

MINUTES
APRIL 25, 2016



**TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
MOTOR VEHICLE COMMISSION
500 JAMES ROBERTSON PARKWAY, 2ND FLOOR
NASHVILLE, TENNESSEE 37243-1153
FAX (615) 741-0651
(615) 741-2711**

**TENNESSEE
MOTOR VEHICLE COMMISSION
MINUTES**

- DATE:** April 25, 2016
- PLACE:** Davy Crockett Tower – Conference Room 1-A
500 James Robertson Parkway
Nashville, Tennessee
- PRESENT:** Commission Members:
Eddie Roberts
Joe Clayton
John Murrey
Lynn Webb
Ronnie Fox
Stan Norton
Farrar Vaughan
Nate Jackson
Ian Leavy
Reed Trickett
- ABSENT:** Stann McNabb
Don Parr
Jim Galvin
Donnie Hatcher
Steve Tomaso
Kahren White
Victor Evans

CALL TO ORDER: Chairman Eddie Roberts called the meeting to order at 9:00 am

Paula J. Shaw, Executive Director, called the roll. 10 members were present and a quorum was established.

MEETING NOTICE: Notice advising the Commission of the time, date and location of the meeting being posted on the Tennessee Motor Vehicle Commission website and that it has been included as part of the year's meeting calendar since July 13, 2015, was read into the record by Executive Director, Paula J. Shaw. The notice also advised that the Agenda has been posted on the Tennessee Motor Vehicle Commission website since April 20, 2016.

AGENDA: Chairman Roberts requested the Commission look over the agenda. Commissioner Jackson made a motion to adopt the agenda, seconded by Commissioner Vaughan.

MOTION CARRIED.

QUARTERLY MEETING MINUTES: Commissioner Clayton made a motion to approve the minutes from the January 11, 2016 meeting, seconded by Commissioner Fox.

MOTION CARRIED.

APPEALS: The following appeals were heard by the Commission.

Kevin Guyer
Toyota of Bristol, Bristol, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Clayton moved the denial be upheld, seconded by Commissioner Vaughan.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	NO
Ian Leavy	YES

Motion carried, therefore the denial is upheld.

Anthony Turner
Kia of Kingsport, Kingsport, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion Commissioner Vaughan moved the application be approved, seconded by Commissioner Jackson.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

Travis Hensley
C & C Cars and Credit, Johnson City, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Webb moved the application be approved, seconded by Commissioner Fox.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

Burkett McCann
McCann’s Auto Sales, Cleveland TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Jackson moved the application be approved, seconded by Commissioner Vaughan.

ROLL CALL VOTE

Eddie Roberts	YES
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Joe Clayton **YES**
Ronnie Fox **YES**
Nate Jackson **YES**
John Murrey **YES**
Reed Trickett **YES**
Stan Norton **YES**
Farrar Vaughan **YES**
Lynn Webb **YES**
Ian Leavy **YES**

Motion carried, therefore the license is granted.

Lee Giannaro
Larry Hill Imports, Cleveland, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Fox moved the application be approved, seconded by Commissioner Norton.

ROLL CALL VOTE

Eddie Roberts **YES**
Joe Clayton **YES**
Ronnie Fox **YES**
Nate Jackson **YES**
John Murrey **YES**
Reed Trickett **YES**
Stan Norton **YES**
Farrar Vaughan **YES**
Lynn Webb **YES**
Ian Leavy **YES**

Motion Carried, therefore the license is granted.

Clifford Steve Lewis
Bill Boruff Chrysler Dodge Jeep Ram, Sparta, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Vaughan moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts **YES**
Joe Clayton **YES**
Ronnie Fox **YES**

Nate Jackson YES
John Murrey YES
Reed Trickett YES
Stan Norton YES
Farrar Vaughan YES
Lynn Webb YES
Ian Leavy YES

Motion carried, therefore the license is granted.

Jamey Payne
Edd Kirby's Adventure LLC, Chattanooga, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Webb moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts NO
Joe Clayton ABSTAIN
Ronnie Fox YES
Nate Jackson NO
John Murrey YES
Reed Trickett YES
Stan Norton NO
Farrar Vaughan NO
Lynn Webb YES
Ian Leavy NO

Motion carried, therefore the license is NOT granted.

Commission was instructed by Matthew Reddish, staff attorney, a motion to deny was still needed. Commissioner Jackson made a motion to deny the application, seconded by Commissioner Vaughan. Chairman Roberts called for a Roll Call Vote.

ROLL CALL VOTE

Eddie Roberts YES
Joe Clayton ABSTAIN
Ronnie Fox NO
Nate Jackson YES
John Murrey NO
Reed Trickett NO
Stan Norton YES
Farrar Vaughan YES
Lynn Webb NO

Ian Leavy YES

Motion carried, therefore the license is denied.

Franklin Michael Hughes
Hyundai of Cookeville, Cookeville, TN

Applicant did not appear.

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Vaughan moved the denial be upheld, seconded by Commissioner Norton.

ROLL CALL VOTE

Eddie Roberts YES
Joe Clayton YES
Ronnie Fox YES
Nate Jackson YES
John Murrey YES
Reed Trickett YES
Stan Norton YES
Farrar Vaughan YES
Lynn Webb YES
Ian Leavy YES

Motion carried, therefore the denial is upheld.

Joshua Pol
Serra Chevrolet Buick GMC, Madison, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Vaughan moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts YES
Joe Clayton YES
Ronnie Fox YES
Nate Jackson YES
John Murrey YES
Reed Trickett YES
Stan Norton YES
Farrar Vaughan YES
Lynn Webb YES
Ian Leavy YES

Motion carried, therefore the license is granted.

Heratio Edmond
Perry Auto Sales, Inc., Goodlettsville, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Jackson moved the application be approved pending a new application be submitted within 24 hours, seconded by Commissioner Vaughan.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, and applicant submitted a new application within the requested time frame, therefore the license is granted.

Bobby Freeman
Peggy's Auto Sales, Hendersonville, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Leavy moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

Steven Otis
Town and Country Ford, Madison, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Jackson moved the application be approved, seconded by Commissioner Vaughan.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

Richard Batts
Toyota Scion of Murfreesboro, Murfreesboro, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Trickett moved the application be approved, seconded by Commissioner Murrey.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

William Miller
Herman Jenkins Motors, Union City, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Jackson moved the application be approved, seconded by Commissioner Vaughan.

ROLL CALL VOTE

Eddie Roberts YES
Joe Clayton YES
Ronnie Fox YES
Nate Jackson YES
John Murrey YES
Reed Trickett YES
Stan Norton ABSTAIN
Farrar Vaughan YES
Lynn Webb YES
Ian Leavy YES

Motion carried, therefore the license is granted.

DIRECTOR’S REPORT – Paula J. Shaw, Executive Director

Executive Director Shaw offered congratulations to the Commission for being extended four more years by the Sunset Bill with Chairman Roberts stating for the record that the vote was “97 For and 0 Against”. Executive Director Shaw also provided the Commission with the following information which is for informational purposes only:

Since the last Commission meeting in January 11, 2016 the following activity has occurred:

Dealers Opened, or Relocated (Last Quarter).....102

Active Licensees as of January 11, 2016

Dealers.....3696
 Applications in Process.....28
 Salesperson Applications in Process.....137
 Distributors/Manufacturers.....130
 Auctions.....32
 Representatives.....553
 Salespeople.....16408
 Dismantlers.....277
 RV Dealers.....28
 RV Manufacturers.....59

Motor Vehicle Show Permits:

Issued Since January 11, 2016.....3
 Associated Revenue.....\$600

Complaint Report- January 11, 2016 to Present:

Number of Complaints Opened.....208
Number of Complaints Close.....165

Annual Sales Reports-(Due Feb 15):

Vehicles Reported Sold in 2015.....1,120,208
Recreational Vehicles Reported Sold in 2015.....3,660
(Excluding Dealers Reporting late)
Listing Sent to County ClerksApril 19, 2016

Disciplinary Action Report – (January – March):

Total Collected.....\$91,250.00

Chairman Roberts called for a motion to approve the Director’s Report. Commissioner Jackson made a motion to approve the Director’s Report, and was seconded by Commissioner Fox.

VOICE VOTE – UNANIMOUS

The motion carried to approve the Director’s Report.

Director Paula J. Shaw addressed the commission regarding Outreach the Commission is taking part in for education of licensees and the public including meeting with Independent dealers and touring Nashville Auto Auctions, an odometer fraud consumer alert issued by the Commission using the “Notify” feature on the website, Meeting with the Tennessee Department of Revenue regarding the online Temporary Tag Log Program and meeting with the Knoxville Auto Dealer’s Association. Director Shaw also updated the Commission on the Online Transition of several applications.

Commissioner Jackson called for a recess of the quarterly meeting, seconded by Commissioner Vaughan.

Commissioner Jackson called the legal review meeting to order at 11:25 am.

LEGAL REPORT

Chairman Roberts requested the Commission move on to the legal report. Deputy General Counsel, Michael Driver, presented the legal report to the Commission. Deputy General Counsel conveyed that there was one change to the first legal report, which was to defer item #58 to the full Commission.

- #1. Case No.: 2016000751
2016000752

Staff received complaint alleging that Respondent/Salesperson had sold her a vehicle online and failed to disclose that he was representing Respondent/Dealership. Respondent/Salesperson denies selling the vehicle and alleges that while the vehicle had been at Respondent/Dealership at some point, he did not sell the vehicle to complainant and that someone had forged his name. Complainant admits that Respondent/Salesperson is not the same person who sold her the vehicle, but did state that

Respondent/Salesperson refunded her the money paid for the vehicle. Complainant wishes to withdraw her complaint.

