

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

H#10-009

GREGORY POLARIS

CLAIMANT

vs.

CARTER BROTHERS MFG. CO., INC.

RESPONDENT

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the "Commission") held a hearing on September 15, 2010, to determine whether Carter Brothers Mfg. Co., Inc. (hereinafter "Carter Brothers") violated the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. §23-112-101 *et. seq.* The charges before the Commission concerned whether Carter Brothers failed to complete statutory termination obligations with Gregory Polaris as alleged in complaint #10-014.

The Complainant, Gregory Polaris, was represented by Rob Gregory.

The Respondent, Carter Brothers, was represented by attorney Herb Rule.

After hearing testimony from Greg Kirkpatrick, Rob Gregory, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

- F1. The Commission received a termination of franchise letter from Gregory Polaris dated November 5, 2009.
- F2. The termination letter along with instructions regarding repurchase obligations was forwarded to Carter Brothers on December 9, 2009.
- F3. The Commission received a notarized complaint from Gregory Polaris on May 18, 2010, alleging Carter Brothers had not met the repurchase obligations for twenty-seven (27)

vehicles totaling \$63,351.74 as well as interest on the floor plan in the amount of \$3,808.22.

- F4. On September 15, 2010, the Commission held a hearing on this matter and Gregory Polaris stated it currently had twenty-seven (27) vehicles valued at \$63,351.74.
- F5. The Commission found during the September 15, 2010, hearing that the current civil or administrative penalties are insufficient in accordance with Ark. Code Ann. § 23-112-106 and directed and commanded compliance by Carter Brothers 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. Carter Brothers did not meet its repurchase obligations on twenty-seven (27) vehicles valued at \$63,351.74 following termination by Gregory Polaris as required by Ark. Code Ann. § 23-112-403(a)(2)(K)(i).
- C2. Carter Brothers is required to pay 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 Carter Brothers with the termination obligations in Ark. Code Ann. § 23-112-403(a)(2)(K) in the matter of Gregory Polaris v. Carter Brothers Mfg. Co. Inc., Hearing # 10-009. The Commission finds the violations by Carter Brothers require them to repurchase twenty-seven (27) vehicles valued at \$63,351.74 and to pay interest incurred by Gregory Polaris 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: _____