

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

Hearing # 12-003

ROLL OUT, LLC

NOTICE OF HEARING

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that it should hold a hearing on whether Roll Out, LLC's, (hereinafter "Roll Out") license to sell new motor vehicles should be suspended or revoked, or whether a monetary penalty should be imposed. Alternatively, the Commission may recommend a corrective action plan for Roll Out due to continued violations of the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101, et seq. and Rules.

FACTUAL BACKGROUND

- F1. Roll Out, located at 7706 Cantrell Road, Suite 2, in Little Rock, Arkansas, is a new motor vehicle dealer licensed to sell Roketa Goldenvale, JCL International, and Peace Power Sports.
- F2. The Commission held a hearing on August 17, 2011, and suspended Roll Out's dealer license. The Commission then held a follow-up hearing on September 21, 2011, and approved reinstatement of Roll Out's license following a successful correction of the issues presented during the August 17, 2011, hearing.
- F3. Recently the Commission has received several new complaints from the Attorney General's Office, Division of Consumer Protection, which include issues such as failure to repair vehicles in a timely manner, and delivering titles that do not match the vehicles purchased.

APPLICABLE LAW

- L1. Motor vehicle dealers and their representatives 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.
- L2. Failure to comply with any provision of the Commission Act or any Rule promulgated by the Commission may lead to revocation or suspension of the license as per Ark. Code Ann. §23-112-308(a)(4) and (a)(19), or may result in a monetary penalty in lieu of revocation or suspension as stated in Ark. Code Ann. §23-112-309.
- L3. Pursuant to Ark. Code Ann. § 23-112-308, the Commission may suspend or revoke a license for any of the following reasons:
 - A. 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);
 - B. For fraud practiced or any material misstatement made by an applicant in any application for license, Ark. Code Ann. § 23-112-308(a)(3);
 - 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); and/or
 - E. Failure to perform any written agreement with a retail buyer, Ark. Code Ann. § 23-112-308(a)(9).

- F. Defrauding any retail buyer to the buyer's damage. Ark Code Ann. § 23-112-308(a)(8).
- G. Falsifying or neglecting to deliver a certificate of title to transferee or lawful owner. § 23-112-308(a)(11).

CHARGES

- C1. Roll Out violated Commission statutes in failing to complete written agreement with consumers.
- C2. Roll Out violated Commission statutes in failing to provide correct titles to vehicles.

TIME AND PLACE OF HEARING

The Commission will conduct a hearing to determine whether Roll Out has continually violated the Commission Act as outlined in Charges, and to determine whether a to suspend, revoke, or recommend a corrective action plan for Roll Out's dealership as deemed necessary to prevent frauds, unfair practices, discriminations, impositions, and other abuses upon the citizens of the State of Arkansas. The hearing will be conducted on August 15, 2012, at 9:30 a.m. at 101 East Capitol, Suite 204, Little Rock, Arkansas.

The hearing will be conducted pursuant to the provisions of the Administrative Procedures Act, A.C.A. § 25-15-201, *et seq.* and A.C.A. § 23-112-501, *et seq.* and Rule 2 Hearing Provisions of the Arkansas Motor Vehicle Commission.

Respondent may be heard in person, may be represented by counsel, may cross-examine witnesses appearing against him and may offer witnesses, documents, and evidence in support of the response to the allegations.

ARKANSAS MOTOR VEHICLE COMMISSION

By: _____
Greg Kirkpatrick, Executive Director

Date: _____

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

Hearing # 12-003

ROLL OUT, LLC

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on August 15, 2012, to determine whether Roll Out, LLC’s (the “Respondent”), license to sell new motor vehicles should be suspended or revoked, or whether a monetary penalty should be imposed in accordance with the provisions of the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101 et seq., and Commission Rule 2 regarding hearings and appeals.

Clarence Walters appeared as Respondent’s corporate representative. Respondent was not represented by legal counsel.

Having heard testimony from Director Greg Kirkpatrick, Adam Lansky, William Eberle, Joshua Gates, Investigator Otis Hogan, and Clarence Walters, and having reviewed the exhibits admitted into evidence by the Respondent and on behalf of the Commission, the Commission makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

- F1. Respondent Roll Out, LLC, located at 7706 Cantrell Road, Suite 2, in Little Rock, Arkansas, is a new motor vehicle dealer licensed to sell Roketa Goldenvale, JCL International, and Peace Power Sports.
- F2. The Commission held a hearing on August 17, 2011, and suspended Respondent’s dealer license. The Commission then held a follow-up hearing on September 21,

2011, and approved reinstatement of Respondent's license following a successful correction of the issues presented during the August 17, 2011, hearing.

F3. Recently, the Commission has received several new consumer complaints forwarded from the Attorney General's Office, Division of Consumer Protection, which include issues such as failure to repair vehicles in a timely manner and delivering titles that do not match the vehicles purchased.

CONCLUSION OF LAW

Based on the foregoing Findings of Facts, the Commission makes the following Conclusions of Law:

- C1. Respondent violated Commission statutes in failing to complete written agreements with consumers in accordance with Ark Code Ann. § 23-112-308.
- C2. Respondent violated Commission statutes in failing to provide correct titles to vehicles in accordance with Ark Code Ann. § 23-112-308.

ORDER

The Commission finds the violations of Commission statutes by Roll Out, LLC, located at 7706 Cantrell Road, Suite 2, in Little Rock, Arkansas, warrant a suspension of Respondent'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).

The Commission finds that in lieu of a suspension of Respondent's license, a monetary penalty is issued in the amount of one thousand dollars (\$1,000.00) in accordance with Ark. Code Ann. § 23-112-309. Additionally, the Commission orders that a corrective action plan for Roll Out, LLC, be implemented that includes the following: 1) Resolve to the satisfaction of the Commission or have all consumer

complaints withdrawn that are currently on file with the Commission; 2) Comply with all provisions of statutes related to warranty work at the licensed location in accordance with Ark. Code Ann. § 23-112-302; 3) Comply with all facility requirements and storage of documents related to Ark. Code Ann. § 23-112-302; 4) Develop a written document that is to be distributed to consumers that outlines the warranty commitments of Roll Out, LLC; and 5) Create a written plan for handling future consumer complaints. The monetary penalty and corrective action plan will not be initiated until the thirty (30) day appeal period has expired. Roll Out, LLC, is to have paid the monetary penalty and implemented the corrective action plan no later than sixty days after the conclusion of the appeal period.

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: _____
Sandy Stroope, Chairman

Date: _____