Recommendation: Close – settled between parties.

Commission Action:

#2. Case No.: 201500222921

Staff received complaint alleging Respondent failed to issue title in a timely manner and that Complainant had received numerous temporary tags. Investigation conducted to verify what violations, if any, had occurred. Investigation revealed that Respondent had still not issued title six months later due to various errors on Respondent's part, as well as others. Additionally,

Respondent issued four (4) temporary tags to Complainant and had three incomplete entries in the temporary tag log. Respondent was found to be in possession of two (2) open titles.

Recommendation: Authorization of a civil penalty in the amount of \$4,000 (1 x \$1,000 for deceptive acts with titling) (2 x \$500 = \$1,000 for issuing more temporary tags than allowed by law) (2 x \$500 = \$1,000 for attempting to sell motor vehicle on an open title) (1 x \$1,000 for failure to maintain temporary tag log). To be settled by consent order or formal hearing.

Commission Action:

#3. Case No.: 20150220341

Allegations are of a contractual issue separate from the sale of a motor vehicle, no evidence of any rule or statute violation in the complaint or investigation.

Recommendation: Close

Commission Action:

#4. Case No.: 20150224201

Complaint alleged Respondent had engaged in unlicensed activity, an investigation was conducted to determine whether any violations had occurred. During the investigation, it was revealed that Respondent operated a scrap metal facility from which he had sold ten (10) motor vehicles over the last 12 months.

Recommendation: Authorization of a civil penalty in the amount of \$5,000 (\$500 x 10 unlicensed sales). To be settled by consent order or formal hearing.

Commission Action:

#5. Case No.: 20150220281

Complaint alleged Respondent advertised vehicle at one price, and then sold to him for a price \$3,226 higher than advertised. Investigation conducted into advertising violations. Respondent admitted the error and investigation reveals that Respondent paid the \$3,226 back to consumer plus additional \$1,788 for mechanical work that had to be completed on the motor vehicle. Investigation revealed that Respondent has two previous advertising violation warnings in 2004 and 2011.

Recommendation: Authorization of a civil penalty in the amount of \$250 for one advertising violation, to be settled by consent order or formal hearing.

Commission Action:

#6. Case No.: 20150222151

Complainant alleged Respondent sold a salvage vehicle without disclosing, investigation conducted to determine if any violation occurred. Investigation revealed that motor vehicle in question was sold prior to rebuilt title being applied for. Additionally, Respondent issued multiple temporary tags on the salvage vehicle. Commission previously authorized revocation of Respondent dealer for similar allegations and case is in litigation.

Recommendation: Authorization of revocation, to be referred to litigating attorney to be settled by consent order or formal hearing.

Commission Action:

#7. Case No.: 20150226751

Complaint received from out of state investigator alleging Respondent using Tennessee temporary tags on vehicles sold in New York and New Jersey. Investigation conducted to determine the extent of Respondent's violations. Investigation revealed that, among other facts, Respondent has not sold any motor vehicles in Tennessee, its dealership does not meet minimum facility dealership requirements, and that Respondent deceived multiple governmental organizations in order to receive dealer tags and temporary tags.

Recommendation: Revocation to be settled consent order or formal hearing.

Commission Action:

#8. Case No.: 20150227721

Complaint alleged Respondent ran a deceptive advertisement or potentially engaged in odometer tampering. Investigation conducted to determine if any violations occurred. Investigation found that engine had been replaced on motor vehicle in question. Investigation revealed that original advertisement was quickly pulled and new advertisement correctly stated mileage for the body of the car and mileage for the new engine.

Recommendation: Letter of Warning – Advertising

Commission Action:

#9. Case No.: 20150213181

Complaint alleged Respondent sent incorrect vehicle information to lender, investigation conducted. Complainant was uncooperative with investigation. Evidence recovered by Investigator fails to show any wrong doing.

Recommendation: Close

Commission Action:

#10. Case No.:

2016004431	2016001971	2016005451	2016017391
2016005181	2016002441	2016006241	2016007471
20150226861	2016002361	2016006301	2016010131
20150222861	2016002501	2016010551	2016010331
20150226391	2016002681	2016015271	2016010751
20150226601	2016004051	2016009921	2016010753
2016000081	2016004431	2016010001	
2016000100	2016005181	2016011231	
2016001421	2016005321	2016011871	
2016001451	2016004531	2016016021	

Respondent dealership is confirmed to be closed, surety bond sent.

Recommendation: Close and flag

Commission Action:

#11. Case No.: 20150213811

Complaint alleged Respondent failed to timely issue title, investigation conducted. Investigation revealed that Complainant originally provided incorrect address. Situation has since been resolved and Complainant has received title. Complainant states title is missing some necessary information, but refused to cooperate with investigation in order to further assist or determine if Respondent made an error.

Recommendation: Close

Commission Action:

#12. Case No.: 20150227481

Complaint alleged Respondent engaged in unlicensed activity, investigation conducted. Investigation confirmed one sale from Respondent in the state of Tennessee. Respondent moved to Florida in 2015 and claims he only sold the one car in Tennessee. No evidence to contradict Respondent's claims.

Recommendation: Close

Commission Action:

#13. Case No.: 20150226862
2016010751

Complaint alleged Respondent engaged in unlicensed activity, investigation conducted. Investigation revealed that Respondent has sold or attempted to sell eighteen (18) motor vehicles through craigslist. Follow up investigation was conducted four (4) months later following an additional complaint. Respondent was found to be selling nine (9) additional vehicles.

Recommendation: Authorization of a civil penalty in the amount of \$18,000 (18 x \$500 for unlicensed activity, 9 x \$1,000 for continued unlicensed activity). To be settled by consent order or formal hearing.

Commission Action:

#14. Case No.: 20150227041

Notice of violation issued because Respondent was operating from a location where it was not licensed to operate from. Investigation conducted to determine the extent of the violations. Investigation revealed that Respondent had changed locations and updated its corporate filing, but had not notified the Commission. Respondent has since come into compliance with licensing requirements.

Recommendation: Authorization of a civil penalty in the amount of \$2,000 (1 x \$1,000 for failure to notify commission of location change, 1 x \$1,000 for failure to obtain a license for each location). To be settled by consent order or formal hearing.

Commission Action:

#15. Case No.: 20150222081
20150222082
20150222083

Staff received information alleging Respondent 1 was operating as an unlicensed motor vehicle dealer. Respondent 1 is owned by Respondent 2 who sells vehicles, as well as Respondent 3 who operates as a representative/salesperson for Respondent 1. Investigation conducted to determine the extent of unlicensed activity. Investigation revealed fifteen (15) motor vehicles registered and sold by Respondent 1 company, as well as an additional four (4) motor vehicles that were for sale at time of investigation. Ten (10) of the sales were completed by Respondent 2, five (5) were completed by Respondent 3.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$9,500 (19 x \$500 unlicensed sales). To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$5,000 (10 x \$500 unlicensed sales). To be settled by consent order or formal hearing.

Respondent 3: Authorization of a civil penalty in the amount of \$2,500 (5 x \$500 unlicensed sales). To be settled by consent order or formal hearing.

Commission Action:

#16. Case No.: 20150219631

Complaint alleged Respondent had failed to issue title in timely manner. Complaint also alleged Respondent ran a deceptive advertisement regarding amounts being given on trade in. Investigation conducted wherein it was found title/registration was delayed beyond sixty (60) days due to arguments with consumer. Transcript of advertisement revealed radio language stated “up to” prior to dollar figure promised.

Recommendation: Authorization a civil penalty in the amount of \$500 for one deceptive act of not timely providing title/registration to consumer. To be settled by consent order or formal hearing.

Commission Action:

#17. Case No.: 2016004091

Complainant failed to allege a violation of any rule or statute.

Recommendation: Close

Commission Action:

#18. Case No.: 20150211481
20150226731
2016004511

Duplicate case, already referred to litigation.

Recommendation: Close

Commission Action:

#19. Case No.: 20150222941

Complainant alleged Respondent had not produced title from a vehicle purchased seven (7) years ago. Respondent is closed, surety bond sent.

Recommendation: Close and flag

Commission Action:

#20. Case No.: 20150227301

Complainant alleged Respondent failed to timely produce title. In Response, Respondent provided evidence that title had been located and sent. Surety bond also sent to Complainant.

Recommendation: Close

Commission Action:

#21. Case No.: 20150221811
20150226691

Complaint alleged Respondent failed to timely issue title. Investigation conducted to determine if any deceptive acts had occurred. Investigation revealed that Complainant did receive title and only received two (2) temporary tags.

Recommendation: Close

Commission Action:

#22. Case No.: 2015022281

Complaint alleged difficulties in getting deal finalized and multiple financing agreements being signed. Investigation conducted to determine if any deceptive acts occurred. Investigation revealed Respondent did not use conditional delivery agreement as prescribed by statute.

Recommendation: Authorization of a civil penalty in the amount of \$500, to be settled by consent order or formal hearing.

Commission Action:

#23. Case No.: 2016008641

Duplicate case, already referred to litigation.

Recommendation: Close

Commission Action:

#24. Case No.: 2016010471

Complainant alleged Respondent was committing advertising violations due to failure to disclose doc fee and not clearly distinguishing lease offers from sale offers.

