

MINUTES

July 16, 2018



**TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
MOTOR VEHICLE COMMISSION
500 JAMES ROBERTSON PARKWAY, 2ND FLOOR
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**TENNESSEE
MOTOR VEHICLE COMMISSION
MINUTES**

DATE: July 16, 2018

PLACE: Davy Crockett Tower – Conference Room 1-A
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Commission Members:
Eddie Roberts
Ian Leavy
John Chobanian
Christopher Lee
Jim Galvin
Ronnie Fox
Nate Jackson
Debbie Melton
John Murrey
Stan Norton
Steve Tomaso
Farrar Vaughan
Kahren White
Victor Evans
John Barker, Jr.

ABSENT: Karl Kramer
Debbie Melton

CALL TO ORDER: Chairman Eddie Roberts called the meeting to order at 9:15 am

Paula J. Shaw, Executive Director, called the roll. A quorum was established.

Chairman Roberts introduced and welcomed to the Commission its newest member, John Chobanian.

AGENDA: Chairman Roberts requested the Commission look over the agenda. Commissioner Jackson made a motion to adopt the Agenda, Seconded by Commissioner Vaughan. Chairman Roberts called for a voice vote.

MOTION CARRIED.

QUARTERLY MEETING MINUTES: Commissioner Leavy indicated he was in both the absent and present column during roll call. The minutes were changed to reflect his absence at the previous meeting. Commissioner Barker made a motion to approve the minutes with the attendance change for Commissioner Leavy on the April 23, 2018 minutes, seconded by Commissioner Fox. Chairman Roberts called for a voice vote.

MOTION CARRIED.

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 24, 2017, 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 July 11, 2018.

Staff Attorney, Elizabeth Goldstein, gave the Commission an overview of how appeals would be affected by the "Fresh Start Act" which was recently implemented, and how legal would review those appeals, going forward.

APPEALS:

Kevin Ortiz
Chuck Hutton Chevrolet Co., Memphis, 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 denial be upheld, seconded by Commissioner Clayton.

ROLL CALL VOTE

Ian Leavy	YES
Joe Clayton	YES
Kahren White	YES
John Murrey	YES
John Chobanian	YES
John Barker, Jr.	YES

Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Nate Jackson	YES
Victor Evans	YES
Steve Tomaso	YES
Eddie Roberts	YES

Motion carried, therefore the denial is upheld.



Executive Director’s Report
July 16, 2018

Since the last Commission meeting in April 2018 the following activity has occurred:

Dealers Opened, or Relocated (Last Quarter)..... 81

Active Licensees as of July 10, 2018

Dealers.....	3777
Applications in Process.....	44
Distributors/Manufacturers.....	135
Auctions.....	29
Representatives.....	596
Salespeople.....	17009
Dismantlers.....	261
RV Dealers.....	38
RV Manufacturers.....	72
Motor Vehicle Show Permits.....	0

Complaint Report- Opened Complaints from April - June 2018

Number of Complaints Opened.....	172
Number of Complaints Closed.....	226

Annual Sales Reports-(Due Feb 15):

Vehicles Reported Sold in 2017.....	1,386,221
Recreational Vehicles Reported Sold in 2017.....	8,385
Total Online Annual Sales Report Collected.....	3,334
Late Annual Sales Report Collected	937 = \$93,700

Performance Metrics Taken from June CFG Report

Average Number of Days to License.....	3.69 Days
Productivity Factor.....	139.8%
CFG Goal.....	196%
Compliance.....	91.35% as of June

2018

(Beginning July 1, 2017, Motor Vehicle Commission Complaints were transferred to the Centralized Complaints Unit at 97.97%)

MVC Customer Satisfaction Rating January 2018 – April 2018

Quarterly Satisfaction Rating.....	99.1%
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Disciplinary Action Report – April 2018 – May 2018

Total to be collected.....**\$26,750.00**

Online Adoption Across All Professions

- **74.65%** online adoption for New “1010” Applications across all Professions available as of July 10, 2018.

Fiscal Information

- As of May 2018, the MVC has a **\$155,316.00** Deficit for Fiscal Year 2017-2018.

Outreach

- Participated in the AAMVA Internet Vehicle Sales working group
- Elected Secretary for the National Association for Motor Vehicle Boards and Commissions (NAMVBC) Attending Conference scheduled September 19-22, 2018
- Scheduled Speaker at Manheim Auto Auction
- Scheduled Speaker at Chattanooga and Memphis Auto Auction
- Scheduled Speaker at County Clerk meeting in August
- Attending Knoxville Automotive Association in September
- Will be educating pre-release inmates (those who fall within 3-6 months of release) on “car buying” as part of their financial planning classes which prepare them for re-entry into society
- Assisted in developing 5 car buying tips videos which are posted on our website
- Compiled informational material (English and Spanish) which will be disseminated to all 95 county clerk offices

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 Barker.

VOICE VOTE – UNANIMOUS

The motion carried to approve the Director’s Report.

LEGAL REPORT



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
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MEMORANDUM

Privileged and Confidential Communication – Attorney Work Product

TO: Tennessee Motor Vehicle Commission

**FROM: Sara R. Page, Assistant General Counsel
Shilina B. Brown, Assistant General Counsel**

DATE: July 16, 2018

SUBJECT: MVC Legal Report

1. 2018004901 (SRP)

First Licensed: 05/03/2012

Expiration: 02/28/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): \$5,000 Consent Order for False, Fraudulent, and Deceptive Acts

Complainant is another dealer. Complainant states it was made aware that Respondent forged a title to make it appear as if the Complainant was the seller of a motorcycle when, in fact, Respondent was the seller. Respondent's legal counsel responded and stated the sale has been unwound, the consumer was refunded, and a new title has been obtained. An investigation was conducted. In a sworn statement, Respondent alleged that the buyer wanted to pay sales tax in his county of residence and not through the dealership. Respondent said he explained that he had to collect sales tax pursuant to law. As a compromise, Respondent said he called the Complainant, an Alabama wholesaler, and asked if the sale could go through Complainant's wholesale business so that the buyer could pay sales tax in his county of residence. Respondent claimed Complainant agreed, and that

Complainant gave Respondent permission to sign the documents for Complainant. Ultimately, the buyer complained about the transaction, so Respondent unwound the deal. Complainant maintains that permission was never given for Respondent to sign one of their partner's names, and that it only learned of the transaction when the buyer called in order to get a bill of sale so he could register the vehicle.

While there is a dispute on permission given, Respondent filled in a title so that it appeared it never had possession of the motorcycle, including in the portion where Respondent originally took possession of the vehicle from another dealer. While Respondent has remedied the title, it is apparent Respondent was in possession of an open title, which he only filled in when the sale to the buyer that resulted in this alleged fraud purchased the vehicle.

Recommendation: Authorize a civil penalty in the amount of \$1,000 for possession of an open title, and \$5,000 for false, fraudulent, or deceptive acts. Refer this matter to the Tennessee Department of Revenue for investigation into the falsified sale. Additionally, issue a letter of instruction on open titles to the original dealer that sold the vehicle to Respondent without closing in the title.

Commission Decision: CONCUR

2. 2018009271 (SRP)

First Licensed: 08/04/2017

Expiration: 08/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant says Respondent required a vehicle he purchased be returned due to the financing entity not being able to confirm his employment. Complainant stated he believed the financing was finalized. Respondent confirmed that the financing entity could not confirm Complainant's employment, which is why the vehicle was returned. Legal requested that Respondent produce a copy of the conditional delivery agreement, but Respondent never produced the form.

Recommendation: Authorize a civil penalty in the amount of \$500 for failure to execute a conditional delivery agreement.

Commission Decision: CONCUR

3. 2018010611 (SRP)

2018012921

2018018472

2018018471

First Licensed: 09/30/1996

Expiration: 09/30/2018 (REVOKED 12/14/2017 – Non-payment of civil penalty)

License Type: Motor Vehicle Dealer

History (5 yrs.): 2015 -- \$2,000 Consent Order for Incomplete Temporary Tag Log; \$5,000 Consent Order for incomplete temporary tag log; 2016 -- \$500 Agreed Citation for expired city/county business license.

Respondent had its license revoked for failing to make payments on a payment plan for a civil penalty. Respondent's owner's son is applying for a license in order to take over the family business from his father. Respondent has been working with legal counsel to work to get his business reopened for his son, and to get the civil penalty paid off. While the son was preparing his application to take over, four complaints were filed against Respondent. Three were anonymous suggesting Respondent was selling vehicles while the license was revoked. One complaint was related to a consumer experiencing mechanical issues and a delay in receiving a license plate, which was ultimately received. An investigation was conducted. The lot only had four vehicles still in inventory, and all sales documents were removed. The owner signed a sworn statement swearing no vehicles had been sold. No evidence of sales was found, but the investigator did confirm Respondent's son is applying for the dealer license in order to take over the business, which was granted in April 2018 under a new dealer name. The owner is working with the collection agency to pay off the civil penalty owed. The consumer with the delayed title purchased the vehicle prior to the revocation of the license.

Recommendation: Close.

Commission Decision: CONCUR

4. 2018012351 (SRP)

First Licensed: 08/14/2015

Expiration: 07/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Respondent received a Notice of Violation for an expired business license. The inspector also noted that three files did not contain rebuilt disclosures when the titles in the file were branded.

Recommendation: Authorize a civil penalty in the amount \$500 for an expired business license and failure to use rebuilt disclosure form.

Commission Decision: CONCUR

5. 2018012641 (SRP)
First Licensed: 02/09/2011
Expiration: 11/30/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant states that she learned the vehicle she purchased had more miles recorded on a car fax than what was reflected on the odometer. Respondent responded to state that the vehicle was a 2005 used vehicle purchased at auction with miles exempt. The miles were listed on the sales paperwork as exempt. The only place Respondent wrote the miles was on the temporary tag, which they stated they believed required the mileage as it read on the odometer at the time the tag was issued.

Recommendation: Close upon referral to the Tennessee Department of Safety and Homeland Security.

Commission Decision: CONCUR

6. 2018013271 (SRP)
First Licensed: 02/09/2011
Expiration: 11/30/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant claims she discovered a vehicle she purchased used and as-is from Respondent had been in an accident. Respondent states that the salesperson informed the consumer of the accident history, but that the dealership does not print or use Car Fax reports. Complainant claims Respondent never told her about the accident, and she did not learn of it until nine months later when another dealership was performing an oil change and noticed some mechanical issues stemming from a front-end rebuild post-accident.

Recommendation: Close.

