

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.



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P. MICHAEL RUFF  
Administrative Law Judge  
Division of Administrative Hearings  
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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.