

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

Hearing # 15-011

CLARENCE WALTERS

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter "Commission") held a hearing on July 15, 2015, to determine whether Clarence Walters violated the Arkansas Motor Vehicle Commission Act, pursuant to Ark. Code Ann. § 23-112-101 et seq., and Commission Rule 2 regarding hearings and appeals. The charges before the Commission concerned whether Clarence Walters violated Commission statutes when he failed to renew his salesperson license, and when Mr. Walters attempted to sell a new motor vehicle while his salesperson's license was suspended and from an unlicensed location.

Clarence Walters, following proper notice for the hearing, did not appear.

Crystal Campbell, Vicki Wright, and Gordon McCoy testified on behalf of the Commission.

Having heard testimony from the above referenced parties and having reviewed the exhibits admitted into evidence, the Commission makes the following Findings of Fact, Conclusions of Law, and Order:

FACTUAL BACKGROUND

The following facts are found to be true:

- F1. Clarence Walters is a licensed salesperson, license number 18631, Roll Out, LLC, formerly located at 7706 Cantrell Road, Little Rock, AR.
- F2. Clarence Walters license expired on December 31, 2014.
- F3. Roll Out, LLC, had its license revoked following a formal hearing on March 18, 2015.

- F4. Mr. Walters has not complied with the agreed to Consent Order dated September 17, 2014, resulting from H# 14-011, in which Mr. Walters salesperson license was suspended.
- F5. During the period of time between December 8, 2014, and December 22, 2014, Mr. Walters attempted to sell Crystal Campbell a new scooter that was advertised for sale on Craigslist from the Roll Out LLC address listed above as well as a location in North Little Rock.

CONCLUSIONS OF LAW

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

Conclusions of Law:

- C1. Motor vehicle salespeople are required to conform their conduct to the Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101, et seq., and the rules and regulations promulgated by the Commission pursuant to Ark. Code Ann. § 23-112-204.
- C2. According to Ark. Code Ann. § 23-112-301, it is unlawful for a person to engage in business as a new motor vehicle dealer without a obtaining a license.
- C3. All applications for licenses shall be accompanied by the appropriate fees in accordance with the schedule set out in Ark. Code Ann. § 23-112-303.
- C4. Failure to comply with any provision of the AMVC Act may lead to revocation or suspension of the license as per Ark. Code Ann. § 23-112-308(a)(4). The Commission may issue a monetary penalty in lieu of revocation or suspension only if it formally finds that the public interest would not be impaired thereby and

the payment of the penalty will achieve the desired disciplinary results as per Ark. Code Ann. § 23-112-309.

- C5: Pursuant to Ark. Code Ann. § 23-112-308, the Commission may suspend or revoke a license for any of the following reasons:
- A. For selling or soliciting sales of a motor vehicle without a license issued by the commission. The unlawful sale or solicitation of each motor vehicle shall constitute a separate offense, Ark. Code Ann. § 23-112-308(a)(1);
 - B. On satisfactory proof of the unfitness of the applicant or the licensee, as the case may be, under the standards established and set out in the chapter, Ark. Code Ann. § 23-112-308(a)(2);
 - C. For continued violation of any provisions of this chapter or any of the rules of the Commission, Ark. Code Ann. § 23-112-308(a)(6);
 - D. For any violation of any law relating to the sale of motor vehicles, Ark. Code Ann. § 23-112-308(a)(7);
 - E. Defrauding any retail buyer to the buyers damage, Ark. Code Ann. § 23-112-308(a)(8);
 - F. Failure to perform any written agreement with a retail buyer, Ark. Code Ann. § 23-112-308(a)(9);
 - G. Selling, attempting to sell, or advertising for sale vehicles from a location other than that set forth on the license, Ark. Code Ann. § 23-112-308(a)(10); and/or
 - H. For a person representing that he or she is a dealer or salesperson, either verbally or in any advertisement, when the person is not licensed as such, Ark. Code Ann. § 23-112-308(a)(15).

- C6. Clarence Walters violated Ark. Code Ann. § 23-112-308 by failing to comply with provisions of the Commission act when Mr. Walters failed to renew his salesperson license.
- C7. Clarence Walters violated Ark. Code Ann. § 23-112-308 by failing to comply with provisions of the Commission act when Mr. Walters attempted to sell a new motor vehicle while his salesperson's license was suspended and from an unlicensed location.

ORDER

The Commission finds that in lieu of a revocation of Clarence Walter's license based on the Conclusion of Law in C7, the public interest would not be impaired and the payment of a penalty will achieve the desired disciplinary result by issuing a monetary penalty against Clarence Walters in accordance with Ark. Code Ann. § 23-112-309 in the amount of five hundred dollars (\$500.00) per day for two (2) days for an aggregate amount of one thousand dollars (\$1,000.00).

The Commission further finds the violation of Commission statutes and rules by Clarence Walters based on the Conclusion of Law in C6 warrants a revocation of Mr. Walters salesperson's license for failure to comply with provisions of the Commission Act and Rules promulgated by the Commission as per Ark. Code Ann. § 23-112-308(a)(4).

This 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: F. S. Stroope
Sandy Stroope, Chairman

Date: 3/15/16