Commission Decision: CONCUR

7. 2018014251 (SRP)
First Licensed: N/A
Expiration: N/A
License Type: N/A
History (5 yrs.): None

Complainant stated that she purchased a vehicle from Respondent, and was never provided a title. Rather, Respondent provided documents related to a garagekeeper's lien. However, when Complainant attempted to bring the documents to the county clerk, she was told the

vehicle was salvaged and could not be titled. Respondent is not licensed. An inspection was conducted in which an employee claims he sold the vehicle as an individual, and he got the car with the garagekeeper's lien paperwork from an auction. However, the sales documents for the lien were made out with Respondent business listed as the seller, and the employee never titled the vehicle in his own name. An investigation was conducted to gather more detailed information. Respondent claimed the employee that sold the vehicle to Complainant was no longer employed at Respondent repair shop and Respondent denied having knowledge that the employee was representing that Respondent was the seller of the vehicle. Respondent did not have contact information for the employee. Complainant, with assistance of hired counsel, was able to register the vehicle, and they secured a judgment against Respondent under the Tennessee Consumer Protection Act due to the sale being conducted without proper paperwork/disclosures.

At this point, the information indicates Respondent and/or its employee sold a car under a mechanic's lien. It is unclear how the mechanic's lien came into being, but it was ultimately accepted by the county clerk, and the lack of proper paperwork for that transaction was addressed through a civil court judgment.

Recommendation: Close upon issuance of a letter of caution regarding vehicle sales.

Commission Decision: CONCUR

8. 2018018571 (SRP)

First Licensed: 09/01/1991

Expiration: 06/30/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Respondent failed to produce title to Complainant in a timely manner. Respondent states that after the sale, they discovered a lien remained on the title in Georgia, and ultimately it had to apply for a duplicate. Respondent apologized for the delay, and explained the difficulties it has had in getting the title, but Respondent did show ongoing efforts to resolve the issues, and it has communicated as much as it could to Complainant.

Recommendation: Close upon issuance of a letter of warning.

Commission Decision: CONCUR

9. 2018019221 (SRP)

First Licensed: 09/01/1991

Expiration: 02/29/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant alleges that in 2015, Complainant purchased a vehicle from Respondent. Respondent learned later that the vehicle was sold with DEF emissions removed, and the on

board computer was modified to allow the vehicle to run. As a result, the vehicle cannot be serviced by CAT dealerships due to the illegal computer modification.

Respondent responded to explain that the Respondent corporation was purchased by new ownership in 2017, and the shop manager was replaced in January 2018. The license was transferred to the new owners. Respondent's new owner states that despite not being present, it will do what it can to resolve the issue with Complainant. Respondent says it looked into the transaction, and learned the previous owners purchased the vehicle at auction. The vehicle was listed as "not running, condition unknown." The inspection at Respondent's facility indicated the issue was that the EGR equipment had been removed prior to the vehicle being sold at auction. The computer was then sent to be reprogrammed to see if the vehicle would run, which it did. Respondent's new owners acknowledge that was not the correct course of action and Respondent's new shop manager indicated no such action would be taken in the future.

Recommendation: Close upon issuance of a letter of caution regarding false, fraudulent, and/or deceptive acts.

Commission Decision: CONCUR

10. 2018020421 (SRP)
First Licensed: 12/02/2015
Expiration: 12/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant filed a complaint to have her money returned after the vehicle she purchased as-is experienced mechanical issues. While a number of other issues regarding payments for tows arose in the complaint and response, the request for a repayment of funds on the purchase is the main issue between the parties. The purchase was as-is. The vehicle was towed to Respondent, but Complainant has not made her last two payments, so Respondent has initiated the repossession process, and has not repaired the vehicle. Respondent did state it would have started repairs, but the tow company informed Respondent that Complainant or Complainant's associate attempted to pay it with "counterfeit" funds.

Recommendation: Close.

Commission Decision: CONCUR

11. 2018022061 (SRP)
First Licensed: N/A
Expiration: N/A
License Type: N/A
History (5 yrs.): None

This matter was opened on a referral from another state's Commission. Respondent appears to be a website that attempts to convince people to sell classic cars through them. Research online indicates the company has allegations of fraud in many states. The referring state believed Respondent was located in Nashville due to its website having a map at the bottom with a pin in Nashville; however, the pin was in the center of a park. The metadata for the website indicates it was built through a quick template-type website host, and Respondent had paid extra to have its registration identity hidden. Additionally, the phone number and website are set up through VPNs preventing location of the owners. Some website research indicated Respondent could possibly be located in California, but more than likely, that information is linked to the location of the company hosting the phone number. Ultimately, no evidence of activity in the State of Tennessee was located. Respondent is a fake company that has taken active steps to hide its location and identity.

Recommendation: Close.

Commission Decision: CONCUR

12. 2018014321 (SRP)

First Licensed: 12/12/2012

Expiration: 10/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): 2014 -- \$2,000 Consent Order for failure to delivery titles; 2015 -- \$4,000 Consent Order for failing to maintain complete temporary tag log, and possession of an open title.

Complainant paid off a vehicle, but Complainant has not received title. Complainant stated that she believed Respondent had closed, but at the time of the complaint, Respondent's license was active. Complainant was provided surety bond information, and an investigation was requested. The investigator found the Respondent dealership closed without posted business hours, and no inventory on the lot. The investigator spoke to neighboring businesses that reported not seeing much activity out of the location. A salesperson called the investigator after hearing about the investigator's inquiries, and the owner ultimately reached out and said he had thought about closing, but had recently changed his mind. When asked about the sale related to Complainant, the owner stated it was sold privately by one of his salespersons six months ago. The salesperson is now incarcerated. When asked how it was a private sale if the car was bought from the lot and the consumer made payments at the dealership for weeks, Respondent's owner stated that it was [Complainant and the salesperson] and "not his problem." The investigator informed the owner of the changes that need to be made in order to be in compliance. A few weeks after the conversation, the investigator drove by the lot and found it still substantially out of compliance.

Recommendation: Authorize the voluntary revocation of Respondent's license for failure to supervise, no posted business hours, failure to maintain required minimum business hours, no active phone number, and failure to deliver title.

Commission Decision: CONCUR

13. 2018015851 (SRP)

2018015852

First Licensed: 05/07/2009

Expiration: 04/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Revenue referred this complaint to the Commission. The complaint alleged Respondent is using dealer plates, but its business is closed. Respondent's dealership license is active, but it has reported zero vehicle sales over the last few years. Respondent's owner spoke with legal. Respondent's owner states that the business is no longer her main source of income, and she maintains the license and requirements for the insurance tax benefit related to her personal vehicles. She only has three dealer plates, and they are still in her possession.

Overall, the only violation is failure to maintain posted business hours. Respondent admits that she is not present at the dealership. She has her cell phone number posted in case anyone needs to contact her. No inventory is on display, and no sales occur.

Recommendation: Authorize the voluntary revocation of Respondent's dealership license to be settled by consent order or a formal hearing. This matter may be closed on a letter of warning if Respondent signs a sworn affidavit agreeing to either be present or employ someone to be present at the dealership during posted business hours. If Respondent submits the sworn affidavit, a drive-by inspection shall be conducted within 180 days to ensure compliance.

Commission Decision: CONCUR

14. 2018019181 (SRP)

First Licensed: 01/28/2013

Expiration: 12/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant claims she learned her vehicle previously had a salvaged title in another state. Respondent responded and produced the Autocheck they ran when they purchased the vehicle. It showed two accidents, but no branded title. There is no evidence Respondent was aware of the previous title history, and Respondent is attempting to work with Complainant to resolve the matter.

Recommendation: Close.

Commission Decision: CONCUR

15. 2018019951 Murfeesboro (SRP)

First Licensed: 05/25/2011

Expiration: 04/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant alleges Respondent utilizes deceptive advertising. Complainant contacted Respondent about a vehicle advertised by Respondent online. The advertisement included language that read, "Lifetime Powertrain Warranty at no additional cost." When Complainant asked about that, Respondent informed him that the warranty did have a cost, and the language was in the advertisement by mistake. Another advertisement Complainant provided from Respondent includes the language, "Unlimited miles, unlimited years," which lacks context and clarity as to what it is referring.

Recommendation: Close upon issuance of a letter of warning regarding advertising laws/rules.

Commission Decision: CONCUR

16. 2018020481 (SRP)

First Licensed: 10/19/2000

Expiration: 02/29/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): 2012 -- \$3,000 Consent Order for failing to timely register vehicle.

Complainant discovered through his insurance company that a vehicle Respondent sold Complainant had a previous accident. The accident was not recorded by Car Fax. Respondent worked with Complainant to help Complainant trade in to a vehicle he was satisfied with, and the matter is resolved. No evidence of a violation was found.

Recommendation: Close.

Commission Decision: CONCUR

17. 2018017111 (SRP)

2018018271

First Licensed: 06/05/2017

Expiration: 06/30/2019 (CLOSED 5/1/2018)

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainants did not receive tags/titles related to two vehicle purchases from Respondent at the end of 2017. Respondent responded to state the business is closed down. Respondent has filed Chapter 13 bankruptcy, and all consumers awaiting title/tags are listed

as creditors. Respondent is working to pay off liens and get titles released from floor planners, and all consumers have been provided with the surety bond information. Respondent admits it was undercapitalized and it could not handle operating and floor planner expenses.

Recommendation: Close and flag.

Commission Decision: CONCUR

18. 2018023601 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): None

Complainant is a county clerk who notified the Commission that Respondent, a sports bar, had vehicles displayed in its lot. An inspection was conducted. The inspector met with the owner. Two vehicles were positioned for sale in the parking lot. The owner stated that one belonged to the neighbor who wanted to sell his vehicle. The other was the owner of the bar's. The owner of the bar stated he had sold only one vehicle in the past year, and in fact, it was the same vehicle displayed on the lot. The first purchaser did not pay what was owed. The inspector explained the licensing requirements to the owner. No evidence that Respondent sold the vehicles in the name of a dealership or that the owner sold more than five individually, was located.

Recommendation: Close upon issuance of a letter of instruction regarding limitations of personal sales/sales from business lots.

Commission Decision: CONCUR

19. 2018023771 (SRP)

2018036151

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): 2017 – Outstanding \$90,000 civil penalty + costs from Final Order for unlicensed activity

2018036181

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): 2017 – Outstanding \$90,000 civil penalty + costs from Final Order for unlicensed activity

Respondents are repeat offenders. Respondent has an outstanding Order for \$90,000 unpaid for unlicensed activity. Board action has not deterred Respondents, and Legal is working to seek an injunction with the Attorney General on the ongoing wrongdoing.