Recommendation: Letter of Warning

Commission Action:

#25. Case No.: 20150220211

Complainant alleged Respondent/Dealer ran a deceptive advertisement that purported to show recipient as having won \$500. When Complainant arrived at Respondent/Dealer he was not given \$500, but instead entered into a drawing for a prize worth less than \$500. A review of the attached advertisement confirms Complainant.

Recommendation: Authorization of a Civil Penalty in the amount of \$2,500 for deceptive advertising. To be settle by consent order or formal hearing.

Commission Action:

#26. Case No.: 20150224111
20150224112
20150224113

Complainant alleges they purchased car from Respondent 1 Unlicensed Dealer and has since been unable to obtain title. Respondent 2 and 3 are owners and unlicensed salespeople at Respondent 1. All three Respondents are known repeat offenders and attached documents clearly evidence they sold a motor vehicle to Complainant.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$5,000 for unlicensed activity. To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$5,000 for unlicensed activity. To be settled by consent order or formal hearing.

Respondent 3: Authorization of a civil penalty in the amount of \$5,000 for unlicensed activity. To be settled by consent order or formal hearing.

Commission Action:

#27. Case No.: 20150224141
20150226321
20150224081
20150222881
2016001471
2016004491
2016012771
2016006151
2016002481

Complaint alleged Respondent was failed to timely issue title/registration. Investigation conducted to determine whether any deceptive acts had occurred. Investigation revealed that all titling/registration issues were resolved in a timely manner.

Recommendation: Close

Commission Action:

#28. Case No.: 20150225671

Complaint alleged Respondent failed to timely issue title. Investigation conducted wherein it was found that motor vehicle sold in February of 2015 and title not issued until December of 2015. Complainant was not cooperative and stated issues had been resolved. Respondent has a history of similar allegations and recently signed consent orders.

Recommendation: Authorization of a civil penalty in the amount of \$2,500 for one deceptive act. To be settled by consent order or formal hearing.

Commission Action:

#29. Case No.: 20150226981
20150226982
20150226863
20150226864

Complaint alleged Respondents 1 Dealer failed to issue title in a timely manner, investigation conducted in order to determine if any deceptive acts occurring. Investigation lead to Respondents 3 and 4 who are owners and licensed salespeople for Respondent 1 Dealer. Respondents 3 and 4 were uncooperative with investigation. Investigation determined that title had not been timely issued, that Respondent 1 dealer name had been changed and commission was not notified, that Respondent 1 dealer had a misleading business name, that Respondent 1, 3 and 4 had failed to produce records as requested and that Complainants bill of sale was altered without Complainant's consent. In addition to the above findings, Respondent 1 did not have hours of operation posted. When Respondents 3 and 4 were notified of this issue, the Respondent's refused to properly post their hours. Investigator found that Respondent 1 was not keeping the non-conforming hours that were subsequently posted at the dealership. Respondent 2 was not found to have any connection with Respondent 1 dealer.

Recommendation:

Respondent 1: Authorization of revocation (Deceptive acts, failure to notify Commission of name change, improper business signage, improper hours posted (2 occurrences), failure to keep business hours, failure to produce records, violations of state/federal law), to be settled by consent order or referred to litigating attorney for formal hearing.

Respondent 2: Close

Respondent 3: Authorization of revocation (Deceptive acts, failure to provide records, violations of state/federal law), to be settled by consent order or referred to litigating attorney for formal hearing.

Respondent 4: Authorization of revocation (Deceptive acts, failure to provide records, violations of state/federal law), to be settled by consent order or referred to litigating attorney for formal hearing.

Commission Action:

#30. Case No.: 20150227281

Complaint alleged Respondent failed to timely issue title. Respondent dealer is closed, surety bond sent.

Recommendation: Close and Flag

Commission Action:

#31. Case No.: 20150227301

Complainant alleged Respondent failed to timely issue title. Respondent subsequently provided information showing motor vehicle had been title properly.

Recommendation: Close

Commission Action:

#32. Case No.: 20150227571

Complaint alleged Respondent attempt to deceive them by agreeing to one price and then drawing up paperwork at another price. Complaint also alleged Respondent tried to deceive them into purchasing an unnecessary towing package for his truck. Investigation was conducted wherein it was impossible to determine the exact circumstances that lead to the disputes, it appears there were some miscommunications between Complainant and Respondent. During investigation, Respondent dealer was found to be attempting to sell four (4) vehicles it did not own.

Recommendation: Authorization of a civil penalty in the amount of \$2,000 for four (4) occurrences of selling a used vehicle titled in a third party's name. To be settled by consent order or formal hearing.

Commission Action:

#33. Case No.: 20150227591
20160069711
20160070111
20160070111

Complaint alleged Respondent 1 was engaged in unlicensed activity and was operating unlicensed dealerships (Respondents 2, 3, and 4). Investigation conducted to determine extent of any unlicensed activity. Investigation resulted in no evidence of any violations, further, Complainant decided against cooperating with investigation.

Recommendation: Close

Commission Action:

#34. Case No.: 2016000021

Complaint alleged Respondent failed to timely issue title and had issued three (3) temporary tags. Investigation conducted to determine if any violations had occurred. Investigation revealed that Respondent had issued three (3) temporary tags to Complainant and that title issues had been resolved in a manner satisfactory to Complainant.

Recommendation: Authorization of a civil penalty in the amount of \$500 for issuing more temporary tags than allowed by law. To be settled by consent order or formal hearing.

Commission Action:

#35. Case No.: 2016000511

Notice of violation issued against Respondent for unlicensed activity. Investigation revealed that Respondent was properly licensed.

Recommendation: Close

Commission Action:

#36. Case No.: 2016000531

Notice of Violation issued against Respondent for failure to maintain business license, improper signage, business hours not posted and unlicensed activity. Investigation conducted to determine if Respondent was now in compliance. Investigation revealed that Respondent had renewed dealer license, but remaining violations continued to persist.

Recommendation: Authorization of a civil penalty in the amount of \$1,500 (1 x \$500 business license, 1 x \$500 signage, 1 x \$500 business hours). To be settled by consent order or formal hearing.

Commission Action:

#37. Case No.: 2016000711
2016000712

Complaint was contractual in nature, only violation alleged was potential deceptive advertisement but no evidence of such was found and Respondent denies misleading advertisement.

Recommendation: Close

Commission Action:

#38. Case No.: 2016000731

Complaint alleged Respondent improperly repossessed their motor vehicle, Respondent provided payment history and contract that shows repossession was proper. Issues between Complainant and Respondent are contractual.

Recommendation: Close

Commission Action:

#39. Case No.: 2016000801
2016010311

Complaint 1 alleged Respondent improperly repossessed their motor vehicle, investigation conducted. Respondent stated in investigation that title was not given because they were awaiting an additional \$700 of the down payment; however bill of sale states only \$700 cash down payment was due. Respondent admits to deceiving the consumer regarding who repossessed the car. Investigator found four (4) open titles. Investigation also revealed Respondent failed to use proper truth and lending disclosures and that financing information had no end date. Complaint 2 alleged Respondent failed to timely issue title and issued three (3) temporary tags, Respondent admitted to violations in Response. Respondent has had multiple open title violations in the past and multiple allegations of improper repossession.

Recommendation: Authorization of revocation (Deceptive acts, violation of state/federal law, open titles), to be settled by consent order or referred to litigating attorney for formal hearing.

Commission Action:

#40. Case No.: 2016001381
2015022799

Complaints allege Respondent 1 dealer and Respondent 2 salesperson have failed to timely issue title, investigation conducted. Investigation found that Respondents were not recording all temporary tags in its log. Further, Respondents have issued three (3) temporary tags to Complainant. Further investigation revealed that Respondents lied to investigator regarding status of the titles, that Respondents already have multiple claims on its surety bond and a large local bank is investigating Respondent dealer for fraud. Respondents were also found to be attempting to sell three (3) cars that were not titled to Respondents.

Recommendation: Authorization of revocation (Deceptive acts, violation of state/federal law, open titles), to be settled by consent order or referred to litigating attorney for formal hearing.

Commission Action:

#41. Case No.: 2016004091

Complainant alleges Respondent failed to disclose title issues, however Carfax attached only shows that Motor Vehicle was in an accident previously. The Carfax does not say the motor vehicle was issued a branded title of any kind.

Recommendation: Close

Commission Action:

#42. Case No.: 2016004111

Complaint alleges Respondent sold them a malfunctioning car, however, no evidence of any warranty provided. Complainant is requesting refund of their money. Respondent admits to taking Complainant's money, however, no bill of sale was ever created. In Respondent's response, Respondent admits they used dealer license to purchase this car for personal sale.

Recommendation: Authorization of a civil penalty in the amount of \$1,000 (1 x \$500 for deceptive act, 1 x \$500 for unlicensed activity). To be settled by consent order or formal hearing.

Commission Action:

#43. Case No.: 2016004131

Complainant alleged Respondent had failed to timely issue title on motor vehicle purchased from Respondent dealer. Investigation conducted wherein it was found that Complainant still did not have title five (5) months after the sale was completed, Respondent stated they lost the title and was ordering a new title. Further, Investigation revealed that Respondent issued Complainant four (4) temporary tags and only recorded three (3) of these entries.

Recommendation: Authorization of a civil penalty in the amount of \$3,000 (1 x \$1,000 deceptive act of not obtaining title in timely manner, 1 x \$1,000 failure to maintain temporary tag log, 2 x \$500 issuing more temporary tags than allowed by law). To be settled by consent order or formal hearing.

