

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

**IN THE MATTER OF:
MELVIN LATHAN
AND
M&M SCOOTERS
AN UNLICENSED DEALER**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

An administrative hearing was held before the Arkansas Motor Vehicle Commission ("Commission") on February 20, 2019 at the Motor Vehicle Commission office, 101 East Capitol Avenue, Suite 204, Little Rock, Arkansas 72201. Melvin Lathan, Respondent, appeared personally and was not represented by counsel. Assistant Attorney General Juliane Chavis appeared on behalf of the Commission.

Finding proper notice had been given Respondent, the Board, from all the evidence presented, makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

- F-1 Respondent **DOES NOT HOLD** any license issued by the Commission.
- F-2 Respondent **DID NOT HOLD** any license issued by the Commission on the dates of the events described in this order nor does he hold any licenses presently.

- F-3 On November 28, 2017, Commission investigator Crystal Campbell received an email from Mike Adam, a licensed dealer in Pine Bluff, Arkansas, with information about a possible unlicensed dealer, M&M Scooters, in Warren, Arkansas, advertising via Facebook. M&M Scooters advertised a new Jeep Commander, a Tao Tao product, for sale for \$2,000.00. Investigator Campbell confirmed with Robert Galloway, Commission Licensing Supervisor, that M&M Scooters is not licensed by the Commission.
- F-4 On November 29, 2017, Investigator Campbell traveled to Warren, Arkansas to investigate the unlicensed dealer, M&M Scooters, and called Mr. Melvin Lathan about the unit advertised on Facebook.
- F-5 Mr. Lathan and Da'Marcus Davis met Investigator Campbell at a local gas station to show her the unit. Mr. Lathan and Mr. Davis also told Investigator Campbell that they have Coolster products for sale, if she was interested.
- F-6 Campbell introduced herself to Lathan and Davis as the Commission's investigator and informed them that the Arkansas Motor Vehicle Commission is the licensing agency for cycle and ATV dealers in the State of Arkansas, and informed them of the licensing process.

- F-7 Campbell informed Lathan that he could no longer advertise or sell these units without first obtaining a license from the Commission.
- F-8 In response to Campbell, Lathan told her that he had a license to do business with the city of Warren to sell product as M&M Scooters and gave Campbell a business address of 209 2nd Street, Warren, Arkansas 71657. He said he was not working out of that location but would be returning to this location soon. Campbell reiterated the importance of obtaining a license from the Commission, and gave him her contact information, as well as the contact information for the Commission office.
- F-9 Campbell drove to 209 2nd Street, Warren, Arkansas, to check out the business and found an abandoned building that did not appear to be a place of business of any kind.
- F-10 On November 30, 2017, Campbell received an email from Lathan requesting information on the application process. She forwarded the inquiry to Robert Galloway, Licensing Supervisor, to respond.
- F-11 On March 30, 2018, Campbell sent an email to Galloway to see if Lathan had filed an application. Galloway responded that Lathan had not.

- F-12 On June 7, 2018, the Commission received an email inquiry regarding an advertisement on Easy Money Trading Post listing Lathan's website address, melvinlathan29.wixsite.com. This is the same website address listed on other online swap shops and on the business card Lathan gave to Campbell on November 29, 2017. Using this information, Campbell confirmed Lathan is still advertising new Tao Tao units for sale on his social media and Easy Money accounts.
- F-13 On June 11, 2018, Commission Director Stroope, Investigator Campbell, and Investigator Gordon McCoy, prepared a Cease and Desist letter for Mr. McCoy to deliver personally to Mr. Lathan.
- F-14 On June 12, 2018, Campbell contacted Helen Boswell with the City of Warren, Arkansas to see if there was anything on file for M&M Scooters or Melvin Lathan. Ms. Boswell confirmed that Lathan had a business license in 2017, but the license had not been renewed for 2018. The business address for the license is the vacant location at 209 2nd Street, Warren, Arkansas.
- F-15 On June 13, 2018, Investigator McCoy traveled to Warren, Arkansas, but he could not locate Mr. Lathan. The place of business at 209 2nd Street, Warren, Arkansas was still unoccupied.