Recommendation: Close under the status of “referral to an outside agency.” Grant authority to automatically close future and/or related complaints under the same status. All complaints and accompanying information will be transmitted to the Attorney General’s Office.

Commission Decision: **CONCUR**

20. 2018019891 (SRP)
First Licensed: 11/13/2015
Expiration: 10/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant alleges she discovered the vehicle she purchased from Respondent was salvaged after purchase. Complainant also alleged that Respondent gave her contact information to a finance company without her permission, and they kept contacting Complainant. Respondent responded and only addressed the finance company issue. Respondent stated they work with a company that helps consumers build their credit, and that they explain that to consumers. The financing company contacting Complainant is that credit rebuilding company. An investigation was requested. The investigator confirmed that the vehicle Complainant purchased was rebuilt, but Respondent did have Complainant sign a disclosure form. Additionally, the contract Complainant signed indicated it may be assigned to a different financier.

Recommendation: Close.

Commission Decision: **CONCUR**

21. 2018019991 (SRP)
First Licensed: 11/28/2017
Expiration: 11/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant alleges Respondent has failed to timely delivery tags or a title. An investigation was requested. The investigation revealed that the owner of the dealership had corrected Complainant’s issue. The owner explained, and showed a settlement agreement to confirm, the owner’s former manager had caused issues, and when fired, stole temporary tags and other information. In the meantime, that disgruntled employee has filed false complaints against Respondent that we have investigated and confirmed to be false. The disgruntled manager filed complaints against Respondent under a false name, and threatened the life of the owner of Respondent dealership.

All issues have been resolved, and Respondent has corrected the issues created by the manager. The wrongdoing of the manager was documented and proven. Additionally, the inspector for the Commission noted that the former employer had assumed Respondent's owner's identity during inspections, so it is possible Respondent did not know of complaints until later due to the employee pretending to be the owner.

Recommendation: Close upon issuance of a letter of instruction, directing Respondent to terminate the former employee's salesperson license.

Commission Decision: CONCUR

22. 2018027721 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): None

This is one of the complaints filed by the previous Respondent's disgruntled former employee. Complainant alleged, under a false name, that Respondent is an unlicensed dealer being facilitated by Complainant's former employer. The matter was investigated and the allegations were not substantiated.

Recommendation: Close.

Commission Decision: CONCUR

23. 2018032071 (SRP)

First Licensed: 12/15/2017

Expiration: 12/31/2019

License Type: Motor Vehicle Salesperson

History (5 yrs.): None

This is the former employee from the past two complaints above. Respondent allegedly stole temporary tags after being fired from his associated dealership. The dealership's owner settled the matter with Respondent, but Respondent has since filed a complaint against his former employer under a false name. The complaint was not substantiated after investigation. The dealer confirmed in a sworn statement that Respondent was fired immediately upon discovery of Respondent's wrongdoing related to maintenance of the paperwork at the dealership.

Recommendation: Close and flag after setting license status to terminated.

Commission Decision: CONCUR

24. 2018021861 (SRP)

First Licensed: 09/01/1991

Expiration: 07/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): 2010 – \$500 and \$1,000 civil penalties advertising violations; 2016 -- \$2,000 civil penalty for advertising vehicles at the wrong price on Ebay, and not honoring the price when auctions won by consumers.

Complainant provided the copy of the advertisement for a truck they purchased from Respondent. The advertised price was \$17,519 with a possible \$1,000 incentive to finance with an approved financier, for a final price of \$16,519. Complainant financed the purchase, but the price charged for the vehicle was \$17,499 with no incentive applied. Respondent responded and claimed that the salesperson had been working with the Complainants for a few days on this purchase, and during that time, there was a price reduction online of which the salesperson was unaware. The sales manager has reimbursed some amount of money to the Complainants, and they added accessories to the vehicle to make up any difference.

Recommendation: Based on the history of advertising violations, authorize a civil penalty in the amount of \$5,000 for selling a vehicle at a different price than advertised.

Commission Decision: CONCUR

25. 2018022901 (SRP)

First Licensed: 05/25/2011

Expiration: 05/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – \$2,000 Consent Order for issuing more temporary tags than allowed by law and late delivery of title.

Complainant purchased a vehicle at the end of December 2017, but he did not receive a tag/title from Respondent until April 17, 2018. Respondent provided proof the vehicle was registered after a series of issues arising from its attempt to get a duplicate title from the State of Ohio. Due to the Respondent having two similar complaints close in time, an investigation was requested. The investigation confirmed that Respondent struggled to get the lienholder of the vehicle to produce title, and Respondent ultimately had to work with the State of Ohio to obtain title. The general manager states that staff training and notice of the importance of titling quickly has been conducted at Respondent dealership in light of the delays. Complainant is now registered and has a tag.

Recommendation: Authorize legal seek a written compliance plan reflecting the promises of internal changes from Respondent. Respondent shall produce the written plan within 30 days of receipt of the request. Upon receipt, this matter shall be closed. If Respondent fails to comply, authorize a civil penalty in the amount of \$500 to be settled by consent order or a formal hearing.

Commission Decision: CONCUR

26. 2018024511 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): N/A

The Commission received photographs from an anonymous Complainant showing five vehicles displayed for sale in a gravel lot. An inspection was conducted to determine if curbstoning or unlicensed sales were occurring. The inspection revealed that the vehicles were bank-owned repossessions displayed for sale on a lot owned by a tow company. The bank's lot was too small to accommodate the vehicles, so it got permission from the tow company it uses in order to display the vehicles.

Recommendation: Close.

Commission Decision: CONCUR

27. 2018026071 (SRP)

First Licensed: 03/05/2007

Expiration: 02/28/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2013 -- \$4,000 civil penalty for failure to delivery conditional delivery agreement, and failure to void transaction when financing terms change; LOW for advertising violations; 2016 – LOW for false, fraudulent, or deceptive act.

The Commission received copies of newspaper ads and recordings of Respondent's radio ads from an anonymous Complainant. The scanned copies of the newspaper advertisements were not complete, leaving off the bottom of the page where disclaimers and disclosures would be contained. The anonymous Complainant also included MP3s of three of Respondent's radio advertising spots. In the ads, the necessary disclaimer comes at the end. It is extremely fast, and a jingle plays over it rendering it impossible to hear.

Recommendation: Authorize a civil penalty in the amount of \$3,000 (\$1,000 x three advertisements) for a lack of clear and conspicuous terms/disclosures.

Commission Decision: CONCUR

28. 2018026701 (SRP)

First Licensed: 01/09/2008

Expiration: 01/31/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant filed a complaint because she was suspicious the vehicle she purchased was involved in a flood. Complainant states the vehicle has a musty smell, and it was originally from Texas. Complainant stated that she ran a Car Fax and, although no issues were listed, she stated it never showed it being titled in Texas despite it originating from there. This lack of information led her to believe the vehicle could have been subject to title washing. Respondent is the dealer that sold the vehicle to Complainant. Respondent responded and indicated that they ran an Auto Checker report. The report shows extensive recorded history in Texas, and like the Car Fax Report, showed no history of flooding. The vehicle was sold as-is.

Recommendation: Close.

Commission Decision: CONCUR

29. 2018020701 (SRP)

First Licensed: 03/04/2011

Expiration: 02/28/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 -- \$500 civil penalty for failure to utilize conditional delivery form.

Complainant purchased a vehicle from Respondent on January 28, 2018. Complainant did not receive title until April, after filing a complaint with this Commission and the BBB. Respondent explained that the vehicle was purchased at auction, and the title was to be overnighted to Respondent by the auction. The next day, Respondent received a packet of titles from the auction for its purchases, but this vehicle's title was not among them. The auction is working to get a duplicate from Ohio. Respondent went ahead and bought back Complainant's vehicle and returned her down payment to resolve this matter.

Recommendation: Authorize a civil penalty in the amount of \$500 for failing to timely delivery title/selling a vehicle without access to title, which is a false, fraudulent, or deceptive act, to be settled by consent order or a formal hearing.

Commission Decision: CONCUR

30. 2018019931 (SRP)

First Licensed: 08/21/2014

Expiration: 07/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Respondent received a Notice of Violation for displaying vehicles on a neighboring lot. Respondent's owner stated that the cars were there because more space was required.

Recommendation: Authorize a civil penalty in the amount of \$1,000 for displaying vehicles. Penalty can be waived for a letter of warning if Respondent submits proof it has moved vehicles back to its licensed location within thirty days of receiving the consent order.

Commission Decision: CONCUR

31. 2018020131 (SRP)
First Licensed: 04/23/2018
Expiration: 03/31/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Respondent purchased a formerly licensed dealership location. An inspector visited and noted that Respondent was operating prior to its dealer license being approved. Respondent obtained its license fully two weeks later.

Recommendation: Close upon issuance of a letter of warning.

Commission Decision: CONCUR

32. 2018030191 (SRP)
First Licensed: 12/09/2015
Expiration: 12/31/2017 (CLOSED 3/28/2018)
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – Letter of Warning for delayed proof of insurance.

Complainant paid Respondent \$2,500 towards a vehicle. The vehicle could not pass emissions so Respondent took the vehicle back to repair. Complainant never heard from Respondent again, and never received the vehicle or money back. Respondent has closed and gone out of business in the meantime. Complainant was provided with Respondent's surety bond information.

Recommendation: Close and flag.

Commission Decision: CONCUR

33. 2018022201 (SRP)
First Licensed: 09/14/2016
Expiration: 06/30/2018 (CLOSED 4/13/2018)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant did not receive title. Respondent dealership is now closed, and the owner's salesperson license was revoked for failure to comply with an Agreed Order. He is now in jail for upwards of three years for aggravated stalking and violation of an order of protection. Complainant was provided the bond information.

Recommendation: Close and flag.

Commission Decision: CONCUR

34. 2018024431 (SRP)

First Licensed: 12/07/2015

Expiration: 11/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – Letter of Warning for incomplete temporary tag log; \$500 civil penalty for off-site sale.

Complainant saw a vehicle displayed on the side of the road. Complainant contacted the number on the vehicle and purchased the vehicle from a man that arrived. The man told Complainant he would have to pay her for the taxes and titling fees. Complainant inquired as to why she should pay him when she could do it herself, and Respondent indicated Complainant had to have the work done through Respondent dealership. An investigation was requested.

Respondent admitted to selling the vehicle off-site (ten miles from the dealer) and that the owner sold it without a salesperson license. Additionally, the only document in the deal file was the bill of sale. No evidence of a buyer's guide was found. Complainant did have a copy of the title, but claims she has been unable to register the vehicle because Respondent has not provided a corrected bill of sale reflected that she paid the sales tax to the dealer.

