

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

Hearing # 08-009

**BOLINGER'S QUALITY AUTO AND ATV'S &
KENNETH R. BOLINGER**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the "Commission") held a hearing on June 18, 2008, to determine whether Kenneth Bolinger of Bolinger's Quality Auto and ATV's violated the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101 et seq. The charges before the Commission concern whether Mr. Bolinger and Bolinger's Quality Auto and ATV's violated Commission statutes by selling new motor vehicles without a license.

The Respondent, Kenneth R. Bolinger, represented himself.

After hearing testimony from Greg Kirkpatrick, Kenneth R. Bolinger, Mary Jane Haught, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Emergency Order:

FINDINGS OF FACT

- F1. On November 9, 2005, Investigator Danny Holmes discovered Mr. Bolinger selling Vision Motor Sports ATK's, Sunl scooters, and ATV's without a license. Bolinger's was issued a new motor vehicle dealer's license on October 18, 2005, to sell Zebra International Inc. vehicles only. Holmes notified Mr. Bolinger during the November 9, 2005, investigation that he could not sell a vehicle unless it was on his license.
- F2. On March 15, 2007, Mr. Bolinger contacted the Commission by fax indicating he was no longer selling new motor vehicles due to his distributor, Zebra

International Inc., going out of business. Bolinger's license was voluntarily terminated by the Commission on March 20, 2007.

- F3. On December 17, 2007, Commission Investigator Holmes traveled to Huntsville, Arkansas, to investigate whether or not Bolinger's was selling new motor vehicles.
- F4. Investigator Holmes observed three (3) new Tank ATV's on display and offered for sale at Bolinger's.
- F5. Investigator Holmes informed Mr. Bolinger that he was in violation of Commission statutes for selling product without a license.
- F6. Mr. Bolinger stated the vehicles were not his, and that he was just "helping an old boy out." Mr. Bolinger agreed to discontinue the practice.

CONCLUSIONS OF LAW

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

Conclusions of Law:

- C1. Kenneth R. Bolinger of Bolinger's Quality Auto and ATV's violated the following Commission statutes when he sold new ATV's without holding a new motor vehicle dealer's license:
 - A. Ark. Code Ann. § 23-112-301(a)(2) states it shall be unlawful for any person to engage in business, as or serve in the capacity of, or act as a new motor vehicle dealer, motor vehicle salesperson, or a distributor without first obtaining a license.

- B. Ark. Code Ann. § 23-112-301(d)(1) states no person may engage in the business of buying, selling, or exchanging motor vehicles unless they hold a valid license issued by the Commission.

ORDER

The Commission finds that the violations of Commission statutes by Kenneth R. Bolinger of Bolinger's Quality Auto and ATV's warrants a total civil penalty of two hundred and fifty dollars (\$250.00) which is to be paid within thirty (30) days of receipt of this Order.

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, Chairman

Date: _____