

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

HEARING # 10-008

**SILOAM SPRINGS CYCLES and
RAINBOW CYCLE& MARINE**

CLAIMANTS

vs.

VOLTAGE VEHICLES

RESPONDENT

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on December 15, 2010, to determine whether Voltage Vehicles (hereinafter “Voltage”) violated the Commission Act, Ark. Code Ann. §23-112-101 *et. seq.* The charges before the Commission concerned whether Voltage failed to complete statutory termination obligations with Siloam Springs Cycles (hereinafter “Siloam Springs”) and Rainbow Cycle & Marine (hereinafter “Rainbow Cycle”) as alleged in complaints C#10-006 and C#10-007.

The Complainants, Siloam Springs and Rainbow Cycle, were represented by Attorney Brian Burke and owner Rick Whitten.

The Respondent, Voltage, was represented by attorney Frank Falkner, and no owner or management official with Voltage attended the hearing.

The Commission first considered a Motion to Dismiss filed by Voltage Vehicles. This Motion to Dismiss was denied, and the Commission then moved to a full evidentiary hearing.

After hearing testimony from Rick Whitten, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

F1. Siloam Springs Cycles:

- a. The Commission received a termination of franchise letter from Siloam Springs Cycles on November 2, 2009.
- b. The termination letter along with instructions regarding repurchase obligations was forwarded to Voltage on November 12, 2009.
- c. The Commission received a notarized complaint from Siloam Springs on April 5, 2010, alleging Voltage had not met the repurchase obligations.
- d. Voltage had not repurchased the inventory from Siloam Springs Cycles at the time of the December 15, 2010, hearing.
- e. The Commission determined during the December 15, 2010, hearing that the Voltage vehicles in Siloam Springs inventory meet the repurchase obligations of current year model and one year prior according to Ark. Code Ann. § 23-112-403(a)(2)(K)(i).
- f. Voltage is required by Arkansas law to repurchase three (3) vehicles listed below from Siloam Springs Cycle:
 - i. VIN #LAEMB24648G200463
 - ii. VIN #LAEMA24608G200236
 - iii. VIN #LAEMA24628G200173

- g. Voltage is required to pay transportation costs and interest incurred and due on the above referenced vehicles as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(viii).

F2. Rainbow Cycle:

- a. The Commission received a termination of franchise letter from Rainbow Cycle on November 2, 2009.
- b. The termination letter along with instructions regarding repurchase obligations was forwarded to Voltage on November 12, 2009.
- c. The Commission received a notarized complaint from Rainbow Cycle on April 5, 2010, alleging Voltage had not met the repurchase obligations.
- d. Voltage had not repurchased the inventory from Rainbow Cycle at the time of the December 15, 2010, hearing.
- e. The Commission determined during the December 15, 2010, hearing that the Voltage vehicles in Rainbow Cycles inventory meet the repurchase obligations of current year model and one year prior according to Ark. Code Ann. § 23-112-403(a)(2)(K)(i).
- f. Voltage is required by Arkansas law to repurchase the three (3) vehicles listed below from Rainbow Cycle:
 - i. VIN# LAEMB24668G200450
 - ii. VIN# LAEMA24608G200233
 - iii. VIN# LAEMB24678G200473

- g. Voltage is required to pay transportation costs and interest incurred and due on the above referenced vehicles as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(viii).
- F3. The Commission found during the December 15, 2010, hearing that the current civil or administrative penalties were insufficient in accordance with Ark. Code Ann. § 23-112-106 and directed and commanded compliance by Voltage with the termination obligations in Ark. Code Ann. § 23-112-403(a)(2)(K).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission makes the following

Conclusions of Law:

C1. Siloam Springs Cycles:

- a. Voltage did not meet its vehicle repurchase obligation following termination by Siloam Springs as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(i).
- b. Voltage is required to pay transportation costs and interest incurred and due on the above referenced vehicles as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(viii).

C2. Rainbow Cycle:

- a. Voltage did not meet its vehicle repurchase obligation following termination by Rainbow Cycle as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(i).
- b. Voltage is required to pay transportation costs and interest incurred and due on the above referenced vehicles as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(viii).

ORDER

The Commission finds the current civil or administrative penalties are insufficient in accordance with Ark. Code Ann. § 23-112-106 and direct and command compliance by Voltage with the termination obligations in Ark. Code Ann. § 23-112-403(a)(2)(K) in the matter of Siloam Springs Cycles and Rainbow Cycle & Marine, Hearing # 10-008. The Commission finds the violations by Voltage requires them to repurchase the above referenced vehicles and to pay transportation costs and interest incurred by both Siloam Springs and Rainbow Cycle on the floor plan for the above vehicles as referenced in testimony and exhibits.

This document is a final Order of the Commission and as such is subject to judicial review pursuant to Ark. Code Ann. § 25-15-212.

ARKANSAS MOTOR VEHICLE COMMISSION

By _____
Joe Morgan, Chairman

Date: _____