Recommendation: Authorize a civil penalty in the amount of \$2,500 (\$1,000 for unlicensed activity, \$1,000 for second offense off-site sales, and \$500 for failing to timely register a vehicle), to be settled by consent order or a formal hearing.

Commission Decision: CONCUR

35. 2018020991 (SRP)

2018018801

2018018691

2018022161

2018028841

2018033631

First Licensed: 05/07/2013

Expiration: 09/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Multiple complaints were received by the Commission alleging Respondent failed to deliver title. Respondent responded through the owner's son, who is also employed at Respondent dealership. Respondent claimed the owner is suffering from Alzheimer's and as a result, he incorrectly paid off the incorrect vehicles with the floor planner. An investigation was conducted. While it did appear to the lay investigator that the owner of Respondent dealership does suffer from some cognitive defects, the evidence is counter to the statement the owner's son stated. The owner stated that his son has been in charge of both their dealership and their transport for the past several years. The investigator noted that while the cognitive issues were present, the owner seemed mostly present and only needed time to recall certain facts. Respondent has thirty-two vehicles sold out of trust for a possible loss total to the floor planner in the amount of \$342,660. The floor planner is seeking criminal prosecution of Respondent for the actions.

Upon a visit, Respondent's lot was found empty. Additionally, the owner's son claimed he had requested a duplicate title for one of the consumers, but the auction confirmed that no such duplicate was ever requested. Eventually, the son recanted that story, and after much pressure, requested the duplicate. However, Respondent did not sign the new title to show the transfer before sending it to the consumer, leaving the consumer still unable to register the vehicle. The floor planner stepped in with its power of attorney and corrected the issue for the consumer.

Recommendation: Authorize the revocation of Respondent's dealer license, to be settled by consent order or a formal hearing.

Commission Decision: CONCUR

36. 2018030121 (SRP)

First Licensed: 05/08/2013

Expiration: 04/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 -- \$3,000 Consent Order for failing to timely delivery title and issuing more than two temporary tags.

Complainant alleged mechanical issues related to a prior transmission repair and the airbag light being on. Complainant states she is behind on payment and upset repossession was mentioned when she has not been behind in a long time. Respondent responded to state that the vehicle was purchased in 2015 at a now-closed branch of the dealership, but Complainant only had a limited powertrain warranty that expired prior to Complainant repairing the transmission, and well before the airbag light came on. Respondent states that Complainant is not yet out for repossession and Respondent only mentioned it to keep Complainant apprised of her payment status.

Recommendation: Close.

Commission Decision: CONCUR

37. 2018031721 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): N/A

Complainant is a licensed dealer. Complainant alleges Respondent displays vehicles for sale in front of its tire store. An inspection was conducted. Two vehicles were displayed. One was titled to the owner's son individually, and one was a friend who wanted to sell his vehicle. The inspector explained the license requirements. No evidence that the Respondent was attempting to be a dealer was located, but Respondent did indicate it would look into the requirements of a dealer license if it wished to continue to allow vehicles to be displayed.

Recommendation: Close upon issuance of a letter of caution.

Commission Decision: CONCUR

38. 2018018761 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): None.

This is the second complaint this year alleging Respondent is selling vehicles from his front yard. Respondent worked in the auto industry as a detailer and manager before applying for a salesperson license. Respondent's dealer license was denied due to a felony conviction for drug possession.

Respondent twice told investigators that he detailed vehicles only, and did not sell the vehicles. Vehicles were found on Respondent's lawn, but none had signs indicating they were for sale. The owner of the business Respondent allegedly does detail work for denied the relationship. The owner said he knew Respondent from the industry and he sees him at auto auctions from time to time, but the owner has an onsite detail location, and he does not give vehicles to Respondent to detail.

Respondent provided proof that Respondent has a business license for a detailing business. However, when legal counsel searched online for the detailing business, the business name and phone number were linked to a Facebook page that displayed a second business that is Respondent's last name, then "Auto Sales." In one post, dated April 2017, Respondent indicated he was moving his car sales business to his home. Following that, at least seven vehicles are displayed for sale on the page, showing Respondent's yard and home in the background.

In conclusion, Respondent lied to investigators when he stated he did not sell vehicles. Respondent's own website indicates he has been selling vehicles from his yard for at least one year after his dealer license was denied due to his felony conviction.

Recommendation: Authorize a civil penalty in the amount of \$7,000 (\$1,000 x 7 advertised vehicles) for unlicensed activity, and refer this matter to the Tennessee Department of Revenue to ensure sales tax has been paid on sales.

Commission Decision: CONCUR

39. 2018023351 (SRP)
First Licensed: 09/01/1991
Expiration: 11/30/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Respondent received Notice of Violation at its last inspection due to two salespersons working with expired licenses. The licenses expired in 2017. Respondent renewed the license immediately following the inspection.

Recommendation: Authorize a civil penalty in the amount of \$1,000 for two acts of salespersons with expired licenses to be settled by consent order or a formal hearing.

Commission Decision: CONCUR

40. 2018023371 (SRP)
First Licensed: 06/22/2012
Expiration: 07/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Respondent received Notice of Violation at its last inspection due to three salespersons working with expired licenses. The licenses expired in 2017. Respondent renewed the license immediately following the inspection. Respondent responded to the agreed citation requesting leniency. Respondent states that the move of the Commission to online renewals through the individual salesperson meant Respondent's normal system of keeping up with renewals did not work since the notices were sent to the individual salespersons. Respondent has adjusted its practice to account for the new renewal system. Respondent points to its history of no complaints since its opening as a second consideration for reducing the penalty.

Recommendation: Authorize a civil penalty in the amount of \$1,500 for three acts of salespersons with expired licenses to be settled by consent order or a formal hearing.

Commission Decision: CONCUR

41. 2018031341 (SRP)
First Licensed: 01/06/2004
Expiration: 12/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from Respondent to be registered in another state. Respondent took around a month and a half to finish registration and pay the taxes due to having to resend originals rather than copies and other payment complications with the out-of-state. Respondent had the taxes paid and the vehicle registered within two months as required. No violation occurred.

Recommendation: Close.

Commission Decision: CONCUR

42. 2018032441 (SRP)
First Licensed: 08/10/2015
Expiration: 07/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant claimed Respondent refused to return a deposit on a vehicle that he was waiting to buy after transmission repairs were conducted. The vehicle took longer than expected to repair. Respondent provided Complainant with a loaner vehicle in the meantime. When Complainant was tired of waiting, and after a dispute, Respondent refunded the deposit, but Complainant refused to return the loaner vehicle, and even listed it for sale. The police have been involved. Ultimately, the Complainant has the deposit back, and no clear violations occurred.

Recommendation: Close.

Commission Decision: CONCUR

43. 2018033741 (SRP)
2018037131
First Licensed: 06/06/2016
Expiration: 06/30/2018 (CLOSED 05/01/2018)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Both complainants have vehicles purchased from Respondent prior to their closure, but they did not receive title. The complaint division provided the Complainants with the surety bond to assist the consumers.

Recommendation: Close and flag both complaints.

Commission Decision: CONCUR

44. 2018027241 (SRP)
First Licensed: 05/14/2007
Expiration: 04/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant alleges a vehicle he purchased from Respondent was sold with outstanding recalls. Complainant stated he purchased the vehicle late at night so he was unable to get the vehicle looked at by a mechanic prior to purchasing the vehicle without a warranty. Complainant provided screen shots of allegedly open recalls related to the transmission, but the images did not show the recall as associated to Complainant's vehicle. Legal counsel searched the National Highway Traffic Safety Administration website using the Complainant's VIN. No recalls were listed as open for that vehicle in the last fifteen calendar years.

Recommendation: Close.

Commission Decision: CONCUR

45. 2018028591 (SRP)
2018034821
First Licensed: 03/31/2008
Expiration: 02/29/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): 2015 -- \$1,000 Consent Order for failing to use proper conditional delivery; 2016 -- \$2,500 Consent Order for failing to use proper conditional delivery form.

Complaint 1:

Complainant filed this complaint due to experiencing mechanical issues with a vehicle purchased from Respondent. The vehicle was sold as-is and Respondent has made the promised repairs in the "We Owe" form, and even assisted on an additional repair as a one-time good will gesture.

Complaint 2:

Complainant is a mechanic employed by Respondent. Complainant alleges Respondent required he clean a vehicle that previously contained a deceased body. The vehicle was towed to the dealership following the removal of the body by proper authorities. Complainant stated that the words "Bio Hazard" was written on the window. Complainant stated he did not feel qualified to clean the vehicle, and there was concern that the dealer would attempt to sell the vehicle without being properly decontaminated.

Respondent responded and stated it did not ask Complainant to clean the vehicle, but rather to perform mechanical work on the vehicle. Respondent claims it did not intend to sell the vehicle. Legal has sent this complaint to the Tennessee Occupational Safety and Health Administration.

Recommendation: Close upon issuance with a letter of caution.

Commission Decision: CONCUR

46. 2018029751 (SRP)

2018031021

2018022981

First Licensed: 08/04/2016

Expiration: 07/31/2018 (SUSPENDED 01/30/2018 for non-payment of civil penalty)

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 -- \$6,500 Consent Order for Unlicensed Sales Activity

Complaints started coming in regarding consumers not receiving titles from Respondent. Respondent contacted legal counsel and confirmed he had fallen behind on paying off vehicles floor planned through other dealers. Respondent states that the dealership has become overwhelming and out of his ability. Respondent wishes to forfeit his license, and he has personally provided his bond information to the injured consumers. Respondent estimates six to eight consumers are waiting for titles.

Recommendation: Authorize the voluntary revocation of Respondent's license.

Commission Decision: CONCUR

47. 2018023711 (SRP)

First Licensed: 12/18/2017

Expiration: 11/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

2018025731 (SRP)

First Licensed: 02/22/2018

Expiration: 02/29/2020

License Type: Salesman

History (5 yrs.): Outstanding complaint related to unlicensed activity prior to licensure in litigation status.

Complainant's vehicle suffered mechanical issues and claims Respondent took the car to fix, but now will not return the vehicle or Complainant's down payment and is demanding more money. Respondent explained that Complainant has not paid taxes despite numerous requests and attempt to explain that sales tax must be paid on the sale. However, Complainant had paid a \$1,000 down payment. Complainant states she does not think she should have to pay the taxes on top of the deposit because it was rolled into the financing. Respondent claims they offered to have the first payment count towards the taxes when Complainant stated she could not pay more than the down payment at the time of purchase, but she refused. Additionally, the vehicle has failed emissions due to mechanical issues, but it was bought as-is.

