

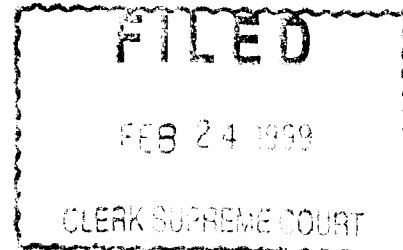
IN THE COURT OF APPEALS OF IOWA

No. 8-702 / 97-1995
Filed February 24, 1999

**CENTRAL AUTO SALES, INC.,
STEVEN LESLEIN and JAMES LESLEIN,**
Appellee,

vs.

**IOWA DEPARTMENT OF TRANSPORTATION,
MOTOR VEHICLE DIVISION,**
Appellee.



Appeal from the Iowa District Court for Dubuque County, Lawrence H.
Fautsch, Judge.

The Iowa Department of Transportation appeals the district court's ruling on
judicial review reversing the ninety-day revocation of James and Steven Leslein's
motor vehicle dealer's license. **REVERSED.**

Thomas J. Miller, Attorney General, David A. Ferree, Special Assistant
Attorney General, and Carolyn J. Olson, Assistant Attorney General, for appellant.

Brian J. Kane, Dubuque, for appellee, until withdrawal, then Steven Leslein
and James Leslein, pro se.

Heard by Sackett, C.J., and Streit and Vogel, JJ.

VOGEL, J.

The Iowa Department of Transportation (DOT) appeals the district court's ruling on judicial review reversing the ninety-day revocation of James and Steven Leslein's motor vehicle dealer's license. We reverse.

Background facts. The Lesleins held a dealer license from the DOT allowing them to sell motor vehicles under the name of Central Auto Sales and Repair, a/k/a Central Auto Sales. Robert Hooper was employed as their manager and exclusively handled the day-to-day operation of the dealership. After an investigation of the dealership's records, the DOT charged Hooper, d/b/a Central Auto Sales, with multiple counts of fraudulent practice in the fourth and fifth degree for submitting false bills of sale and false dates of sale in an attempt to increase revenues. Hooper eventually pled guilty to four counts of fraudulent practice in the fourth degree.

While Hooper's criminal charges were pending, the Lesleins' attorney filed Articles of Incorporation for the dealership, with Steven Leslein and Robert Hooper named as the corporate directors. In November of 1997, the Lesleins requested that the DOT transfer their existing dealer license to the new corporation, Central Auto Sales, Inc. However, the DOT did not transfer the license because the appropriate application and procedure had not been completed pursuant to Iowa Code chapter 322.

In January of 1997, the DOT informed the Lesleins that their dealer license would be revoked for ninety days because of the fraudulent practice convictions. The Lesleins sought judicial review, and the district court reversed the revocation. The DOT now appeals.

Scope of review. Our task on appeal of an agency decision is to correct errors of law. *See Harrington Trucking, Inc. v. Iowa Dep't of Transp.*, 526 N.W.2d 528, 529 (Iowa 1995); Iowa Code § 17A.19 (1997). We will uphold an agency's factual findings if they are supported by substantial evidence in the record when reviewed as a whole. *See Craig Foster Ford, Inc. v. Iowa Dept. of Transp.*, 562 N.W.2d 618, 621 (Iowa 1997).

Substantial evidence to revoke the license. The district court found that the corporation's license could not be revoked because Hooper's fraudulent acts were committed prior to the incorporation of Central Auto Sales, Inc. and could not be imputed to the new entity. However, it is crucial to note that neither the predecessor nor the successor entity held a dealer's license. The Lesleins held the license. Furthermore, Hooper's actions were clearly imputable to them by virtue of their principal-agent relationship and failure to supervise. *See State v. Sellers*, 258 N.W.2d 292, 298 (Iowa 1977) (fraud committed by an agent does not relieve the principal of liability for acts committed within the agent's apparent authority). As there is

substantial evidence to support the DOT's action, we reverse the district court ruling and reinstate the ninety-day revocation of the Lesleins' dealer license.

REVERSED.