Commission Action:

#44. Case No.: 2016004151

Complaint alleged Respondent was selling rebuilt vehicles without disclosing rebuilt status to purchasers. Investigation conducted to determine if any violations occurred. Investigation revealed that Respondent/Dealer was selling all these vehicles in the proper manner and that Respondent went to great lengths to disclose rebuilt nature of vehicles it sells.

Recommendation: Close

Commission Action:

#45. Case No.: 2015022570

Complaint alleged Respondent engaged in deceptive acts by attempting to swap cars at time of purchase. Investigation conducted to determine if any deceptive acts occurred. Investigation revealed no violations on behalf of Respondent due to additional demands being made by Complainant throughout buying process, any issues are either contractual or stem from miscommunications.

Recommendation: Close

Commission Action:

#46. Case No.: 20150226221

Complainant alleged Respondent sold them a used motor vehicle and advertised the vehicle to the Complainant as being under original manufacturer warranty. Eighteen (18) months later the motor vehicle began having engine issues. When Complainant attempted to have the engine repaired under the manufacturer warranty they discovered the warranty had been voided by a previous owner. Investigation conducted to determine if Respondent dealer knew or should have known that manufacturer warranty was voided at time of sale. Investigation revealed that Respondent had no knowledge, that both the Carfax and auction documents stated the vehicle was under manufacturer warranty. Further, Respondent dealer purchased Complainant a used engine and paid \$350 towards the engines installation.

Recommendation: Close

Commission Action:

#47. Case No.: 20150226561

Complaint alleged Respondent sold Complainant a vehicle with a branded title without disclosing the title issues, investigation conducted. Investigation found that title was not branded but was instead subject to a manufacturer buy back due to previous lemon law complaints. Respondent and Complainant subsequently reached an agreement for Respondent to provide \$12,500 as trade in towards another vehicle on the lot. Documents show no evidence that Respondent knew or should have known of issues with the motor vehicle.

Recommendation: Close

Commission Action:

#48. Case No.: 2016000061

Complaint alleged Respondent engaged in deceptive acts by attempting to deceive Complainant to get them to return the motor vehicle by telling Complainant the vehicle was a lemon and, when Complainant refused to return the vehicle, Respondent refused to process the sale. Investigation conducted to determine if any deceptive acts had occurred. Investigation revealed that vehicle was not supposed to be sold yet because Chrysler Corporate had concerns that the vehicle was a lemon due to past mechanical issues. Respondent wanted to make sure Complainant was aware of these issues and wanted to unwind the deal if possible to ensure Complainant received a functioning vehicle. Complainant insisted on completing the purchase, investigator obtained evidence that the sale was finalized. Complainant was not cooperative with investigation.

Recommendation: Close

Commission Action:

#49. Case No.: 2016010531

Staff opened complaint following receiving a show permit that did not comply with the ten (10) day requirement. Investigation conducted to determine if unlicensed motor vehicle show occurred in the state. Investigation found no evidence of show occurring.

Recommendation: Close

Commission Action:

#50. Case No.: 2016005391

Complaint alleges Respondent was sending out advertisements disguised to appear as recall notices. A review of the attached advertisement confirms Complainant's allegations. This is the first advertising complaint for Respondent.

Recommendation: Letter of Warning

Commission Action:

#51. Case No.: 2016006101

Complaint alleges Respondent is not applying funds to loan properly. Respondent responded and showed that funds have been applied properly, and that further, the loan has been sold to another company for servicing. Any dispute remaining is contractual in nature, no evidence of a violation of Motor Vehicle rules or statutes is present.

Recommendation: Close

Commission Action:

#52. Case No.: 2016002551

Complaint alleges Respondent failed to timely pay off trade-in and forced them to buy additional products with vehicle purchase. Trade-in payoff was delayed due financial institution needing to complete an interview, there are ongoing miscommunications between finance company, Respondent/Dealer and complainant that are suspicious but inconclusive regarding which party is at fault. No evidence that Complainant was forced to buy any additional financial products. Investigation revealed Respondent failed to use Conditional Delivery Agreement provided for in T.C.A. § 55-17-114(b)(4)(D).

Recommendation: Authorization of a civil penalty in the amount of \$500 for failure to use Conditional Delivery Agreement as prescribed by statute. To be settled by consent order or formal hearing.

Commission Action:

#53. Case No.: 2016002591

Staff opened complaint due to concerns regarding insurance coverage. Investigation revealed that Respondent/Dealer changed insurance providers but maintained coverage throughout transition.

Recommendation: Close

Commission Action:

#54. Case No.: 2016012981
2016012982

Staff opened complaint due to concerns of potential unlicensed salesperson (Respondent 2) working at Respondent 1 dealer. Investigation conducted to determine if any violations occurred. Investigation revealed Respondent 2 sold forty-six (46) motor vehicles at Respondent 1 dealer while unlicensed.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$23,000 (46 x \$500 for employing unlicensed sales person). To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$11,500 (46 x \$250 for unlicensed activity). To be settled by consent order or formal hearing.

Commission Action:

#55. Case No.: 2016006621
2016006622
2016006623
2016006624
2016006625
2016006626
2016006627
2016006628

Staff complaint opened following receipt of information showing Respondent 1 used company credit card machine to run an unlicensed sale for Respondent 8. Respondent 1 is owned by Respondent 4 salesperson. Following unlicensed sale, Respondent 4 opened Respondent 3 dealer. Staff received information that Respondent 3 dealer was employing unlicensed salespeople, namely Respondent 2 and Respondent 8, both repeat unlicensed sales offenders. Investigation conducted to determine extent of unlicensed activity by Respondent 3 dealer. Upon arriving at Respondent 3 dealer, investigators found Respondent 5 operating as an unlicensed salesperson. When investigators began conducting their investigation, Respondent 5 was uncooperative and threatened physical violence against investigators on multiple occasions. Respondent 3 dealer refused to permit Investigators to review business records and demanded Investigators leave the facility or suffer physical harm. Legal was contacted by an attorney representing Respondent 3 dealer. Respondent's Attorney was advised by legal that all documents requested must be furnished per Commission rules. After several delays, attorney furnished partial records. These partial records indicated that Respondent 5 sold five (5) vehicles while unlicensed,

Respondent 6 sold one (1) motor vehicle while unlicensed and Respondent 7 sold five (5) motor vehicles while unlicensed. Records indicated Respondent 4 sold six (6) motor vehicles, however, Investigator calls to two (2) of the listed purchasers revealed Respondent 4 did not sell them the vehicle in question. Investigators found that Respondent 3 had filled out multiple salesperson applications and allowed the salespeople to operate at the dealership, however, none of these applications were submitted to Commission staff for licensure. Respondent 2's personal car was found at Respondent 3 dealer with a transporter tag attached, however, Investigators were unable to find evidence of any unlicensed activity on part of Respondent 2. Respondent 3 was unable to account for five (5) vehicles purchased from auction.

Recommendation:

Respondent 1: Close

Respondent 2: Close

Respondent 3: Revocation for employing unlicensed salespeople, failure to supervise, false/fraudulent/deceptive acts, failure to produce business records. To be settled by consent order or formal hearing.

Respondent 4: Authorization of a civil penalty in the amount of \$500 for one (1) unlicensed sale prior to licensure. To be settled by consent order or formal hearing.

Respondent 5: Authorization of a civil penalty in the amount of \$3,000 for six (6) occurrences of unlicensed activity. To be settled by consent order or formal hearing.

Respondent 6: Authorization of a civil penalty in the amount of \$500 for one (1) unlicensed sale. To be settled by consent order or formal hearing.

Respondent 7: Authorization of a civil penalty in the amount of \$2,500 for five (5) occurrences of unlicensed activity. To be settled by consent order or formal hearing.

Respondent 8: Authorization of a civil penalty in the amount of \$2,500 for one (1) unlicensed sale. To be settled by consent order or formal hearing.

Commission Action:

#56. Case No.: 20150213811

Complaint alleges Respondent charged their credit card \$1,000, without Complainant's authorization, for what was agreed to be a free overnight test drive. Respondent admitted to charging the \$1,000 dollars, but claims it was part of an agreed upon down payment. Respondent states it is holding the \$1,000 for Complainant and will apply the \$1,000 to the purchase of another vehicle in the future. No bill of sale or other documentation of any kind was produced by either Complainant or Respondent; Respondent maintains this was an oral contract for sale.

Recommendation: Authorization of a civil penalty in the amount of \$1,000 for one deceptive act. Civil penalty is to be reduced to \$0 if Respondent provides evidence of refund of

\$1,000 to Complainant. To be settled by consent order or formal hearing.

Commission Action:

#57. Case No.: 2016004411

Notice of violation issued to Respondent for failure to maintain temporary tag log and expired business license, Investigation was conducted due to concerning issues with temporary tags being issued to NY and NJ. Investigation revealed the location does not actually sell any vehicles. Salesperson found on the lot is only a mechanic. Salesperson is allowed to work on cars in exchange for paying the electric bill, for posing as a salesperson and for mailing Tennessee temporary tags to owner in NY. When contacted by Investigator, Owner admitted to not selling any vehicles in Tennessee, however, corrected temporary tag log revealed that many Tennessee temporary tags are issued in NY and NJ vehicles.

Recommendation: Revocation for failure to maintain temporary tag log, expired business license, violations of state/federal law and for deceptive/false/fraudulent acts. To be settled by consent order or formal hearing.

