

**TENNESSEE MOTOR VEHICLE COMMISSION
BOARD MEETING
OCTOBER 10, 2011 10:30 A.M.
CONFERENCE ROOM 160
DAVY CROCKETT TOWER, 500 JAMES ROBERTSON PKWY.
NASHVILLE, TENNESSEE 37243**

ROLL CALL:

	<u>PRESENT</u>	<u>ABSENT</u>
EDDIE ROBERTS	X	
REED TRICKETT	X	
GEORGE BASS	X	
WILLIAM TARR	X	
JOE CLAYTON		X
KEVIN CULLUM		X
DONNIE HATCHER		X
NATE JACKSON	X	
CHAD JONES		X
DON PARR	X	
STAN MCNABB	X	
FARRAR SCHAEFFER	X	
MARK PIRTLE	X	
RONNIE FOX	X	
WADE HINTON	X	

The Tennessee Motor Vehicle Commission Meeting was called to order by Chairman Eddie Roberts on October 10, 2011 Roll Call was taken with a total of (11) member's present.

A Motion was made by Commissioner Mark Pirtle, and seconded by Commissioner Bill Tarr, to approve the minutes from the October meeting.

MOTION PASSED UNANIMOUSLY

Adopt Agenda

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Farrar Schaeffer to adopt the agenda for the meeting held on October 10, 2011.

Motion passed unanimous.

APPEALS

The following appeals were heard by Commission.

Caleb Andrew O'Donnell- Pinnacle Automotive Inc., Bristol, TN
Staff denied application

Motion was made by Commissioner Mark Pirtle, and seconded by Commissioner Ronnie Fox to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Abstain
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Bill Tarr	Yes
Reed Trickett	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

Michael Ellis- C & N Used Cars, Knoxville, TN
Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Reed Trickett to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Abstain
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Bill Tarr	Yes
Reed Trickett	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

James Joseph Parsons-Garland Buick GMC, LLC, Dickson, TN
Staff denied application

Motion was made by Commissioner Farrar Schaeffer, and seconded by Commissioner Reed Trickett to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Bill Tarr	Yes
Reed Trickett	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

David Joseph Babbitt-Larry Hill Ford, Inc., Cleveland, TN
Staff denied application

Motion was made by Commissioner Mark Pirtle, and seconded by Commissioner Stan McNabb to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Bill Tarr	Yes
Reed Trickett	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

Robert Green- Nissan of Cool Springs, Franklin, TN
Staff denied application

Motion was made by Commissioner Reed Trickett, and seconded by Commissioner Farrar Schaeffer to deny the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Bill Tarr	Yes
Reed Trickett	Yes
Mark Pirtle	Yes

Motion passed to deny the license.

Ivan O. Pena- East Tennessee Nissan Inc., Morristown, TN
Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Reed Trickett to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Stan McNabb	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Bill Tarr	Yes
Reed Trickett	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

DIRECTORS REPORT

Since the last Commission meeting in July, 2011 the following actions have been taken:

Dealers Opened, or Relocated96

Active Licensees as of October 1, 2011

Dealers.....3984
Applications in Process.....31
Distributions/Manufacturers157
Auctions..... 30
Representatives.....470
Salespeople.....13025
Dismantlers.....341
RV Dealers.....22
RV Manufacturers.....50

Motor Vehicle Show Permits Issued Since July 15 2011, ...6
Revenue Received \$ 1200.00

Motion was made by Nate Jackson, and seconded by Commissioner George Bass to approve the Directors Report.

Old Business

New Business

The Motor Vehicle Commission was asked to clarify that the Motor Vehicle staff were to continue to request the Original Bond for Motor Vehicle Dealers, or would a copy be satisfactory.

Motion was made by Commissioner Wade Hinton, and seconded by Commissioner Nate Jackson that the Original Bond would be required to be turned in to the Motor Vehicle Commission office.

Legal Report

13. Case No.: 2010003051, 2010003052, 2010003053

Complainant provided the Commission with the name of three motor vehicle dealers who use the word “Wholesale” as part of their incorporated names filed with the Sec. of State’s office. Complainant alleges that these dealers sell retail to customers and the use of the word “wholesale” in their name is deceptive. Complainant provided information that this practice is prohibited in the state of Georgia.

This office confirmed that Georgia does have a consumer statute banning the usage of advertising “wholesale” when in fact a retail transaction occurs. However, Tennessee does not have a similar statute and this office could not find any case law opining the practice as deceptive.

Recommendation: Close – No Violation Found.

Commission Action: Close – The name “wholesaler” as a legal or trade name is not a violation of the motor vehicle dealer licensing statutes.

77. Case No.: 2009012761

This case was originally presented in October 2009. Complainant alleged that Respondent/dealer sold him a vehicle with frame damage, which dealer purchased at auction. Complainant provided a copy of an Auto Check report showing that an auction announced as having “frame damage”. A car fax report was obtained showing a previous wreck in Georgia with “slight” damage, but no indication of any frame damage. Respondent stated the vehicle was auctioned as “possible frame damage” but that the vehicle had previously been in a minor wreck which only required a bumper panel replacement and paint. Complainant has not provided any proof from a certified mechanic stating the vehicle had frame damage. The vehicle has a “unibody.” There is not sufficient evidence that the vehicle does in fact have frame damage. However, Complainant was not informed of possible frame damage.

Recommendation: Authorization for the imposition of a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) for failing to disclose possible frame damage to customer.

Commission Action: Close with a Letter of Warning.

REVIEW COMMITTEE

The Review Committee advised the Commission that the Committee had discussed the attached legal report with counsel and moved that the Commission adopt the attorney’s recommendations.

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner George Bass to approve these recommendations made by the Review Committee.

Motion passed unanimous.

The Motor Vehicle Commission was asked to make a motion on a Manufacturer’s request to terminate a Franchise Dealer Agreement before the required 60 days. The Franchise holder in question did not have a Tennessee Dealer license.

Motion was made by Commissioner Farrar Schaeffer, and seconded by Commissioner Mark Pirtle to approve the termination before the required 60 days.

Motion passed unanimous.

Litigation Attorney Robyn Ryan spoke to the Commission about allowing her to proceed on all Formal Hearings for civil penalties reserving the right before the full Commission for those issues regarding revocation and suspension. Anything with a civil penalty and dollar amounts will go before an Administrative Law Judge.

Motion was made by Commissioner Farrar Schaeffer, and seconded by Commissioner Nate Jackson to approve Attorney Robyn Ryan request to take the Civil Penalties before an Administrative Law Judge.

Motion made to adjourn was made unanimously.

Eddie Roberts, Chairman

Leon Stribling, Executive Director