

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GALAXY POWERSPORTS, LLC, d/b/a)
JCL INTERNATIONAL, LLC, AND)
PUTNAM CITY MOTORS, INC., d/b/a)
PC MOTORS,)
)
)
Petitioners,)
)
vs.) Case No. 08-5475
)
SEVEN BRIDGES CYCLES, INC.,)
)
)
Respondent.)
_____)

RECOMMENDED ORDER

Upon due notice, a disputed-fact hearing was held in this cause by means of video teleconferencing in Tallahassee, and Jacksonville, Florida, on April 29, 2009, before Ella Jane P. Davis, a duly-assigned Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: No appearance

For Respondent: No appearance

STATEMENT OF THE ISSUE

Whether Petitioners may be granted a new point dealership for Taizhon Zhongneng (ZHNG) motorcycles.

PRELIMINARY STATEMENT

This cause was referred to the Division of Administrative Hearings on or about October 31, 2008. The final hearing date of April 29, 2009, was selected so as to comply with the applicable statute, Section 320.699, Florida Statutes.

FINDINGS OF FACT

1. On October 10, 2008, the Department of Highway Safety and Motor Vehicles published a notice in the Florida Administrative Weekly. The notice announced that Galaxy Powersports, LLC, d/b/a JCL International, LLC, intended to establish Putnam City Motors, Inc., d/b/a PC Motors, as a dealership for the sale of motorcycles manufactured by Taizhon Zhongneng Motorcycle, Co., Ltd. (ZHNG) at 7033 Beach Boulevard, Jacksonville (Duval County), Florida 32216, on or after September 29, 2008.

2. Thereafter, the Respondent, (Jeff Wiggins) of Seven Bridges Cycles, Inc. timely challenged the approval of the proposed dealership.

3. By a notice entered December 16, 2008, the cause was set for formal disputed-fact hearing at 9:30 a.m., April 29, 2009, by video conference between Jacksonville and Tallahassee, Florida.

4. A Notice of Video Instructions requiring pre-filing of exhibits also was entered on December 16, 2008. No party complied with the April 18, 2009, pre-filing date for exhibits set out in that Order.

5. A few days prior to April 29, 2009, the undersigned's secretary called each party to determine if the case had been resolved. Neither party returned her phone call.

6. At 9:30 a.m., on April 29, 2009, no one on behalf of either Petitioner or Respondent appeared at either hearing site.

7. The undersigned caused the court reporter to sound the docket in the Jacksonville site's hallway at 9:35 a.m. and at 10:00 a.m. on April 29, 2009, but no one responded for either party or for the manufacturer. By 10:00 a.m., no one had appeared at the Tallahassee site.

8. The hearing was closed without any appearances or evidence.

CONCLUSIONS OF LAW

9. The Division of Administrative Hearings has jurisdiction over the parties and subject matter of this cause, pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2008).

10. The duty to go forward and the burden of proof to support a new dealership pursuant to Section 320.642, Florida

Statutes, has not been met herein, and a final order should be entered denying a grant of a new point dealership.

RECOMMENDATION

Based on the foregoing Findings of Facts and Conclusions of Law, it is

RECOMMENDED that the Department of Highway Safety and Motor Vehicles enter a final order denying the new point dealership sought by Petitioners Galaxy Powersports, LLC, d/b/a JCL International, LLC, and Putnam City Motors, Inc., d/b/a PC Motors.

DONE AND ENTERED this 12th day of May, 2009, in Tallahassee, Leon County, Florida.



ELLA JANE P. DAVIS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of May, 2009.

COPIES FURNISHED:

Michael J. Alderman, Esquire
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, Room A-432
2900 Apalachee Parkway
Tallahassee, Florida 32399-0635

Pete Biltoc
Claudio Biltoc
Putnam City Motors, Inc.
7033 Beach Boulevard
Jacksonville, Florida 32216

Leo Su
Galaxy Powersports, LLC, d/b/a
JCL International, LLC
2667 Northhaven Road
Dallas, Texas 75229

Jeff Wiggins
Seven Bridges Cycles, Inc.
8841 Atlantic Boulevard
Jacksonville, Florida 32211

Carl A. Ford, Director
Division of Motor Vehicles
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building
2900 Apalachee Parkway
Tallahassee, Florida 32399-1701

Robin Lotane, General Counsel
Department of Highway Safety
and Motor Vehciles
Neil Kirkman Building
2900 Apalachee Parkway
Tallahassee, Florida 32399-1701

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.