Recommendation: Close upon issuance of a letter of warning regarding false, fraudulent and deceptive acts, in asking for tax to be paid upfront when it is shown as incorporated into the financing.

Commission Decision: CONCUR

48. 2018029581 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): N/A

2018044661

First Licensed: 03/08/1999

Expiration: 11/30/2018

License Type: Motor Vehicle Dealer

History: N/A

A professional association notified the Board of vehicles potentially being sold from an unlicensed flea market. The vehicles had been involved in the Houston flooding, and were being sold on MSOs. An investigation was conducted. The unlicensed flea market confirmed they were in possession of vehicles involved in the Houston flood. It stated that an insurance company had subcontracted with it to sell the vehicles. When it attempted to do so, the county clerk would not let the consumers register the vehicle since it was a new vehicles sold on an MSO without a licensed dealer. As a result, the unlicensed flea market ended up working with a licensed dealership. The dealership purchased and sold the vehicles as consumers expressed interest. The dealership created disclosure forms that explained the potential history of the vehicles.

Legal communicated what was discovered with the Commission in Texas, who is undergoing its own investigation. While not finalized, Texas confirmed its dealer disclosed the damaged vehicles to the insurance company, and the dealer states that the insurance company asked for the titling documents to be left open when transferred. As a result, the vehicles were never issued any sort of branded title, and the water damage is not listed in

the vehicle's history. Legal has referred this matter to the Insurance Division for further investigation as it relates to the insurance company.

Recommendation: As to the unlicensed flea market, authorize a civil penalty in the amount of \$5,000 for unlicensed sales activity. As to the dealer, authorize a civil penalty in the amount of \$5,000 for allowing the unlicensed flea market to act as an unlicensed sales person, and off-site sales.

Commission Decision: **CONCUR**

49. 2018024211 (SRP)

First Licensed: 06/13/2018

Expiration: 03/31/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): N/A

This complaint was opened against the former owners of Respondent dealership, although it appears it was the current owners that were involved in the transaction. Many of Complainant's issues relate to mechanical problems with the vehicle. While the vehicle was sold as is, the vehicle had a branded title, and no disclosure was given to the consumer.

Recommendation: Authorize a civil penalty in the amount of \$500 for failure to execute a rebuilt disclosure form.

Commission Decision: **CONCUR**

50. 2018004901 (SRP)

First Licensed: 05/03/2012

Expiration: 02/28/2019 (CLOSED 4/18/2018)

License Type: Motor Vehicle Dealer

History (5 yrs.): 2015 -- \$5,000 Consent Order for false, fraudulent, and deceptive acts.

Complainant is licensed dealer in another state. Complainant alleges Respondent forged its name on a title to transfer a vehicle. Respondent claims it was given permission to sell the vehicle through the wholesaler license from the out of state dealer. After investigation, Respondent dealership closed.

Recommendation: Close and flag.

Commission Decision: **CONCUR**

51. 2018044571 (SRP)

2018042941

2018042671

First Licensed: 10/12/2015

Expiration: 09/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): N/A

Three complaints have been received regarding Respondent's inability to provide title to purchased vehicles. Respondent suddenly closed prior to providing title to numerous consumers. The phone number for the dealership is no longer active, and local dealerships have stepped in to try to assist consumers left without legal transportation. While an ongoing investigation is being conducted to determine the full scope of the wrongdoing, enough evidence is present to ascertain that Respondent sold vehicles out of trust, leaving multiple consumers injured, and drawing media attention.

Recommendation: Authorize the revocation of Respondent's dealer license. Additionally, grant authority to include individual salesperson licenses for revocation after investigations confirm the responsible parties.

Commission Decision: CONCUR

52. 2017054281 (SBB)
First Licensed: 01/19/2017
Expiration: 12/31/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased the vehicle from an auction and alleges the odometer had been rolled back and was later told by the auction that the vehicle had been purchased with a mileage exemption and would not take it back. The Complainant alleges the Respondent failed to make any announcements. The Respondent provided a response and stated Complainant was aware it was mileage exempt and the Complainant is in the business of selling vehicles that are 10 years or older and mileage exempt and this vehicle was sold at auction with the announcement it was mileage exempt plus the actual odometer showed it had 109L miles on the vehicle.

Recommendation: Close

Commission Decision: CONCUR

53. 2017080501 (SBB)
License Type: Unlicensed
History (5 yrs.): None.

Complaint filed against the Respondent for unlicensed activity. It appears the Respondent is engaged in the sale of off road dirt bikes and motorcycles. Following an investigation, the Respondent sells kid's dirt bikes and motorcycles. Also, these motor vehicles are low speed vehicles and not motor vehicles.

Recommendation: Close.

Commission Decision: CONCUR

54. 2018006781 (SBB)

License Type: Unlicensed

History (5 yrs.): None.

Complainant purchased a vehicle from an auction for \$6,000 and was later contacted by a third party financing company because the third-party was the actual lien holders on the vehicle. The Complainant received a title to the vehicle and was never told there was another lien holder. The Respondent is not a motor vehicle dealer and cash advance business that repossessed the vehicle and later sold it at auction.

Recommendation: Close.

Commission Decision: CONCUR

55. 2018011481 (SBB)

First Licensed: 12/05/2013

Expiration: 09/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complaint filed against the Respondent stating the Respondent is allowing consumers to drive vehicles for extended periods of time without registering the vehicles. Upon further investigation, it has been confirmed that the Respondent has been properly registering the vehicles within the 30 to 60 day time period.

Recommendation: Close.

Commission Decision: CONCUR

56. 2018012401 (SBB)

First Licensed: 12/16/2011

Expiration: 12/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2013 – \$2,000 Consent Order for false, fraudulent or deceptive acts and required the purchaser of a vehicle as a condition of sale to also purchase features not requested by the purchaser; 2017 – Letter of Warning for advertising violation

Complaint was filed against the Respondent for failing to properly title a vehicle. The Complainant moved out-of-state and was unable to get the vehicle titled. The Respondents, General Manager and a Director, were non-responsive to the Complainant and would not correct the paperwork to properly reflect “OR” on the title between the co-owners of the vehicle instead of the word “AND” for the co-owners. The Complainant finally received the correct title from the Respondent after writing a letter to the Commissioner of the Department of Commerce and Insurance and the Motor Vehicle Commission because the Respondent would not respond to the Complainant.

Recommendation: Close upon the issuance of a Letter of Warning to the Respondents concerning titling vehicles as requested by consumer purchasers and responding to consumers.

Commission Decision: CONCUR

57. 2018013481 (SBB)

First Licensed: 12/18/2007

Expiration: 12/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

A Notice of Violation was issued against the Respondent for not having a county business tax license and an expired Dismantler & Recycler License.

Recommendation: Authorize a formal hearing for violation of the Tennessee Motor Vehicle Title and Registration Law (Tenn. Code Ann. 55-17-109(b)) and the Motor Vehicle Commission Rule 0960-01-.25 to be settled by Consent Order and payment of civil penalty in the amount of \$1,500.

Commission Decision: CONCUR

58. 2018011181 (SBB)

59. 2018011161 (SBB)

First Licensed: 01/03/2006 (Respondent 2)

Expiration: 12/31/2019 (Respondent 2)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

A Complaint was filed by a County Clerk's Office concerning unlicensed activity at Respondent 1's auto repair facility. The owner of Respondent 1, auto repair facility, sold at least six motor vehicles without possessing a valid salesman license. Respondent 2, the dealership, is promoting that unlicensed activity and exhibiting a form of deception in their business practices by processing the transactions and billing out the sales for Respondent 1, auto repair facility, to avoid detection of the unlicensed sales activities.

Recommendation: As to Respondent 1, authorize a formal hearing for violation of the Tennessee Motor Vehicle Title and Registration Laws for unlicensed dealer and salesman pursuant to Tenn. Code Ann. § 55-17-109 to be settled by Consent Order and payment of civil penalty in the amount of \$2,000. As to Respondent 2, authorize a formal hearing with the authority to settle by Consent Order and payment of civil penalty in the amount of \$500 for false, fraudulent, and deceptive acts

Commission Decision: CONCUR

60. 2018014641 (SBB)
First Licensed: 07/19/1999
Expiration: 07/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from the Respondent and alleges it had mechanical issues. The Complainant had to repeatedly return to the dealership for repairs under the extended warranty, however, each time the Complainant brought the vehicle to the Respondent there was a \$250 deductible the Complainant had to pay under the terms of the purchased extended warranty. The Complainant alleges the vehicle is a lemon, however, the vehicle was sold by the Respondent as a certified used vehicle. The Respondent provided a response and stated there have been no problems with the vehicle since November 10, 2017 and the Complainant has not returned for any further repairs. Also, the Respondent stated if the Complainant is continuing to have problems, the Complainant should immediately contact the Respondent to schedule an appointment to get the necessary repairs performed on the vehicle.

Recommendation: Close.

Commission Decision: CONCUR

61. 2018016131 (SBB)
First Licensed: 09/06/2013
Expiration: 09/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant claims that the Respondent sold a vehicle with discrepancies in the actual mileage, advertised mileage and the mileage on the title. The Complainant wants the mileage to be accurately reflected on the vehicle documents and title. The Complainant was provided with an odometer disclosure statement by the Respondent. The Respondent provided a response and provided proof the purchase and registration documents properly reflected the mileage as 63,892 miles. Additionally, when the Complainant returned approximately one month later on February 14, 2016 for servicing and the service manager recorded the mileage as 64,494 miles.

Recommendation: Close.

Commission Decision: CONCUR

62. 2018015661 (SBB)

License Type: Unlicensed

History (5 yrs.): None.

Complaint against the Respondent, an automobile repair facility, for curbstoning vehicles by parking them along the roadside of the repair facility. Upon investigation, the Respondent admits to the sale of motor vehicles. The Respondent claims these vehicles are sold because they have a mechanic's lien and in 2018 the Respondent has sold three vehicles to date and there were four more vehicles for sale when the Investigator visited a second time. The Respondent stated he will apply for a Motor Vehicle Dealer license.

Recommendation: Authorize a formal hearing for violation of the Tennessee Motor Vehicle Title and Registration Laws for unlicensed dealer to be settled by Consent Order and payment of civil penalty in the amount of \$1,000. In the event the Respondent applies for his motor vehicle dealer license with the Commission, authorize closure of the complaint.