Commission Action:

#58. Case No.: 2016008021

Complaint alleged Respondent posed as a private seller on Craigslist, but when went to purchase car they found Respondent was a licensed dealer. Response to complaint sent by attorney claiming dealership was allowing unlicensed individual to store vehicle on the dealer lot while selling, Investigation conducted. Investigation revealed an additional nine (9) vehicles advertised on Craigslist with a phone number that belonged to Respondent 2 salesperson/owner. Six (6) of the vehicles were found on Respondent 1 dealer's lot, the other three (3) were recently sold by Respondent 1 dealer. Bills of sale for each sale were signed by Respondent 2.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$5,000 (10 deceptive acts x \$500), to be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$5,000 (10 deceptive acts x \$500), to be settled by consent order or formal hearing.

Commission Action:

#59. Case No.: 2016000771
2016000772

Notice of violation issued for Respondent 2 operating as unlicensed salesperson at Respondent 1 dealer. Investigation conducted to determine extent of unlicensed activity. Investigation revealed Respondent 2 was involved in the sale of five (5) motor vehicles prior to licensure.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$2,500 (5 x \$500 for employing unlicensed sales people). To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$2,500 (5 x \$500 for unlicensed activity). To be settled by consent order or formal hearing.

Commission Action:

#60. Case No.: 2016007361

Complainant alleged they sold a vehicle to Respondent/Dealer, then Respondent/Dealer put a stop pay on check issued. Investigation conducted to determine if any deceptive acts occurred. Investigation revealed Complainant sold a flood vehicle to Respondent/Dealer without disclosing damage and that Complainant has a history of similar scams against dealers across Florida. At this point the issue is contractual in nature.

Recommendation: Close

Commission Action:

#61. Case No.: 2016007241

Complainant alleged they did not timely receive title. Complainant lives in Georgia. Respondent claims they gave title to Complainant who called them seven (7) months later claiming she lost it and became very upset when Respondent could not provide an additional title at that time. Complainant went the duplicate title process and has obtained Complainant a new title.

Recommendation: Close

Commission Action:

#62. Case No.: 2016003181

Complaint opened following receipt of information indicating location being used for curbstoning. Investigation conducted, however, investigator was unable to find any cars advertised for sale at location. Notice was recently posted on the site stating property may not be used for motor vehicle sales.

Recommendation: Close

Commission Action:

#63. Case No.: 2016005561
2016007041
2016007061
2016007081

Complaint alleges Respondents 1, 2, 3 and 4 are engaging in unlicensed sales from a vacant lot. Investigation conducted wherein two (2) cars were found at the abandoned location. Further investigation revealed local police department was issuing citations and removing all vehicles parked on vacant lot. The two (2) vehicles on the lot have already been cited and were in the process of being removed.

Recommendation: Close

Commission Action:

#64. Case No.: 20150227551

Complaint alleges Respondent sold them a car, but then sold to another customer the next day prior to pick up. Investigation revealed that Complainant's financing was denied because he was in bankruptcy at the time of application, and the vehicle was only sold after financing denied. Complainant was refunded all money paid toward vehicle.

Recommendation: Close

Commission Action:

#65. Case No.: 2016002631

Staff complaint alleges Respondent operating with canceled insurance. Investigation conducted. Investigation revealed that Respondent's insurance did not cancel and notice of cancellation was sent by insurance company by mistake.

Recommendation: Close

Commission Action:

#66. Case No.: 2016006521

Staff received information alleging Respondent/Dealer was conducting off-site sales and that Respondent's facilities were severely lacking. Investigation conducted to determine the extent of any violations. Investigation revealed that Respondent's dealership facility consisted of a shed full of personal items. The facility was lacking a telephone line, bathroom, was on residential property, inadequate square footage, lacked dedicated vehicle/customer parking, and appears to be used solely for personal storage. Respondent indicated all sales were conducted off-site because there is no traffic through his neighborhood. Respondent also indicated he was in process of giving up his dealership license.

Recommendation: Revocation for off-site sales, deceptive acts and failure to maintain any facility requirements. To be settled by consent order or formal hearing.

Commission Action:

#67. Case No.: 2016002611

Staff complaint alleged Respondent was operating with cancelled insurance. Investigation conducted wherein it was found that Respondent's insurance did cancel, however, it was renewed prior to any vehicles being sold.

Recommendation: Close

Commission Action:

#68. Case No.: 2016002391

Complaint alleged Respondent was selling vehicles unlicensed from his residence. Investigation conducted to determine extent of any unlicensed sales. Investigation failed to return evidence of unlicensed sales, but potential violations for unlicensed dismantler/recycler activity.

Recommendation: Letter of Warning

Commission Action:

#69. Case No.: 2016008641

Duplicate case, already referred to litigation.

Recommendation: Close

Commission Action:

#70. Case No.: 201302401

Protest action completed.

Recommendation: Close

Commission Action:

#71. Case No.: 2013015891

Complaint alleged Respondent did not properly disclose mileage at time of sale. A review of documents shows mileage discrepancy was disclosed.

Recommendation: Close

Commission Action:

#72. Case No.: 20150225491

Respondent/Dealer received a Notice of Violation for failing to properly maintain a temporary tag log. Respondent/Dealer has since provided staff with a copy of their electronically kept temporary tag log.

Recommendation: Close

Commission Action:

#73. Case No.: 2016000471

Respondent/Dealer received a Notice of Violation for failing to maintain a county business license. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250); Two Hundred Fifty Dollars (\$250) for failure to maintain a county business license and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#74. Case No.: 2016000491

Respondent/Dealer received a Notice of Violation for failing to maintain a county business license. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250); Two Hundred Fifty Dollars (\$250) for failure to maintain a county business license and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#75. Case No.: 2016000591

Respondent/Dealer received a Notice of Violation for failing to maintain a complete temporary tag log. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) for incomplete temporary tag log and failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#76. Case No.: 2016000611

Respondent/Dealer received a Notice of Violation for failing to properly maintain a temporary tag log and for issuing a total of nine (9) temporary tags to one consumer. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Five Thousand Five Hundred Dollars (\$5,500); One Thousand Dollars (\$1,000) for incomplete temporary tag log; Three Thousand Five Hundred Dollars (\$3,500) for issuing seven (7) more temporary tags than allowed by law to one consumer (7 temporary tags x \$500); and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#77. Case No.: 2016004191

Respondent/Dealer received a Notice of Violation for failing to maintain a county business license. Respondent/Dealer received a citation in July 2015 for the same violation. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Five Hundred (\$3,500); Two Thousand Five Hundred Dollars (\$2,500) for failure to maintain a county business license (repeat offender) and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#78. Case No.: 2016004771

Respondent/Dealer received a Notice of Violation for failing to maintain a city or county business license. Respondent/Dealer provided documentation that they did in fact have a city/county business license, but it was held at their mail location.

Recommendation: Close

Commission Action:

#79. Case No.: 2016006461

Respondent/Dealer received a Notice of Violation for having two (2) open titles in their possession. Respondent/Dealer is contesting the Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for possessing two (2) open titles; to be settled by Consent Order or Formal Hearing.

Commission Action:

#80. Case No.: 2016006481

Respondent/Dealer received a Notice of Violation for failing to maintain a city business license; failing to maintain a temporary tag log; and possession of two (2) open titles. Respondent/Dealer is contesting the Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Two Hundred Fifty Dollars (\$2,250); One Thousand Dollars (\$1,000) for incomplete temporary tag log; One Thousand Dollars (\$1,000) for possessing two (2) open titles; and Two Hundred Fifty Dollars (\$250) for failing to maintain a city business license; to be settled by Consent Order or Formal Hearing.

Commission Action:

#81. Case No.: 2016006501

Respondent/Dealer received a Notice of Violation for failing to properly maintain a temporary tag log. Respondent/Dealer is contesting the Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for incomplete temporary tag log; to be settled by Consent Order or Formal Hearing.

Commission Action:

#82. Case No.: 2016006681

Respondent/Dealer received a Notice of Violation for improper signage; failure to maintain a city or county business license; and failure to maintain regular business hours. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000); Five Hundred Dollars (\$500) for failure to maintain a city and county business license; Two Hundred Fifty Dollars (\$250) for improper signage; Two Hundred Fifty Dollars (\$250) for failure to maintain regular business hours; and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#83. Case No.: 2016009121

Respondent/Dealer received a Notice of Violation for failure to maintain a complete temporary tag log. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000); One Thousand Dollars (\$1,000) for failure to maintain a complete temporary tag log; and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#84. Case No.: 2016009201

Respondent/Dealer received a Notice of Violation for failure to maintain a city or county business license. Respondent/Dealer has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500); Five Hundred Dollars (\$500) for failure to maintain a city and county business license; and One Thousand Dollars (\$1,000) for failure to respond to the Commission; to be settled by Consent Order or Formal Hearing.

Commission Action:

#85. Case No.: 2016015451

Respondent/Dealer received a Notice of Violation for four (4) missing temporary tags. This matter was forwarded to legal without sending an Agreed Citation to Respondent/Dealer.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for incomplete temporary tag log; to be settled by Consent Order or Formal Hearing.

Commission Action:

#86. Case No.: 2016015471

Respondent/Dealer received a Notice of Violation for three (3) missing temporary tags. This matter was forwarded to legal without sending an Agreed Citation to Respondent/Dealer.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for an incomplete temporary tag log; to be settled by Consent Order or Formal Hearing.

Commission Action:

#87. Case No.: 2016015491

Respondent/Dealer received a Notice of Violation for three (3) missing temporary tags. This matter was forwarded to legal without sending an Agreed Citation to Respondent/Dealer.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for an incomplete temporary tag log; to be settled by Consent Order or Formal Hearing.

