

**STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**DOAH CASE NO.: 08-4159
DMV CASE NO.: 09-953
FINAL ORDER #: HSMV-09-753-FOF-DMV**

**LANCE POWERSPORTS, INC. AND
SUNSTATE POWERSPORTS, LLC,**

Petitioners,

vs.

MEGA POWER SPORTS,

Respondent.

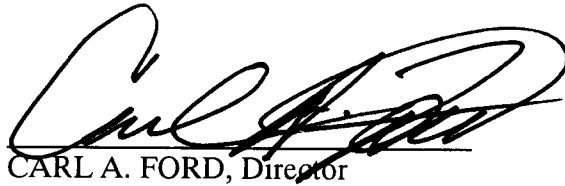
FINAL ORDER

This matter came before the Department for entry of a Final Order upon submission of a Recommended Order by, P. Michael Ruff, Administrative Law Judge of the Division of Administrative Hearings, a copy of which is attached and incorporated by reference in this order. The Department hereby adopts the Recommended Order as its Final Order in this matter.

Accordingly, it is hereby

ORDERED that Petitioner's, Lance Powersports, Inc., and Sunstate Powersports, LLC, request to establish a new dealership for the sale of motorcycles manufactured by Taizhou Zhongneng Motorcycle Company, Ltd. (ZHNG) at 825 Mason Avenue, Daytona Beach (Volusia County), Florida 32117 is **DENIED**.

DONE AND ORDERED this 1st day of June, 2009, in Tallahassee, Leon County,
Florida.



CARL A. FORD, Director
Division of Motor Vehicles
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building
Tallahassee, Florida 32399

Filed with the Clerk of the
Division of Motor Vehicles
this 1st day of June, 2009.

NOTICE OF APPEAL RIGHTS

Judicial review of this order may be had pursuant to section 120.68, Florida Statutes, in the District Court of Appeal for the First District, State of Florida, or in any other district court of appeal of this state in an appellate district where a party resides. In order to initiate such review, one copy of the notice of appeal must be filed with the Department and the other copy of the notice of appeal, together with the filing fee, must be filed with the court within thirty days of the filing date of this order as set out above, pursuant to Rules of Appellate Procedure.

CAF/vlg

Copies furnished:

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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

LANCE POWERSPORTS, INC., AND)
SUNSTATE POWERSPORTS, LLC,)
)
Petitioners,)
)
vs.) Case No. 08-4159
)
MEGA POWER SPORTS,)
)
Respondent.)
_____)

RECOMMENDED ORDER OF DISMISSAL

Pursuant to proper notice this cause came on for formal proceeding and hearing before P. Michael Ruff, a duly-designated Administrative Law Judge of the Division of Administrative Hearings, in Daytona Beach, Florida, on March 18, 2009. The appearances were as follows:

APPEARANCES

For Petitioner: No appearance

For Respondent: No appearance

STATEMENT OF THE ISSUE

Whether the Petitioners should be permitted to establish a "line-make dealership" for Taizhou Zhongneng Motorcycle Company, Ltd. (ZHNG) line-make motorcycles/scooters.

PRELIMINARY STATEMENT

The Respondent named above filed a protest of the application to establish a ZHNG line-make dealership by the above-named Petitioners.

The matter was transmitted to the Division of Administrative Hearings and the undersigned for hearing. The notice of hearing was duly served by U.S. mail on the parties at their last-known addresses of record.

Upon convening the hearing no party appeared. Consequently, no evidence could be taken. Upon waiting for nearly one hour after the duly-noticed starting time, with no appearances by the parties (and no communication from the parties immediately prior to, during or after the hearing) the hearing was adjourned.

FINDINGS OF FACT

1. This matter was convened for hearing for the above-named parties, concerning the issue referenced above. The hearing was held in Daytona Beach, Florida, on March 18, 2009, as more particularly announced in the Notice of Hearing, which was served on both parties at their last-known addresses of record.

2. Upon convening the hearing at the noticed location, date and time, no party made an appearance. After waiting for nearly one hour, there was still no appearance by either party.

There has been no communication from either party before, during or since the hearing regarding any request or reason, concerning the failure to appear. After waiting for the above period of time, without appearances by either party, the hearing was adjourned.

3. No communication has been received to explain the lack of appearances. The Notices of Hearing served on the parties have not been returned as un-deliverable by the United States Postal Service.

4. Since no evidence could be taken, no additional facts may be found.

CONCLUSIONS OF LAW

5. The Division of Administrative Hearings has jurisdiction of the subject matter of and the parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2008).

6. In light of the above-found circumstances, no evidence was adduced by either party, and therefore no findings of fact or conclusions of law could be made regarding the above issue. That being the case, the matter should be dismissed for lack of prosecution.

RECOMMENDATION

RECOMMENDED that a final order be entered by the Florida Department of Highway Safety and Motor Vehicles, dismissing the

Petition in its entirety. The file of the Division of Administrative Hearings is hereby closed.

DONE AND ENTERED this 6th day of April, 2009, in Tallahassee, Leon County, Florida.



P. MICHAEL RUFF
Administrative Law Judge
Division of Administrative Hearings
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1230 Apalachee Parkway
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Filed with Clerk of the
Division of Administrative Hearings
this 6th day of April, 2009.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.