Commission Decision: CONCUR

63. 2018015751 (SBB)

First Licensed: 02/15/2017

Expiration: 01/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complaint filed against the Respondent for curbstoning/unlicensed motor vehicle sales. Upon investigation, the Respondent is properly licensed and no unlicensed motor vehicle sales occurred.

Recommendation: Close.

Commission Decision: CONCUR

64. 2018016251 (SBB)

65. 2018016252

License Type: Unlicensed

History (5 yrs.): None.

Complaint by landlord of the property stating the Respondent has been selling trucks for the past 18 months from the property owned by the landlord and does not have a motor vehicle dealer license or salesperson licenses for the salespeople. The landlord has been contacted by several aggrieved purchasers of large commercial trucks concerning the sale and business tactics of the Respondent. Upon investigation, it has been determined the Respondent is a finance company and these sales are merely incidental to its primary business activities. Therefore, the Respondent is exempt from the Tennessee Motor Vehicle Commission motor vehicle dealer licensing requirements pursuant to Tenn. Code. Ann. § 55-17-102(17).

Recommendation: Close.

Commission Decision: CONCUR

66. 2018016411 (SBB)

First Licensed: 08/09/2012

Expiration: 03/31/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

The Complainant's son purchased a motor vehicle from the Respondent and stated the Respondent did not assist in helping get the vehicle properly titled in Ohio. The Complainant's son gave an out-of-state address and indicated to the Respondent it needed to be registered in another state. The Respondent was not helpful and non-responsive to the Complainant. The Respondent provided a response and stated that the vehicle needs to be properly titled in Tennessee prior to getting titled in Ohio and the Complainant's son has not returned the title to the Respondent in order to get the vehicle properly titled in Tennessee.

Recommendation: Authorize a formal hearing with the authority to settle by Consent Order and payment of civil penalty in the amount of \$500 for false, fraudulent, and deceptive acts related to the processing of the title.

Commission Decision: CONCUR

67. 2018016461 (SBB)

First Licensed: 07/07/2017

Expiration: 07/31/2019

License Type: Motor Vehicle Dealer
History (5 yrs.): None.

The Complainant purchased a vehicle from the Respondent "AS IS." After leaving the motor vehicle dealership, the "CHECK ENGINE" light illuminated on the vehicle. The Respondent offered to make the necessary repairs to the vehicle and also provided a loaner vehicle to the Complainant during the period while the vehicle was being repaired. According to the Complainant, there was a problem with the vehicle again and the Respondent again offered to check the vehicle, however, the Complainant never returned and a few weeks later again contacted the Respondent and demanded a refund. The Respondent refused and stated three months had already passed and the Complainant had put over 3,000 additional miles on the vehicle.

Recommendation: Close.

Commission Decision: CONCUR

68. 2018016721 (SBB)
First Licensed: 05/12/2015
Expiration: 04/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): 2017- \$500 Agreed Citation for failure to maintain city/county business license; 2016- LOW issued for incomplete temp tag log

Complainant purchased a motor vehicle from the Respondent and it was sold "AS IS." The Complainant claims the Respondent never informed the Complainant the vehicle had a salvaged title. The Respondent provided a response and stated the vehicle had a rebuilt title and the Complainant was told about the rebuilt title. The Respondent failed to put the proper inspection sticker on the vehicle and had purchased it at an insurance auction and there was no body, frame or engine damage to the motor vehicle. Upon investigation, it was determined the Respondent had obtained the re-built inspection sticker and forgot to put it on the vehicle. The vehicle as not involved in an accident. The Respondent provided a Buyer's Guide to the Respondent. The Respondent had to repossess the vehicle for Respondent's failure to make the necessary payments for the vehicle.

Recommendation: Close.

Commission Decision: CONCUR

69. 2018016841 (SBB)
First Licensed: 10/08/2015
Expiration: 10/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from the Respondent. The Complainant referenced a specific salesperson at the dealership that handled the transaction. The Complainant purchased the vehicle from the individual specified on a payment plan and alleges the Respondent failed to provide the title at the conclusion of all the payments being made by the Complainant. The Respondent provided a response and stated the Respondent never employed a salesperson with the name provided and believes this is an incorrect or false complaint against the Respondent. Also, the Respondent has no record of a customer with the same name provided by the Complainant, never had the vehicle specified by the Complainant for sale at its' dealership, and the Complainant has refused to provide a VIN number to the Respondent, so the Respondent could check on the vehicle. The Respondent's surety bond information was provided to the Complainant in the event the Complainant is able to prove that this is the correct dealership and it was in fact purchased from this dealership.

Recommendation: Close.

Commission Decision: CONCUR

70. 2018017151 (SBB)
First Licensed: 09/01/1991
Expiration: 09/30/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): 2014- Consent Order with \$1,000 civil penalty for failure to renew liability insurance

Complainant alleges the Respondent was using the dealership as living quarters. Upon inspection, a Notice of Violation was issued to the motor vehicle dealer for violations of the Motor Vehicle Licensing Act.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order and payment of civil penalty in the amount of \$1,000 for a violations of the Tennessee Motor Vehicle Commission Rule 0960-01-.21 (Motor Vehicle Dealer Facilities).

Commission Decision: CONCUR

71. 2018017231 (SBB)
License Type: Unlicensed
History (5 yrs.): None.

Complaint against the Respondent alleging the Respondent is selling 2-3 motor vehicles each week and is an unlicensed motor vehicle dealer and salesperson. The Respondent is not paying sales tax and floating titles. Upon investigation, the Respondent claims to be

disabled and sells vehicles to supplement his income, however, has not sold more than 5 vehicles in the past 12 month period.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$1,000 for unlicensed motor vehicle sales with authority to settle by consent order.

Commission Decision: CONCUR

72. 2018019971 (SBB)

First Licensed: 07/14/2000

Expiration: 07/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): 2017- Consent Order with \$500 civil penalty for failure to disclose vehicle involvement in accident

Complaint filed against the Respondent for the sale of a motor vehicle with mechanical problems. The Complainant went to the original dealership of the motor vehicle to have the mechanical issues repaired under the powertrain warranty. The Complainant wanted the Respondent to exchange the vehicle under the three-day exchange policy, however, the Complainant had purchased the vehicle with a bankruptcy situation and the Respondent could not exchange the vehicle since a simple exchange was not possible due to the Complainant's credit situation and the Complainant would have to obtain another letter from the Bankruptcy Trustee in order to exchange the vehicle.

Recommendation: Close.

Commission Decision: CONCUR

73. 2018017251 (SBB)

First Licensed: 07/14/2000

Expiration: 07/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): 2017- Consent Order with \$500 civil penalty for failure to disclose vehicle involvement in accident

Complaint was filed against the Respondent concerning advertising violations, specifically the complaint alleges there were processing fees of approximately \$499.00 that were not included in the price of the advertised vehicle listed in the complaint. The Respondent provided a response and stated it does not have any record of the Complainant as a purchaser and the vehicle is still in its inventory and was not sold to the Complainant. The Respondent has no record of the Complainant in its database.

Recommendation: Close.

Commission Decision: CONCUR

74. 2018017371 (SBB)
First Licensed: 09/01/1991
Expiration: 10/31/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complaint against Respondent concerning parking the motor vehicles for sale on the grassy area in front of the shopping center adjacent to the motor vehicle dealer. Respondent provided a response and stated it does not park vehicles around the shopping center or in front of other businesses in the shopping center. The Respondent is not aware of any issues with vehicles being parked on the grassy area adjacent to the lot. The Respondent is parking vehicles for sale on the City of Chattanooga right-of-way in front of other businesses and in violation of the ordinance. The investigation also revealed one open title and evidence of off-site sales. Additionally, the Respondent is in violation of the local ordinances and has been parking vehicles in front of other businesses.

Recommendation: Authorize a formal hearing for violations of the Motor Vehicle Licensing laws, specifically open title and off-site sales, with authority to settle by Consent Order and payment of civil penalty in the amount of \$1,500 (\$500 civil penalty for an open title and \$1,000 civil penalty for off-site sales).

Commission Decision: CONCUR

75. 2018017621 (SBB)
First Licensed: 06/30/2017
Expiration: 06/30/2019 (Closed)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a motor vehicle from the Respondent in July 2017 and the business has now closed. Five days after purchasing the head gasket of the vehicle blew off and the Complainant asked the Respondent to refund the purchase price of the motor vehicle. The Respondent advised the Complainant the vehicle was sold "AS IS" and the Respondent would not refund the purchase price. The Complainant still owed the Respondent a balance on price of the vehicle and was not able to pay the balance because the Respondent closed and the Complainant cannot get a title. The Complainant was sent the surety bond information for the Respondent.

Recommendation: Close.

Commission Decision: CONCUR

76. 2018018441 (SBB)
First Licensed: 01/23/2006
Expiration: 12/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant alleges while she was renewing her registration with the Montgomery County Clerk's Office, the Complainant was informed by the Clerk's Office her plates were no longer associated with her vehicle and the Clerk's Office determined the Respondent had requested a duplicate title, bill of sale and power of attorney to a title that was in the possession of the Complainant. The Complainant has filed a police report in this matter. The Complainant alleges the Respondent created the documents and forged her signature, etc. Following an investigation, it appears that there is evidence of forgery by this automobile dealer of the title of two identical vehicles with different VIN numbers.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order and payment of a civil penalty in the amount of \$2,000 for false, fraudulent or deceptive acts pursuant to Tenn. Code Ann § 55-17-114(b)(1)(K).

Commission Decision: CONCUR

77. 2018019021 (SBB)
First Licensed: 04/29/2011
Expiration: 01/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant purchased a used motor vehicle from the Respondent. The Complainant discovered the vehicle had body damage and mechanical issues. The Respondent offered to make the necessary repairs to the vehicle body and also offered to provide a \$2,000 refund.

Recommendation: Close.

Commission Decision: CONCUR

78. 2018019051 (SBB)
First Licensed: 01/29/2018
Expiration: 01/31/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complaint alleges the Respondent is engaged in aiding another revoked motor vehicle dealer engage in unlicensed motor vehicle sales in Tennessee. Upon investigation, the Respondent and the other motor vehicle dealer are currently licensed and there were only

three vehicle sold between the parties, who are longtime friends. There is no unlicensed activity by the Respondent.

Recommendation: Close.

Commission Decision: CONCUR

79. 20180189351 (SBB)
License Type: Unlicensed
History (5 yrs.): None

Complaint filed against the Respondent by the Davidson County Clerk's Office concerning possible unlicensed motor vehicle sales. Following an investigation, it appears this matter was previously presented in another complaint filed in 2017 and dealt with the unlicensed sale of motor vehicles for the same period. The Respondent entered into a Consent Order concerning the unlicensed motor vehicle sales. As such, this is a duplicate complaint against the Respondent.