- F-16 In June 2018, Campbell contacted Warren Police Chief Hildreth 4 times by telephone to ask for assistance. She never received a return phone call.
- F-17 Campbell verified that the last post on Lathan's social media account advertising units for sale was on July 8, 2018. However, M&M Scooters is still advertising units for sale.
- F-18 On October 3, 2018, the Commission received a dealer complaint from Easy Money Trading Post, LLC, a licensed dealer in Warren, Arkansas, stating that Melvin Lathan, as M&M Scooters, is selling ATVs, scooters, dirt bikes, and go-carts in Easy Money's relevant market area.
- F-19 On October 4, 2018, the Commission received a dealer complaint from Mike Adam, owner of Cycle & Marine Supercenter in Pine Bluff, Arkansas, stating that Melvin Lathan, owner of M&M Scooters, is advertising and selling product in and round the Warren, Arkansas area. Mr. Adam included screen shots of social media posts to support his complaint.
- F-20 On November 21, 2018, the Commission staff mailed the complaint filed by Easy Money Trading Post, LLC, to the attention of Melvin

Lathan at M&M Scooters, #9 Cypress Grove Apartments, Warren, Arkansas 71671 by certified mail, return receipt requested.

F-21 Lathan filed an undated written response to the Easy Money complaint with the Commission. In his response, Lathan states that he met with, "...an investigator from the Vehicle Commission and was told to cease the sales of any new motor vehicles without proper license. I have not sold any motor vehicles since that date. I do however advertise on behalf of businesses who are properly registered in Arkansas which the investigator also checked on just previously."

F-22 On November 27, 2018, the Commission staff mailed the complaint filed by Michael Adam to the attention of Melvin Lathan at M&M Scooters, #9 Cypress Grove Apartments, Warren, Arkansas 71671 by certified mail, return receipt requested.

F-23 Lathan filed an undated written response to the Michael Adam complaint with the Commission. In his response, Lathan states, "I was advertising and referring customers to a company that was registered through the state and I assumed this was not illegal. It is not my intention to break the law in any way and I have stopped advertising and am seeking to register and have my own business. I

truly apologize to any owner I may have offended and I have not sold any units this year. I only advertise through the internet.”

A-24 Based upon the response Lathan filed to the Easy Money Trading Post complaint, Commission Director Stroope sent a letter to Lathan dated November 27, 2018 in which Stroope informed Lathan that providing referral services for registered dealers in Arkansas is a violation of Ark. Code Ann. § 23-112-406.

CONCLUSIONS OF LAW

C-1 Based upon Respondent’s admission on the record during the hearing while under oath, and the Findings of Fact set out above, the Commission found that Respondent violated Ark. Code Ann. 23-112-406 by advertising and referring customers to a licensed dealer in the State of Arkansas.

C-2 Based upon Respondent’s admission on the record during the hearing while under oath, and the Findings of Fact set out above, the Commission found that Respondent violated Ark. Code Ann. 23-112-301(a)(2) by acting as a new motor vehicle dealer and salesperson without first obtaining a license from the Arkansas Motor Vehicle Commission.

ORDER

1. Respondent is ordered to pay a civil penalty totaling \$200.00, payable to the Arkansas Motor Vehicle Commission, within fourteen (14) days of receipt of this Order.
2. Respondent is ordered to cease selling and advertising unless and until he is properly licensed by the Commission.
3. Executive Director Stroope is directed to draft a letter to the Respondent explaining how he can be properly licensed and comply with the law. Respondent is directed to sign the letter and return it to Director Stroope.

Pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-212, Respondent may petition for judicial review of this decision by filing a petition in the Circuit Court in the county in which he resides or does business or in the Circuit Court of Pulaski County within thirty (30) days after service of this order.

IT IS SO ORDERED this 20th day of February 2019.

ARKANSAS MOTOR VEHICLE COMMISSION


Jey Blankenship
Chairperson

CERTIFICATE OF SERVICE

I, F.S. Stroope, Executive Director of the Arkansas Motor Vehicle Commission, do hereby certify that I have served a copy of these Findings of Fact, Conclusions of Law and Order by mailing a copy of same, U.S. Mail, postage prepaid, on this 25th day of February 2019 to the following:

Mr. Melvin Lathan
#9 Cypress Grove
Warren, Arkansas 71671

F. S. Stroope

F.S. Stroope
Executive Director