial.

On June 30, 2021, the Petitioner was sent a Notice of Hearing scheduled for July 28, 2021, at 11:00 a.m.

A hearing was conducted telephonically on July 28, 2021, with the above referenced participants, located at the Bureau of Administrative Review in Clearwater, Florida and Department Headquarters in Tallahassee, Florida. The Petitioner failed to appear at the scheduled hearing.

Documents were entered into the record without objection.

EVIDENCE RECEIVED

DMS #1 – Intent to Deny Letter

DMS #2 – Petition For Hearing signed by Todd T. Robinson

DMS #3 – Application for Independent Motor Vehicle Dealer License signed by Todd T. Robinson

DMS#4 – Application for Salvage Vehicle Dealer License signed by Todd T. Robinson

DMS#5 – Order Closing File and Relinquishing Jurisdiction

DMS#6 - Notice of Hearing

DMS#7 – Amended Notice of Hearing

FINDINGS OF FACT

- 1. Respondent (hereinafter “Department”) is the state agency charged with regulating the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale, pursuant to Section 20.24 and Chapter 320, Florida Statutes and Rule 28-106.2015, Florida Administrative Code.**
- 2. Petitioner, by Todd Robinson, President, applied for an Independent Motor Vehicle Dealer license and a Salvage Vehicle Dealer license.**
- 3. Todd Robinson was convicted of five (5) felonies: 1) Possession of cocaine, date of arrest 11/20/1987 Case Number: 161987CF010256AXXXMA; 2) Possession of weapon, carrying concealed firearm, date of arrest 10/03/1988 Case Number: 161988CF012790AXXXMA; 3) Own, operate, conduct or aid and abet chop shop, date of arrest 2/15/2007 Case Number: 162007CF003248AXXXMA; 4) Sell, transport, deliver, purchase or receive a motor vehicle without obtaining proper title and dismantling or destruction of a motor vehicle without proper title, date of arrest 12/07/2009 Case Number: 162009CF015761; and 5) distribute of 5 gram of cocaine base, date of arrest 4/23/1990 Case Number: 11163-018.**

4. The Department denied Petitioner's Application for Independent Motor Vehicle Dealer license and Application for Salvage Vehicle Dealer license based on Todd Robinson's five (5) felony convictions.

MITIGATION AND AGGRAVATION TESTIMONY

1. Jaime Williams, Administrator Dealer License Section, testified she reviewed the Petitioner's background check, required upon application. Petitioner's background check showed Todd Robinson was convicted of five (5) felonies, two of which involved motor vehicles. Specifically, the convictions involving motor vehicles were for 1) running a chop shop and 2) selling, transport, deliver, purchase or receive a motor vehicle without obtaining proper title and dismantling or destruction of a motor vehicle without proper title. The two felony convictions involving motor vehicles are aggravating factors in that an Independent Vehicle Dealer license would allow Petitioner to repair and sell as used any motor vehicle; a Salvage Vehicle Dealer license would allow the Petitioner to obtain wrecked or unfit vehicles, dismantle the vehicles and sell the parts.
2. Petitioner presented no mitigation testimony as he failed to appear at the hearing he requested.

CONCLUSIONS OF LAW

1. Respondent is the agency responsible for licensing motor vehicle dealers pursuant to Section 320.27, Florida Statutes.
2. The Department of Highway Safety and Motor Vehicles has jurisdiction over the parties and the subject matter of this proceeding pursuant to Sections 120.569 and 120.57(2), Florida Statutes.

3. Section 320.27(9)(a)2, Florida Statutes, provides the Department may deny, suspend or revoke any license issued hereunder or under the provisions of Sections 320.77 or 320.771, Florida Statutes, upon proof the applicant has been convicted of a felony.
4. Petitioner admits to the allegations as alleged in Intent to Deny Letter dated August 21, 2020.
5. In considering the evidence, as set forth in the Findings of Fact above, it is concluded that Respondent's applications were rightfully denied under Section 320.27(9)(a)2, Florida Statutes due to his five (5) felony convictions, two (2) involving motor vehicles, as stated in the Intent to Deny Letter dated August 21, 2020.
6. The Department's documentary evidence clearly shows the Petitioner was convicted of five felonies. As an aggravating factor, two of the felonies for which Petitioner was convicted involve motor vehicles. No mitigating factors were presented to overcome denial of Petitioner's applications.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department enter a final order:

1. Adopting the Findings of Fact and Conclusions of Law;
2. Deny Petitioner's Application for Independent Motor Vehicle Dealer and Application for Salvage Vehicle Dealer

DONE AND ENTERED this 6th day of August, 2021, in Clearwater, Pinellas County, Florida.



Kathryn Bischoff, Assistant General

**Counsel Hearing Officer
Department of Highway Safety and Motor Vehicles
4584 140th Avenue North, Suite 1002
Clearwater, Florida 33762**

CERTIFICATE OF SERVICE

I hereby certify that copies of the recommended order were furnished via email this
6th day of August, 2021, to Wade Rolle, Esquire WadeRolleLaw@gmail.com; Sena Lizenbee,
Esquire at SenaLizenbee@flhsmv.gov.