Commission Action:

#88. Case No.: 2015005161

Staff received notice of Insurance cancellation. Staff has since received corrected certificate of insurance

**Recommendation: Close
Commission Action:**

#89. Case No.:

2016009241	2016009247	20160092413
2016009242	2016009248	20160092414
2016009243	2016009249	
2016009244	20160092410	
2016009245	20160092411	
2016009246	20160092412	

Complaint generated following receipt of information indicating Respondent 1 dealer was employing Respondent 2 salesperson as an independent broker. Investigation revealed that Respondent 2, 3, 4, 5, 6, 7 and 8 were employed as “brokers” by Respondent 1 dealer. Respondents 2-8 pay a monthly fee to Respondent 1 in order to purchase, advertise, store, carfax and insure vehicles Respondents 2-8 buy and sell with their own floor planners. Respondents 2-8 also pay a doc fee on each purchase. Investigation indicates all sales transpire at Respondent 1 dealer’s location and all vehicles are titled in Respondent 1 dealer’s name despite ownership of vehicles being to Respondents 2-8. Investigation shows that Respondents 2-8 employ their own sales people (Respondents 9, 10, 11 and 12) who are also licensed as salespeople at Respondent 1 dealer. Investigation revealed that Respondent 1 dealer permitted Respondent 9 to buy motor vehicles at auction under Respondent 1’s name despite not being licensed at Respondent 1 dealer. Respondents 9, 10, 11 and 12 are licensed at Respondent 1 dealer but sell cars and receive commission/1099 tax forms from Respondents 2-8. Respondent 13 is owner of Respondent 1 dealer, a licensed sales person at Respondent 1 dealer and constructed/had knowledge of scheme.

Recommendation:

Respondent 1: Authorization of revocation for deceptive acts, employing unlicensed sales people, failure to supervise and deceptive advertising. To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts towards consumers. To be settled by consent order or formal hearing.

Respondent 3: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts towards consumers. To be settled by consent order or formal hearing.

Respondent 4: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts towards consumers. To be settled by consent order or formal hearing.

Respondent 5: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts in the sale of motor vehicles to consumers. To be settled by consent order or formal hearing.

Respondent 6: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts towards consumers. To be settled by consent order or formal hearing.

Respondent 7: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts towards consumers. To be settled by consent order or formal hearing.

Respondent 8: Authorization of a civil penalty in the amount of \$3,000 for operating as an unlicensed dealer, deceptive advertising and for deceptive acts towards consumers. To be settled by consent order or formal hearing.

Respondent 9: Authorization of a civil penalty in the amount of \$1,000 for operating as a motor vehicle salesperson for more than one employer. To be settled by consent order or formal hearing.

Respondent 10: Authorization of a civil penalty in the amount of \$1,000 for operating as a motor vehicle salesperson for more than one employer. To be settled by consent order or formal hearing.

Respondent 11: Authorization of a civil penalty in the amount of \$1,000 for operating as a motor vehicle salesperson for more than one employer. To be settled by consent order or formal hearing.

Respondent 12: Authorization of a civil penalty in the amount of \$1,000 for operating as a motor vehicle salesperson for more than one employer. To be settled by consent order or formal hearing.

Respondent 13: Authorization of a civil penalty in the amount of \$6,500 for 13 occurrences of engaging deceptive acts. To be settled by consent order or formal hearing.

Commission Action:

#90. Case No.: 2016010441

Complaint alleged Respondent was further damaging wrecked vehicles in order to have insurance total them. Investigation conducted; however, Complainant was not cooperative with our investigator due to concerns of losing his job.

Recommendation: Close

Commission Action:

#91. Case No.: 2016010281

Complaint alleges Respondent engaged in unlicensed sales and/or dismantling recycling. Investigation conducted. When investigator arrived at address the property was vacated and investigator was unable to obtain any evidence of unlicensed activity.

Recommendation: Close

Commission Action:

#92. Case No.: 2016004471
2016007101

Complainant alleged Respondent engaging in unlicensed sales activity. Investigation revealed Respondent 1 possessed Maryland wholesaler license which was used to purchase 33 motor vehicles from TN auctions. These vehicles were sold from Respondent 1/2 TN residence. Respondent 2 is the spouse of Respondent 1.

Recommendation: Authorization of a civil penalty in the amount of \$14,000 (28 unlicensed sales x \$500). To be settled by consent order or formal hearing.

Commission Action:

#93. Case No.: 20150225441
20150225442

Staff received notice of violations indicating Respondent 1 dealer was employing Respondent 2 unlicensed sales person. Investigation conducted wherein it was found that Respondent 2 was no longer employed at Respondent 1 dealer. Records indicate Respondent 2 sold five (5) motor vehicles at Respondent 1 dealer while unlicensed.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$2,500 (5 occurrences of employing unlicensed sales person x \$500). To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$2,500 (5 occurrences unlicensed activity x \$500). To be settled by consent order or formal hearing.

Commission Action:

#94. Case No.: 2016004511

Complainant alleged Respondent was refusing to issue title despite vehicle being paid in full. Investigation revealed that a bill of sale was issued showing vehicle was paid in full. Respondent stated that Complainant actually owed him \$47 and therefore was not releasing title. Respondent ultimately did release title but has put a lien on the title for the \$47.

Recommendation: Authorization of a civil penalty in the amount of \$500 for one deceptive act. To be settled by consent order or formal hearing.

Commission Action:

#95. Case No.: 2015022541

Notice of violation issued for open title, failure to post business hours, failure to post salesperson license and failure to maintain temporary tag log at place of business. Investigation conducted to determine if any unlicensed activity occurred due to statements by an individual working on site as a mechanic.

Investigation failed to reveal evidence of unlicensed activity, however, investigator found an additional open title and that Respondent could not account for several temporary tags despite being given opportunity to locate/account for them. Business hours were posted during investigation.

Recommendation: Authorization of a civil penalty in the amount of \$4,000 (\$2,000 x 1 failure to maintain temporary tag log) (\$500 x 1 failure to produce business record) (\$500 x 1 open title, \$1,000 x 1 open title second offense). To be settled by consent order or formal hearing.

Commission Action:

#96. Case No.: 20150225561
2016014061

Notice of violation issued to Respondent 1 due to Respondent 2 working as a salesperson on an expired license. Investigation conducted, however additional evidence of unlicensed activity was not obtained and Respondent 2 is now licensed.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$1,000 for employing an unlicensed sales person. To be settled by consent order or formal hearing.

Respondent 2: Authorization of a civil penalty in the amount of \$500 for unlicensed activity. To be settled by consent order or formal hearing.

Commission Action:

#97. Case No.: 20160226661

Complaint alleged Respondent engaged in deceptive act by asking them to sign a second contract. Investigation found no evidence of wrong doing. Allegations appear to be contractual in nature.

Recommendation: Close

Commission Action:

RE-PRESENTATIONS

#1. Case No.: 2015013461

Case originally presented at the October 2015 meeting where a civil penalty of \$1,000 was authorized for false, fraudulent and deceptive acts. Additional review of the investigation combined with additional facts that have come to light reveal six (6) attempted unlicensed sales stemming from an agreement to sell on behalf of an unlicensed third party. Additionally, Respondent has stated in sworn statements that the consignment agreements for these six (6) motor vehicles were verbal, which constitutes a violation of the business records maintenance rules requiring a dealer to maintain proof of ownership or consignment agreements for each motor vehicle possessed.

Recommendation: Authorization of a civil penalty in the amount of \$7,000 (6 motor vehicles x \$500 for unlicensed sales = \$3,000) (6 motor vehicles x \$500 for failure to maintain proof of ownership or consignment agreement for each car possessed = \$3,000) (1 x \$1,000 false/fraudulent/deceptive act).

Commission Action:

#2. Case No.: 2014003971

Respondent originally penalized \$2,000 for failure to maintain temporary tag log, case was referred to litigation. Litigator has confirmed through multiple avenues that Respondent dealer is closed and the lot is abandoned.

Recommendation: Close and flag

Commission Action:

#3. Case No.: 2015011091

Respondent originally assessed a civil penalty in the amount of \$3,000 for failure to maintain a temporary tag log (\$2,000) and failure to respond to Commission (\$1,000). Upon additional review of the case and facts, agreed citation was not sent to Respondent via certified mail as is required under 0960-01-.23.

Recommendation: Authorization of a civil penalty in the amount of \$2,000 for failure to maintain temporary tag log. To be settled by consent order or formal hearing.

Commission Action:

#4. Case No.: 2013014791

Respondent originally assessed a \$2,000 civil penalty for failure to maintain a temporary tag log. Respondent dealer is now confirmed to be closed.

Recommendation: Close and flag.

Commission Action:

#5. Case No.: 2015006321
2015014851
2015014811

Respondent originally assessed a \$1,000 civil penalty for failure to properly maintain temporary tag log. Respondent dealer is confirmed closed.

Recommendation: Close and flag

Commission Action:

#6. Case No.: 2015005441

Respondent originally assessed a \$1,500 civil penalty for open titles. Respondent dealer is confirmed closed.

Recommendation: Close and flag

Commission Action:

#7. Case No.: 2015016511

Respondent originally assessed a \$250 civil penalty for failure to produce all necessary business licenses. Respondent dealer is confirmed closed.

