

**BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION**

**IN THE MATTER OF:**

**H#10-010**

**VALLEY POWERSPORTS**

**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 Valley Powersports as alleged in complaint #10-005.

The Complainant, Valley Powersports, was represented by John Harris and Wes Harris.

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

After hearing testimony from Greg Kirkpatrick, John Harris, Wes Harris, 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 Valley Powersports dated December 3, 2009.
- F2. The termination letter along with instructions regarding repurchase obligations was forwarded to Carter Brothers on December 4, 2009.

- F3. The Commission received a notarized complaint from Valley Powersports on April 5, 2010, alleging Carter Brothers had not met the repurchase obligations for twenty (20) vehicles totaling \$48,110.00.
- F4. On September 15, 2010, the Commission held a hearing on this matter, and Valley Powersports stated it currently had twenty (20) vehicles valued at \$48,110.00.
- 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 (20) vehicles valued at \$48,110.00 following termination by Valley Powersports 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 Valley Powersports v. Carter Brothers Mfg. Co. Inc., Hearing # 10-010. The Commission finds the violations by Carter Brothers require them to repurchase twenty (20) vehicles valued at

\$48,110.00 and to pay interest incurred by Valley Powersports 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: \_\_\_\_\_