Recommendation: Close.

Commission Decision: CONCUR

80. 2018023081 (SBB)
81. 2018023101 (SBB)
First Licensed: 09/07/2017
Expiration: 09/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant purchased a motor vehicle from the Respondent in September 2017 and received title back from the State of Tennessee. The Complainant discovered the vehicle sold was a salvaged vehicle. Two weeks later, the transmission failed on the vehicle. The Respondent claimed it was not a salvaged vehicle and took the vehicle back. The Complainant obtained another used motor vehicle from the Respondent. The Complainant and Respondent executed a substitution of collateral. The Respondent failed to pay the floor planner on the first vehicle purchased by the Complainant. The Respondent has gone out-of-business. The Complainant has been sent the surety bond information for the Respondent to file a claim.

Recommendation: Close and flag.

Commission Decision: CONCUR

82. 2018019471 (SBB)

First Licensed: 09/07/2017

Expiration: 09/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant purchased a motor vehicle from the Respondent and never received the title. The Complainant went to the dealership and found it was permanently closed. Upon investigation, it is confirmed the Respondent has gone out-of-business. The Complainant has been sent the surety bond information for the Respondent to file a claim.

Recommendation: Close and flag.

Commission Decision: CONCUR

83. 2018035591 (SBB)

First Licensed: 09/07/2017

Expiration: 09/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant, lender for the purchaser that purchased a vehicle from the Respondent never received the title from the Respondent. The application for transfer of title was never submitted by the Respondent. Upon an investigation, it has been confirmed the Respondent has gone out-of-business. The Complainant was sent the surety bond information for the Respondent to file a claim.

Recommendation: Close and flag.

Commission Decision: CONCUR

84. 2018036341 (SBB)

First Licensed: 09/07/2017

Expiration: 09/30/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None

Complainant is the floor planner for two vehicles and never received the title for two vehicles. The titles cannot be located and the Respondent has gone out-of-business. Following an investigation, it was confirmed the Respondent is out-of-business. The Complainant was sent the surety bond information for the Respondent motor vehicle dealer to file a claim against the bond.

Recommendation: Close.

Commission Decision: CONCUR

85. 2018019771 (SBB)
First Licensed: 04/29/2016
Expiration: 05/31/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complaint against the Respondent for failing to issue the title for a vehicle purchased from the Respondent by the Complainant. The Respondent provided a response and stated that due to an inadvertent clerical error, the Respondent failed to transmit the title. The Respondent will conduct additional training to ensure that this situation does not occur in the future. The Complainant has received the title.

Recommendation: Close.

Commission Decision: CONCUR

86. 2018019911 (SBB)
First Licensed: 03/09/2011
Expiration: 01/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): 2014- \$500 Agreed Citation for issuance of more than two temporary tags

Complainant purchased a used motor vehicle from the Respondent and there have been problems with multiple incorrect signatures on the title and it is necessary to obtain the proper and correct title from California. The Respondent has made multiple attempts to obtain a title and has been unsuccessful. At this point, the Respondent is unable to obtain a valid title for the Complainant and has agreed to do what is possible to resolve the issue for the Complainant. The Respondent has offered the Complainant a full refund, but needs the Complainant to bring the vehicle back to him. The Complainant lives in Arkansas and states the vehicle has expired tags and he cannot bring the vehicle back to Tennessee. The Respondent has sent the Complainant money for travel and gas to return the vehicle back to Tennessee and the Complainant stated he cannot drive the vehicle with expired tags. The Complainant has been provided the surety bond information of the Respondent to submit a claim.

Recommendation: Close.

Commission Decision: CONCUR

87. 2018020071 (SBB)
First Licensed: 09/28/2011

Expiration: 09/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant states the Respondent advertises in Spanish for the sale of motor vehicles and financing to those without driver's licenses, social security numbers and underage drivers using the Facebook marketplace. The Respondent provided a response and stated it is not associated with the company referred to by the Complainant and does not use Facebook marketplace for the sale of motor vehicles. The Respondent has a website for sales and uses reputable automotive publications for the sale of motor vehicles. The Respondent does not engage in sales to those with no driver's license or social security number.

Recommendation: Close.

Commission Decision: CONCUR

88. 2018020151 (SBB)
First Licensed: 03/15/2005
Expiration: 02/28/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): 2014- \$1,000 Agreed Citation for incomplete temporary tag log; 2016- Consent Order with \$1,500 civil penalty for incomplete temporary tag log

Complaint filed against the Respondent concerning the purchase of a vehicle that has two VINs. The Respondent provided a response and stated that the vehicle received a reassigned VIN and the reassigned VIN was issued in Ohio in 2011. Later, the vehicle was title in Kentucky and Tennessee. When the vehicle received a new VIN, the original applicant did not remove the previous VIN tags from the vehicle which led to the confusion. The assigned VIN plate is located in the front right passenger side shock tower in the engine bay and is visible. The auction wrote-up the bill of sale using the former VIN. After being informed of the error, the auction immediately issued a revised bill of sale with the correct VIN. The Respondent stated that every effort has been made to assist the Complainant and the situation has been explained several times. The Complainant refuses to explain the situation to the vehicle registration officials in Ohio. The Respondent also provided a Carfax report indicating that there were two VINs for the vehicle and showing the incorporation and vehicle history.

Recommendation: Close.

Commission Decision: CONCUR

89. 2018020761 (SBB)
First Licensed: 05/26/2011
Expiration: 05/31/2019
License Type: Motor Vehicle Dealer

History (5 yrs.): 2015- \$1,000 Agreed Citation for temporary tag log violation and missing tags

Complainant purchased a vehicle from the Respondent and according to the Complainant was charged a \$598 document fee or administrative fee twice. The Respondent claims that because of all the discounts, increased trade-in valuation, truck bed liner, and other extras, the Complainant was not charged the \$598 document fee twice. According to the documents, the Complainant was charged the \$598 fee twice. The Respondent has agreed to refund the \$598 fee.

Recommendation: Close.

Commission Decision: CONCUR

90. 2018021041 (SBB)

First Licensed: 09/26/2008

Expiration: 08/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016- LOW for false, fraudulent, or deceptive practice(s)

Complainant purchased a classic motor vehicle from the Respondent "AS IS." There were several items that needed to be repaired and the Respondent agreed to make the necessary repairs to the vehicle, however, the Complainant never met the Respondent at the designated location near the Complainant's home.

Recommendation: Close.

Commission Decision: CONCUR

91. 2018021061 (SBB)

First Licensed: 09/01/1991

Expiration: 01/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2014- Consent Order with \$5,000 civil penalty for failure to retain possession of any vehicle used by consumer as consideration

Complainant purchased a new vehicle from the dealership and had some problems with water leaking and electrical issues. The dealership discovered that there was mud that was causing clogging of key drains in the vehicle and this resulted in the water intrusion, leakage, etc. The Complainant was advised that if this resulted from mudding, the warranty would be invalidated. The Complainant again returned with the same issues concerning mud clogging various components in the vehicle and this resulted in the dealership refusing to perform the necessary repairs because the dealership alleged the Complainant had again been engaged in mudding. The Complainant vehemently denies that he has been mudding with his vehicle and this vehicle is used as a work vehicle in his outdoor shooting range.

The Respondent dealer also reported to the manufacturer that the Complainant had been engaged in “mudding” and this has resulted in the warranty being invalidated and the Complainant is unable to get any of the necessary repairs done to the vehicle. The Complainant also purchased an extended warranty for the motor vehicle at the time of purchase and Complainant cannot get the repairs done under the extended warranty because of the report by the Respondent dealer concerning the “mudding” allegation.

Recommendation: Close.

Commission Decision: CONCUR

92. 2018022181 (SBB)

First Licensed: 09/12/2011

Expiration: 08/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016- Consent Order with \$1,000 civil penalty for off-site business without proper licensure

Complainant purchased a vehicle from the Respondent and has not received the title. When the Complainant ran a Carfax report on the motor vehicle after the purchase, she discovered the vehicle had been salvaged in Maryland and the title had not been transferred to Tennessee. The Complainant believes that there has been a fraudulent title that has been issued. The dealer provided a response and stated the Complainant she knew she was buying a salvaged car and the vehicle was being sold “AS IS.” Upon an investigation, the Respondent provided the necessary documentation concerning disclosures that were made to the Complainant, including a Car Fax History Report that was provided to the Complainant disclosing the vehicle was a salvaged vehicle. Additionally, the Respondent advised the Complainant that some insurance companies will not insure salvaged vehicles. The Complainant signed a Buyer’s Guide concerning the “AS IS” condition of the vehicle. The Complainant also wanted to know how much money she could recover in restitution from the Commission in this matter and when the Complainant learned that no restitution could be provided by the Commission, the Complainant ceased all communication with the Investigator.

Recommendation: Close.

Commission Decision: CONCUR

93. 2018022521 (SBB)

First Licensed: 03/05/1997

Expiration: 02/28/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle by telephone from another state and the vehicle was delivered to the Complainant. The title was not delivered to the Complainant in a timely manner and there was an error on the year of the vehicle in the title. This resulted in additional delays in getting the vehicle registered and titled in the Complainant's legal state of residence. Also, the Complainant claims that the steering wheel looked bent when she received the vehicle, but was unable to follow-up until later and discovered it was the result of a bent strut, which the Complainant alleges the Respondent failed to disclose. The Complainant claims there was also a shortage in the amount paid in taxes, however, it was a \$61.00 shortage of tax collected for the motor vehicle. The Respondent provided a response and stated that there were numerous delays because of the need to obtain signatures of the Complainant and this was a paper and out-of-state transaction, so there were more delays than usual. The Respondent was responsive to all requests from the out-of-state motor vehicle services agency concerning any deficiencies to the title and any corrections that needed to be made.

Recommendation: Close.

Commission Decision: CONCUR

94. 2018022561 (SBB)
First Licensed: 05/25/2011
Expiration: 05/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): 2018- Consent Order with \$2,000 civil penalty for issuance of more temporary plates than allowed by law

Complainant purchased a vehicle from the Respondent and claims there was a bait and switch done on the paperwork for the financing and some body work and other repairs has not been done. The Respondent provided a response and stated that all documents were presented to the Complainant and there was no bait and switch. All terms were properly disclosed to the Complainant and the terms of the transactions were accepted by the Complainant. The Respondent stated that the vehicle is still under warranty and the repairs can be performed under the warranty.

Recommendation: Close.