Recommendation: Close and flag

Commission Action:

#8. Case No.: 2014008391
2014008601

Civil penalty of \$1,000 was originally authorized due to insurance cancellation, however, upon review of the file with litigating attorney, there is insufficient evidence to go to formal hearing. Additionally, recent inspection revealed no current issues with insurance.

Recommendation: Close

Commission Action:

#9. Case No.: 2015016521

Respondent was issued a civil penalty due to incomplete temporary tag log entries. Respondent subsequently submitted a completely corrected temporary tag log.

Recommendation: Letter of Warning

Commission Action:

#10. Case No.: 2015011761
2015015221
2015020031

Respondent originally authorized a civil penalty in the amount of \$3,000 for deceptive acts. Litigation attorney and staff have since confirmed Respondent dealer is closed.

Recommendation: Close and flag

Commission Action:

#11. Case No.: 2015021210

Respondent had civil penalty authorized in January for failure to maintain insurance, however subsequent evidence received shows that there was no lapse of insurance.

Recommendation: Close

Commission Action:

#12. Case No.: 2014019871
2014019872

This matter was previously authorized for a litigation monitoring consent order pending the outcome of a possible criminal felony conviction. Respondent's criminal litigation has since concluded and while Respondent was convicted of a two (2) misdemeanors, there were no felony convictions. Respondent's actions which led to the conviction were fraudulent and deceptive.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) for fraudulent or deceptive acts, to be settled by Consent Order or Formal Hearing.

Commission Action:

#13. Case No.: 2013018342
2013018341

Complainants were originally authorized a civil penalty in the amount of \$500 for unlicensed activity. Respondents claimed to be unaware of the five vehicle per year limit, and stated they would cease the unlicensed activity. Drive-bys done since the investigation have confirmed that there is no sales activity on-going. Respondents submitted lease information indicating that they did not share an address at the time of the unlicensed sales, although both Respondents used the same mailing address due to mailing limitations at Respondent #1's rental property. A review of the alleged sales reveals Respondent #2 sold five cars in 2013, and Respondent #1 sold six cars in 2013.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of \$500 for one unlicensed sale. To be settled by consent order or formal hearing.

Respondent 2: Close

Commission Action:

#14. Case No.:

2013016231	2014014811	2015005351
2014007431	2014025441	2015005441
2014008941	2014025461	2015014111
2014009721	2014004401	2015014851
2014014691	2014028461	2015016511
2014014801	2015003151	2015019911

NOV issued for various minor infractions by Respondents, however, licenses have since expired and Respondent dealers are confirmed closed.

Recommendation: Close and Flag

Commission Action:

#15. Case No.: 2013017101
2013023601
2014003971
2013012751
2013014791
2013023531
2014030871
2015001111

Respondents were issued civil penalties due to failure to produce titles/registrations. Respondents are confirmed closed, surety bonds were sent.

Recommendation: Close and Flag

Commission Action:

#16. Case No.: 2013023551

Respondent penalized for failure to pay for a vehicle it purchased. Respondent dealer is now confirmed closed.

Recommendation: Close and Flag

Commission Action:

#17. Case No.: 2014004741

Respondent dealer originally penalized, however, on further review, appears to be a case of buyer's remorse. Additionally, Respondent dealer is now confirmed out of business.

Recommendation: Close and Flag

Commission Action:

#18. Case No.: 2014008321
2014030991

Respondent originally issued civil penalty for city/county business license not being provided. Respondent dealer has since provided evidence of proper licensure.

Recommendation: Close

Commission Action:

#19. Case No.: 2014008391
2014008601
2014021661
2015005191
2015006321

Respondent originally issued civil penalty for cancelled insurance. Respondent dealer has since provided evidence of proper insurance.

Recommendation: Close

Commission Action:

#20. Case No.: 2014018501

Respondent originally penalized for selling a vehicle that failed to pass emissions and Respondent dealer failed to properly register vehicle. Respondent dealer is confirmed closed.

Recommendation: Close and Flag

Commission Action:

#21. Case No.: 2015000581
2014031531

Respondent originally penalized for a deceptive act against Complainant. Respondent dealer is confirmed closed.

Recommendation: Close and Flag

Commission Action:

#22. Case No.: 2015006361

2014025511

Respondent originally penalized for failure to maintain insurance. Respondent dealer has been confirmed closed.

Recommendation: Close and Flag

Commission Action:

#23. Case No.: 201500110

Respondent originally penalized for failure to maintain insurance. Respondent dealer has been confirmed closed.

Recommendation: Close and Flag

Commission Action:

#24. Case No.: 2012024641

Respondent originally penalized for deceptive acts, however, upon further review by legal department, there is insufficient evidence to go forward with a hearing.

Recommendation: Close

Commission Action:

#25. Case No.:
2015019911

Respondent originally revoked for temporary tag violations, failure to notify commission of ownership change, failure to maintain temporary tag log and failure to employ a salesperson at the location. Dealership has now been confirmed closed.

Recommendation: Close and Flag

Commission Action:

#26. Case No.: 20150215741

Respondent penalized for failure to maintain surety bond. Respondent dealer is confirmed closed.

Recommendation: Close and Flag

Commission Action:

Commissioner Norton questioned #89 on the legal report. After some discussion, Committee recommended #89 on the legal report be broken down by statute on each respondent and represented. Commissioner Norton moved this action be taken, seconded by Commissioner Vaughan.

VOICE VOTE UNANIMOUS – MOTION CARRIED

A motion was made by Commissioner Norton to adopt the legal report as amended, and seconded by Chairman Roberts.

VOICE VOTE UNANIMOUS – MOTION CARRIED

A motion was made to adjourn the Legal Review Committee by Commissioner Norton, and seconded by Chairman Roberts.

VOICE VOTE UNANIMOUS – MOTION CARRIED

The Full Commission Reconvened at 11:55 am.

Chairman Roberts asked staff attorney, Matthew Reddish, about the Ramsey's East Tennessee Auto Sales. Mr. Reddish explained the circumstances regarding this case and that it had been resolved prior to the meeting.

Chairman Roberts moved to the legal report, and staff attorney, Matthew Reddish indicated that each Commissioner had been given a copy of the North Carolina Dental Case, and advised that if any members of the Commission had follow up questions for that case, they could speak with him after the meeting adjourned. After being pressed by the Chairman to speak further on the issue, Mr. Reddish indicated that the facts of the case could open each member up for personal liability and that legal was not comfortable with going on the record advising the Commission what might potentially be violations of this case.

Staff Attorney, Matthew Reddish moved on to the Legislative Update, indicating he would speak to the updates which were most impactful to the Commission.

Legislative Update

- HB 2471/SB 1980-Signed by House and Senate Speaker, sent to Governor- enacts the "Tennessee Recreation Vehicle Franchise Act of 2016"; establishes licensing requirements specifically for recreational vehicle dealers and salespersons to be overseen by the Tennessee motor vehicle commission.
- HB 0443/SB 0508-Signed by Governor-Effective 7-1-16-Public Ch. 533- authorizes a person to purchase, without having a motor vehicle dealer license, a limited number of non-repairable vehicles, salvage vehicles, or a combination

of non-repairable and salvage vehicles from an automobile auction if the automobile auction primarily sells motor vehicles on consignment.

- HB 1443/SB 1476-Signed by Governor- reduces, from 60 days to 14 days, the maximum period of time in which a person engaged in towing and storing motor vehicles may charge the vehicle's owner or lienholder a storage fee.
- HB 1450/SB 1994-Signed by Governor-Eliminates an exception under salvage certificates of title thereby requiring issuance of salvage certificates now applies to motorcycles.
- HB 2095/SB 2608 –Signed by House and Senate Speaker, sent to Governor - creates a Class A misdemeanor offense for any person who sells, leases, or otherwise transfers title of a motor vehicle on or after July 1, 2016, to knowingly install, conceal, or otherwise place an electronic tracking device in or on the motor vehicle without the written consent of the purchaser of the vehicle.
- HB 1942/SB 1571- Assigned to General Subcommittee - authorizes the auctioning of up to five motor vehicles a year if the auction of such motor vehicles is incidental to the sale at auction of other properties.
- HB 1573/SB 1545-Passed House and Senate, sent to Governor - extends the Tennessee motor vehicle commission four years to June 30, 2020; establishes minimum attendance requirement for commission members (50% of meetings) and requires removal of members who do not meet the requirement.
- HB 1782/SB 1489-Referred to Senate Calendar Committee- enacts "Lara's Law," which requires used motor vehicle dealers to notify purchasers of used motor vehicles of certain recalls pertaining to the motor vehicle prior to the sale.
- HB 1564/SB 1561-On Senate Calendar Finance, Ways and Means Subcommittee- establishes certification program through department of safety for manufacturers of autonomous vehicles before such vehicles may be tested, operated, or sold in Tennessee; creates a per mile tax structure for autonomous vehicles.
- HB 1942/SB 1571- Assigned to General Subcommittee - authorizes the auctioning of up to five motor vehicles a year if the auction of such motor vehicles is incidental to the sale at auction of other properties.
- HB2473/SB2471 – Passed in House as amended, placed on Senate Regular Calendar – Clarifies that a motor vehicle dealer's license is not required for a person to sell motor vehicles to a licensed D&R or registered scrap metal processor if the vehicle has been designated by the seller as non-repairable or being sold solely for recycling, dismantling, or scrap.

