

STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

DOAH CASE NO.: 12-0706
MS CASE NO.: 12-190
FINAL ORDER #: HSMV-12-814-S-MS

SOLANO CYCLE, INC.,

Petitioners,

vs.

TAO TAO USA, INC. AND ROAD
RAT MOTORS, LLC,

Respondent.

_____ /

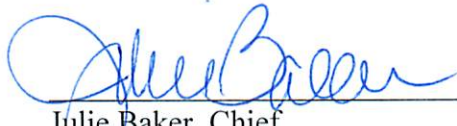
FINAL ORDER

This matter came before the Department for entry of a Final Order upon submission of an Order Closing File and Relinquishing Jurisdiction by Barbara J. Staros, Administrative Law Judge of the Division of Administrative Hearings, pursuant to Respondent's Notice of Withdrawal, a copy of which is attached and incorporated by reference in this order. The Department hereby adopts the Order Closing File and Relinquishing Jurisdiction as its Final Order in this matter.

Accordingly, it is hereby

ORDERED that this case is CLOSED and no license will be issued to Tao Tao USA, Inc., and Road Rat Motors, LLC to sell motorcycles manufactured by Taotao Group Co. Ltd., (TAOI) at 7065 Northwest 22nd Street, Gainesville, (Alachua County), Florida 32653.

DONE AND ORDERED this 10 day of October, 2012, in Tallahassee, Leon County,
Florida.



Julie Baker, Chief
Bureau of Issuance Oversight
Division of Motorist Services
Department of Highway Safety and
Motor Vehicles
Neil Kirkman Building, Room A338
Tallahassee, Florida 32399

Filed in the official records of the
Division of Motorist Services
this 10 day of October, 2012.


Nalini Vinayak, Dealer License Administrator

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.

JB/jdc

Copies furnished:

Jennifer Wallace
Tao Tao USA, Inc.
2425 Camp Avenue, Suite 100
Carrollton, Teas 75006

Justin Jackrel
Road Rat Motors, LLC
7065 Northwest 22nd Street, Suite A
Gainesville, Florida 32653

Martin Solano
Solano Cycle, Inc.
1024 South Main Street, Suite A
Gainesville, Florida 32601

Barbara J. Staros
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Nalini Vinayak
Dealer License Administrator

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SOLANO CYCLE, INC.,)	
)	
Petitioner,)	
)	
vs.)	Case No. 12-0706
)	
TAO TAO USA, INC., AND)	
ROAD RAT MOTORS, LLC,)	
)	
Respondents.)	
_____)	

ORDER RELINQUISHING JURISDICTION AND CLOSING FILE

On January 13, 2012, the Department of Highway Safety and Motor Vehicles (the Department) published a Notice of Publication of a New Point Franchise Motor Vehicle Dealer in a County of Less than 300,000 Population (Notice) in the Florida Administrative Weekly. The Notice stated that Tao Tao USA, Inc., intends to allow the establishment of Road Rat Motors, LLC, as a dealership in Gainesville, Florida, for the sale of motorcycles manufactured by Tao Tao Group Co., Ltd., (line-make TAOI, WMI-L9N).

On February 13, 2012, the Department received a letter of protest from Solono Cycles, Inc., protesting the establishment of the proposed dealership of the same line-make. On February 21, 2012, the Department transmitted the case to the Division of Administrative Hearings (DOAH) to conduct a hearing pursuant to Sections 320.642 and 320.699, Florida Statutes.

An Initial Order was issued by DOAH on February 21, 2012, requiring the parties to provide certain information regarding the estimated length of time necessary to conduct the hearing and all dates more than 180 and less than 240 days from the date of the filing of the protest on which all parties were available for the final hearing. No response was filed by any party.

A Notice of Hearing and Order of Pre-Hearing Instructions were issued on March 20, 2012, scheduling the hearing for September 21, 2012, in Gainesville, Florida, and requiring the parties to, among other things, meet and prepare and file a pre-hearing stipulation identifying witnesses, exhibits, and many other pre-hearing matters. No party complied with the Order of Pre-Hearing Instructions.

