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Attorney for Petitioner

IN THE UTAH STATE TAX COMMISSION
APPEALS DIVISION

ELIZABETH SOLOMON, Petitioner,	PETITION FOR REDETERMINATION
v.	
MOTOR VEHICLE DIVISION OF UTAH STATE TAX COMMISSION AND UTAH STATE TAX COMMISSION, Respondents.	

Elizabeth Solomon, by and through counsel, Margaret Plane of the American Civil Liberties Union of Utah, hereby submits this Petition for Redetermination. On March 7, 2005, Petitioner Solomon applied for a personalized license plate through the Utah State Tax Commission. Solomon filed the application “in the form . . . the division requires.” Utah Code Ann. § 41-1a-411(1). In Section 3 of the application form, Solomon listed three choices for personalized plates: GAYSROK, GAYWEGO, and GAYRYTS. (*See* Attachment A.) In a Statutory Notice from the Division of Motor Vehicles dated March 11, 2005, Solomon’s application was denied. (*See* Attachment B.)

Pursuant to Utah Code Annotated section 59-1-509 and 63-46b-3, Solomon appeals the denial.

The State of Utah provides a forum for expression by opening up its license plates to individuals wishing to personally express themselves through choosing a specific combination of letters and/or numbers for an individual license plate. *See* Utah Code Ann. § 41-1a-410. This allows Utahans to personalize their license plates and express themselves at the same time.

In creating this forum, the state vested substantial discretion in the Division of Motor Vehicles (the Division): “The division may refuse to issue any combination of letters, numbers, or both that may carry connotations offensive to good taste and decency or that would be misleading.” Utah Code Ann. § 41-1a-111(2). Pursuant to this statutory authority, the Division promulgated standards in the Utah Administrative Code. *See* UAR R873-22M-34. However, nothing in either the authorizing statute, or the regulations promulgated thereto, permits the Division to arbitrarily deny Solomon’s requested personalized plates. Further, the denial violates Solomon’s right to free expression as protected by the First and Fourteenth Amendments to the U.S. Constitution, and Article I, Section 15 of the Utah Constitution.

Petitioner Solomon requests that the Division of Motor Vehicles issue the personalized plates, as requested in her application on March 7, 2005.

Respectfully submitted this April ___, 2005, by Margaret Plane, American Civil Liberties Union of Utah Foundation, Inc.

Margaret Plane
Attorney for Petitioner

CERTIFICATE OF MAILING

I hereby certify that I caused to be mailed a true and correct copy of the foregoing
PETITION FOR REDETERMINATION to:

Utah State Tax Commission, Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134-6200

on the ____ day of April 2005, postage prepaid in the United States Postal Service.

AMERICAN CIVIL LIBERTIES
UNION OF UTAH FOUNDATION, INC.

By _____
MARGARET PLANE

cc: Client,
Elizabeth Solomon
XXXXXX
Park City, Utah XXX
XXXXXX