- HB1746/SB1808- Withdrawn- Would require a rental car company to obtain a recall database report within 30 days of the offer to rental car; prohibits a rental car company from renting a car that is subject to certain recalls.
- HB2288/SB2255- Signed by House and Senate Speaker, sent to Governor- Authorizes certain off-highway vehicles, which have top speeds over 35 mph and non-straddle seating for up to four passengers, to be operated on county roads, authorizes issuance of off-highway license plates for each category and establishes equipment and safety requirements. States that sale of such vehicle does not require a motor vehicle dealer license.
- HB2045/SB2229 – Conference Committee Appointed-Removes the licensing provisions regarding fully enclosed motorcycles under 55-17 Part 2 and placing such definition in that of motorcycles in general.

Commissioner Jackson moved that #89 be removed from the legal report and represented at the next meeting with further investigation and information, seconded by Commissioner Norton.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Commissioner Jackson moved to adopt the amended legal report, and seconded by Commissioner Vaughan.

VOICE VOTE UNANIMOUS – MOTION CARRIED

NEW BUSINESS

SUMMARY SUSPENSION OF BEST MOTORS & FAY SIMS. Legal Counsel, Sara R. Page conveyed to the Commission of the need for summary suspension for both Best Motors and Fay Sims for the immediate safety and welfare of consumers in Chattanooga and surrounding areas. Ms. Page indicated that she would be presenting information and evidence to require the need for summary suspension and noted that Mr. Sims and the bookkeeper for Best Motors was present for the hearing.

Ms. Page began with the background and salesperson licensure of Mr. Sims. According to an affidavit in the possession of MVC and part of the evidence, along with statements from employees at Best Motors, Mr. Sims is the functional owner of Best Motors. Ms. Page indicated that on paper, Best Motors was in Mr. Sims’ wife’s name, however, Ms. Agnes Sims is not involved in the business at all, and that Mr. Sims is the decision maker.

Ms. Page indicated that this issue was brought to the MVC staff's attention by a news story in the Chattanooga area involving Mr. Sims and an arrest which involved Mr. Sims being arrested for sexual battery. Ms. Page indicated there were four arrests occurring for actions inside Best Motors for individual acts, and that all arrests are currently active in the Hamilton County Court. Ms. Page conveyed to the Commission the acts which allegedly occurred between Mr. Sims and consumers.

First, the State requested summary suspension of Mr. Sims Motor Vehicle Salesperson license #41845. The request would ask that his presence at the place of business would also constitute evidence that Mr. Sims was acting as a salesman in violation of the order, and that the safety of the public requires the summary suspension.

Chairman Roberts directed the Commission to focus on the summary suspension in two parts. First, Mr. Sims salesperson license and last, Best Motor's Dealer license.

Commissioner Jackson moved that Mr. Sims salesperson license be summarily suspended pending a formal hearing. Commissioner Webb seconded the motion.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	NO
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion Carried, therefore the license is summarily suspended.

Chairman Roberts requested a vote on the summary suspension of Best Motors. After much discussion, Commissioner Vaughan moved to summarily suspend the license pending a formal hearing. Commissioner Leavy seconded.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	NO
Ronnie Fox	NO
Nate Jackson	NO
John Murrey	NO
Reed Trickett	NO
Stan Norton	NO
Farrar Vaughan	YES

Lynn Webb **YES**
Ian Leavy **NO**

Motion failed, therefore the license is not summarily suspended.

Staff Attorney, Matthew Reddish indicated to the Commission that a formal hearing for Fay Sims summary suspension would be held and that an addendum to the legal report providing revocation of Best Motors Dealer’s license will be presented dictating they could stay in business until the formal hearing and it could be held at the same time. Mr. Reddish stated that the legal review committee could reconvene to adopt the legal report addendum.

Chairman Roberts turned the meeting over to Executive Director, Paula J. Shaw, who requested the Commission hear an issue with an application for Dixieland Motors and the applicant’s business model which staff felt may be a possible violation of the 33/66% statute. Staff requested the Commission provide clarity on whether this application should be approved for licensure.

After discussion, the consensus of the Commission was for staff to make a determination regarding the approval/denial of the Commission.

Attorney Denard Mickens conveyed to the Commission he was the attorney assigned to the Nashville Motor Cars Premier, LLC case which was summarily suspended by the Commission last year. He indicated he did have some issues trying to contact the owner, Randy Roth, to discuss the issue and said that he had been charged on the state and federal level with multiple crimes. After legal took the case, the concern was any civil penalty assessed to Mr. Roth would reduce the ability of the dealership to make the public whole. Mr. Mickens indicated after working with staff and the attorney for the Respondent, a settlement offer was proposed. Mr. Roth has agreed to revocation of both his personal salesperson license, both dealer licenses, refrain from selling vehicles in Tennessee, and if the respondent was to seek licensure, a \$210,000.00 civil penalty would be required, along with an appearance before the Commission. In addition, he would be required to bring proof of satisfaction of all civil complaints prior to the Commission approving his license.

After discussion, Commissioner Vaughan moved to approve the settlement offer, seconded by Commissioner Clayton.

ROLL CALL VOTE

Eddie Roberts **YES**
Joe Clayton **YES**
Ronnie Fox **YES**
Nate Jackson **YES**
John Murrey **YES**
Reed Trickett **YES**
Stan Norton **YES**

Farrar Vaughan YES
Lynn Webb YES
Ian Leavy YES

Motion Carried, therefore the settlement offer is approved.

Staff attorney, Matthew Reddish indicated the legal review committee should reconvene to discuss the amended legal report which included the new case for Best Motors revocation of license. Commissioner Jackson turned the committee over to the staff attorney who requested a motion to adopt the supplemental report.

Commissioner Norton moved to adopt the supplemental legal report, seconded by Commissioner Clayton.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Commissioner Norton moved to adjourn the legal review committee, seconded by Commissioner Clayton.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Staff attorney, Matthew Reddish then indicated that the full commission could move to adopt the amended legal report.

Commissioner Vaughan moved to adopt the supplemental legal report, seconded by Commissioner Clayton.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Executive Director, Paula J. Shaw presented proposed changes on the inspection forms used by field enforcement agents to use during initial and annual inspections. Ms. Shaw explained to the Commission that the new forms were formatted in such a way as to move towards voluntary compliance for efficiency and to refrain from assessing civil penalties for issues which may be better served as an educational tool for the licensee.

Commissioner Clayton made a motion to adopt the proposed inspection form, seconded by Commissioner Murray.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Executive Director, Paula J. Shaw presented the auction and dealer surety bond form. Ms. Shaw explained that the form and new rule was needed to move forward with online renewals as required by the department. Ms. Shaw went on to explain that historically, the Commission was required to be named as beneficiary. The language revision would remove the Executive Director signature from the document, and if the form was adopted, the rule would need to be revised and put through the promulgation process. Staff Attorney, Matthew Reddish, explained that currently, the MVC is the holder of the

actual bond and that we are keeping the original, and that administration has asked that it be moved towards a paperless document in order to accommodate the online system.

Commissioner Clayton moved to approve the auction and dealer surety bond form, seconded by Commissioner Murrey.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Staff Attorney, Matthew Reddish, stated that the rule committee would have to be convened to deal with the rule portion of the surety bond. Mr. Reddish explained as the surety bond currently reads, the surety company is supposed to pay the money to the Motor Vehicle Commission. Then, the injured consumer has to end up suing to have the Motor Vehicle Commission release those funds. Mr. Reddish confirmed that legal has spoken with the attorney at the Attorney General's office who indicated that the judge disperses the funds as they see fit, and that it doesn't make a lot of sense for the Motor Vehicle Commission to be the beneficiary.

Chairman Roberts then recessed the meeting, and appointed Commissioner Vaughan as the Chairman of the Rules Committee. Chairman Roberts then turned the meeting over to Chair of the Rules Committee, Commissioner Vaughan to consider the surety bond rule change.

Bob Weaver from the Tennessee Automotive Association addressed the Committee regarding the surety bond rule change. Mr. Weaver suggested the Commission consider what the bond was for which was for protecting the consumer, but also developed for local governments getting their lawful revenues. The parameters of the bond were very specific about what that bond stood for.

Chairman Vaughan asked Bob Weaver if, in his estimate, if the form covered things well enough to change the statute. Mr. Weaver responded that he had not seen the form.

Chairman Vaughan asked Staff Attorney, Matthew Reddish to explain again exactly why the rule and bond form needed to be changed. Mr. Reddish stated that currently the Motor Vehicle Commission was named the beneficiary and that an attorney had to be sent to the Attorney General's office in order for the funds to be disbursed to an injured consumer. Mr. Reddish continued to explain that utilizing the new bond would require the consumer to file against the bond directly with the bond company and the payment would come directly from the bond company. Mr. Reddish stated the bond company would ultimately be responsible for deciding who the bond paid to, and how much they were paid.

Chairman Vaughan called for discussion. Commissioner Norton moved to approve the amendment to the surety bond rule, seconded by Commissioner Trickett.

VOICE VOTE UNANIMOUS – MOTION CARRIED

Chairman Roberts made a motion for the Rule Committee to adjourn, seconded by Commissioner Norton.

Rules Committee Adjourned.

Chairman Roberts reconvened the quarterly meeting to consider the rule change recommended by the Rules Committee. Mr. Reddish read the amended rule into the record.

Commissioner Webb moved the amended rule be adopted, seconded by Commissioner Clayton.

ROLL CALL VOTE

Eddie Roberts	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Farrar Vaughan	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried.

OLD BUSINESS

Chairman Roberts called for a motion to adjourn.

Commissioner Jackson made a motion to adjourn the meeting, seconded by Commissioner Vaughan.

Meeting Adjourned

Eddie Roberts, Chairman