On September 18, 2012, the undersigned issued an Order Canceling Hearing, which in addition to canceling the hearing, required the parties to file on or before October 1, 2012, any reason why this file should not be closed and jurisdiction relinquished to the Department. Additionally, the Order notified the parties that failure to comply with the Order would result in the DOAH case being closed and jurisdiction relinquished to the Department.

Respondent Road Rat Motors filed a letter on September 25, 2012, indicating that Road Rat Motors wished the hearing to be rescheduled. On October 1, 2012, Petitioner, Solono Cycles, filed a letter indicating that it was his understanding that Tao Tao was going to withdraw the request to establish Road Rat Motors as their franchise dealer in Alachua County. Petitioner further asserted that if Tao Tao does not submit a withdrawal letter, Petitioner wishes to proceed.

However, on October 2, 2012, Respondent Tao Tao filed a letter in which it stated that "Tao Tao USA will no longer persuing (sic) this case." The letter further states that Tao Tao, as the distributor, would like to release "any future involvement with the case" and asserts that the other parties will continue to pursue this case.

However, the clear language of Section 320.642(2)(a), Florida Statutes, provides that an application for a motor vehicle dealer license shall be denied when a timely protest is filed and the licensee fails to show that the existing franchised dealer who registers new motor vehicle retail sales or retail leases of the same line-make in the community of the proposed dealership is not providing adequate representation of such line-make. Most importantly, the statute provides that "the burden of proof in establishing inadequate representation shall be on the licensee."

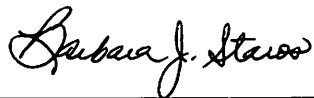
As the licensee has abandoned any involvement with the case, any hearing would be futile as the licensee cannot meet its statutory burden.

Accordingly, it is

ORDERED:

Jurisdiction of this case is hereby relinquished to the Department of Highway Safety and Motor Vehicles and the file of the Division of Administrative Hearings is hereby closed.

DONE AND ORDERED this 3rd day of October, 2012, in Tallahassee, Leon County, Florida.



BARBARA J. STAROS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of October, 2012.

COPIES FURNISHED:

Mike Hillman
Jennifer Wallace
Tao Tao USA, Inc.
Suite 100
2425 Camp Avenue
Carrollton, Texas 75006

Justin Jackrel
Road Rat Motors, LLC
Suite A
7065 Northwest 22nd Street
Gainesville, Florida 32653

Martin Solano
Solano Cycle, Inc.
Suite A
1024 South Main Street
Gainesville, Florida 32601

Jennifer Clark, Agency Clerk
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, Room A-430
2900 Apalachee Parkway, Mail Stop 61
Tallahassee, Florida 32399

Jennifer Wallace
Tao Tao USA, Inc
2425 Camp Avenue, Suite 100
Carrollton, Texas 75006
(214)635-3980

October 2nd, 2012

Honorable Barbara J. Staros
Administrative Law Judge
Division of Administrative Hearings
The Soto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850)488-9675
Fax Filing (850)921-6847
www.doah.state.fl.us

Case# 12-706

Solano Cycle, Inc
Petitioner

VS.

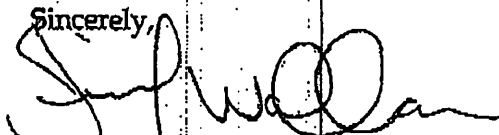
Road Rat Motors, LLC
Respondents

I, Jennifer Wallace, Company name Tao Tao USA,

Hereby I declare that Tao Tao USA will no longer pursuing this case.

Tao Tao as the distributor would like to release any future involvement with the case. Any documents and testimony will be provided by both parties, Solano Cycle and RoadRats who will continue to pursue the case until resolution is achieved. Please let us know if you have any questions.

Sincerely,


Jennifer Wallace (Tao Tao USA)

Copies furnished to:

Justin Jackrel
Road Rat Motors, LLC
7065 Northwest 22nd Street, Suite-A
Gainesville, Florida 32653

Martin Solano
Solano Cycle, Inc
1024 South Main Street, Suite-A
Gainesville, Florida 32601

Barbara J. Staros
Administrative Law Judge
Division of Administrative Hearings
The Soto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850)488-9675
Fax Filing (850)921-6847
www.doah.state.fl.us