Commission Decision: CONCUR

95. **2018022661 (SBB)**
First Licensed: 09/09/2008
Expiration: 08/31/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): 2013- \$1,000 Agreed Citation for failure to maintain temporary tag log; 2015- Consent Order with \$4,000 civil penalty for issuance of more temporary plates than allowed by law

Complainant purchased a motor vehicle from the Respondent and obtained the necessary financing through the dealer and after making all payments could not obtain the title from the Respondent and was told to obtain a duplicate title. The Complainant lives out-of-state and it would be a problematic to provide testimony at a hearing in Nashville, Tennessee. Also, the Respondent has confirmed that that title has been obtained by the Complainant.

Recommendation: Close.

Commission Decision: CONCUR

96. **2018022601 (SBB)**
First Licensed: 10/27/2016
Expiration: 11/30/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from the Respondent that had mechanical issues that were not disclosed. The motor vehicle was sold "AS IS" and the proper disclosures and Buyer's Guide were provided to the Complainant.

Recommendation: Close.

Commission Decision: CONCUR

97. **2018022781 (SBB)**
First Licensed: 06/27/2014
Expiration: 06/30/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

The Complainant purchased a vehicle from the Respondent and it was registered out-of-state. The tax amount collected was incorrect and a refund was issued for the overpayment of sales tax, however, the Complainant did not receive it timely. There were additional complaints made by the Complainant about the financing rate and only receiving one key FOB. The Respondent provided a response and stated there was a software problem at the dealership and the sales tax was incorrectly calculated. The Respondent has provided a refund to the Complainant of the overpayment of the sales tax.

Recommendation: Close.

Commission Decision: CONCUR

98. 2018022941 (SBB)
First Licensed: 09/01/1991
Expiration: 04/30/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a motor vehicle from the Respondent and later discovered it had a salvaged/rebuilt title and the Respondent never told him about the salvaged/rebuilt title. The Respondent provided a response and provided all proper disclosures to the Complainant and Buyer's Guide concerning the salvaged/rebuilt title and had obtained the necessary signatures. The Complainant claims that the documents were forged, however, there is no indication that the documents have been forged.

Recommendation: Close.

Commission Decision: CONCUR

99. 2018023201 (SBB)
First Licensed: 04/29/2016
Expiration: 05/31/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016- Consent Order with \$18,000 civil penalty for issuance of more temporary plates than allowed by law

Complainant purchased a vehicle from the Respondent and was advised that payments would be a certain amount and it turned out the payments were not monthly payments by bimonthly payments and the Complainant could not afford the payment amounts and wanted to return the vehicle. The Respondent allowed the Complainant to return the vehicle to the Respondent.

Recommendation: Close.

Commission Decision: CONCUR

100. 2018023551 (SBB)
First Licensed: 05/12/2015
Expiration: 04/30/2019
License Type: Motor Vehicle Dealer

History (5 yrs.): 2016- LOW for incomplete temporary tag log; 2017- \$500.00 Agreed Citation for failure to maintain city/county business license

Complainant purchased a motor vehicle from the Respondent. The motor vehicle was sold "AS IS." The Complainant claims she was never informed the vehicle had a rebuilt/salvage title and was unable to obtain insurance coverage. The Respondent provided a response and stated the minor issues were repaired by the Respondent. Also, the Complainant was aware of the rebuilt title and was provided a Buyer's Guide. The Respondent provided the documentation indicating the proper disclosures were provided to the Complainant.

Recommendation: Close.

Commission Decision: CONCUR

101. 2018023651 (SBB)
First Licensed: 12/29/2014
Expiration: 12/31/2018
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant filed a complaint against the Respondent claiming that his vehicle was improperly repossessed after nonpayment of the payments that were due to the Respondent. The Complainant claims he made all the payments, however, the documents provided by the Respondent indicate that all the payments were not made.

Recommendation: Close.

Commission Decision: CONCUR

102. 2018024471
103. 2018024472 (SBB)
First Licensed: 04/11/1994
Expiration: 04/30/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016- Consent Order with \$500.00 civil penalty for issuance of more temporary plates than allowed by law

Complainant purchased a vehicle from the Respondent and stated there were mechanical issues with the vehicle, including the check engine light had malfunctioned. The Respondent provided a response and stated that the vehicle was sold "AS IS" and the Complainant was allowed the opportunity to have the vehicle inspected prior to the purchase. The Respondent provided the documentation indicating the proper disclosures were provided to the Complainant at the time of the purchase.

Recommendation: Close.

Commission Decision: CONCUR

104. 2018026451 (SBB)
First Licensed: 02/05/2016
Expiration: 02/29/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a motor vehicle from the Respondent. The motor vehicle was sold in "AS IS." The Complainant lived out-of-state and the Respondent offered to allow the Complainant to trade the vehicle, but the Complainant declined. The Respondent stated the Complainant test drove the vehicle and all the proper disclosures were provided to the Complainant.

Recommendation: Close.

Commission Decision: CONCUR

105. 2018026651 (SBB)
First Licensed: 07/09/2015
Expiration: 05/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

The Complainant alleges the Respondent sold a vehicle with mechanical issues and the Respondent was unable to obtain financing for the Complainant, the Respondent requested the Complainant return the vehicle and the Complainant refused and stated he did not want further damage to the vehicle. The Complainant claims the Respondent failed to return the down payment to the Complainant. The Respondent provided a response and stated the Complainant listed in the Complainant is not the correct individual listed in the contract for the purchase of the motor vehicle. The Respondent provided the supporting documents indicating that the purchaser of the vehicle was a different individual and not the party listed in the complaint. The Complainant stated she is the fiancé, however, her name is not listed in the contract for the purchase of the motor vehicle.

Recommendation: Close.

Commission Decision: CONCUR

106. 2018027001 (SBB)
First Licensed: 07/14/2003
Expiration: 07/31/2011 (Closed)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complaint filed against the Respondent for possible unlicensed sales. There are online advertisements and the business uses the words “auto sales” in its name. Upon inspection, there was no indication the vehicles were for sale or unlicensed sales being conducted at the location. The County Clerk’s office indicated there were no registration/title filings in the name or address of the Respondent.

Recommendation: Close upon issuance of a letter of warning concerning unlicensed motor vehicle sales and requirement to be licensed by the Tennessee Motor Vehicle Commission.

Commission Decision: CONCUR

107. 2018027081 (SBB)
License Type: Unlicensed
History (5 yrs.):

Complainant provided money to the Respondent to purchase a vehicle from an auction. The Respondent never purchased the vehicle for the Complainant and never returned the money to the Complainant. The Complainant alleges the Respondent has done this to other individuals and is an unlicensed motor vehicle dealer in the State of Tennessee. Upon investigation, it appears the Respondent has an active warrant for Aggravated Robbery. The Investigator did not attempt to approach the Respondent in light of the seriousness of the warrant. The Respondent is listed as Memphis Most Wanted. Instead, the Investigator did contact the Respondent by telephone and left a voicemail and never received a return phone call from the Respondent. The Investigator also contacted the Complainant and was unable to reach the Complainant. The Complainant later contacted the Investigator and provided update contact information for the Respondent. The Respondent did get arrested and was later released. The Investigator finally made contact with the Respondent and was scheduled to meet with the Respondent, however, the Respondent never showed up to meet with the Investigator. The Respondent did not show up at the location to meet the Investigator.

Recommendation: Authorize a formal hearing for violation of the Tennessee Motor Vehicle Title and Registration Laws for unlicensed motor vehicle sales pursuant to Tenn. Code Ann. § 55-17-109 to be settled by Consent Order and payment of civil penalty in the amount of \$1,000.

Commission Decision: CONCUR

108. 2018027411 (SBB)
First Licensed: 01/29/2013
Expiration: 01/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from the Respondent and used a third-party financing company referred by the Respondent. The Complainant claims she made all her payments and wants the title to her vehicle. The Respondent provided a response and stated it is not able to obtain the payment ledger or other details concerning the payment of the loan and if the loan was paid the financing company should provide the necessary documents, so the Respondent can provide the title. The Respondent claims he is willing to work with the Complainant and if the Complainant provided the necessary documents this matter could be resolved. The Complainant has not provided the necessary proof of payment history to the Respondent.

Recommendation: Close.

Commission Decision: CONCUR

109. 2018027561 (SBB)
First Licensed: 01/30/2007
Expiration: 12/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complaint was filed against the Respondent concerning the purchase of a motor vehicle with various mechanical issues. The Respondent provided a response and stated they were not aware of any prior mechanical issues or accident. The Respondent provided the deal file and indicated that they also provided a Carfax and the Carfax did not indicate any issues with the vehicle. The Respondent also stated the vehicle was sold "AS IS" and all proper disclosures were made to the Respondent.

Recommendation: Close.

Commission Decision: CONCUR

110. 2018028091 (SBB)

First Licensed: 05/17/2016

Expiration: 05/31/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): 2017- LOW (5) issued for advertising violations, Consent Order with \$2,000 civil penalty for advertising violations

Complaint against the Respondent concerning advertising violations, including no stock numbers listed on new vehicles, also the ad does not clearly state that the \$7,000 cost reduction is available to every buyer, and the Respondent does not appear to be providing proper Regulation Z disclosures.

Recommendation: Authorize a formal hearing for violation of the Tennessee Motor Vehicle Title and Registration Laws with authority to settle by Consent Order and payment of civil penalty in the amount of \$5,000.

Commission Decision: CONCUR

111. 2018028371 (SBB)

First Licensed: 07/28/2011

Expiration: 06/30/2019 (Closed)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complaint against the Respondent for selling a motor vehicle with mechanical issues. The Respondent provided a 30 day warranty for repairs, however, the Complainant claims the vehicle is not reliable. The motor vehicle was sold "AS IS."

Recommendation: Close.

Commission Decision: CONCUR

112. 2018029101 (SBB)

First Licensed: 09/01/1991

Expiration: 01/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complaint purchased a motor vehicle from the Respondent and within a couple of days the vehicle started to have mechanical issues. The Respondent has refused to make the necessary repairs. The Respondent provided all documentation that the vehicle was sold "AS IS," however, the Respondent agreed to repair check engine light, replace battery cover, and advise the Complainant on the oil leak.

Recommendation: Close.

Commission Decision: CONCUR

113. 2018029191 (SBB)
First Licensed: 09/01/1991
Expiration: 11/30/2015
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complaint was filed against the Respondent concerning the Respondent's failure to provide a title to a motor vehicle purchased by the Complainant. The Respondent is no longer in business and has closed. The Complainant was sent all surety bond information for the Respondent to submit a claim.

Recommendation: Close.

Commission Decision: CONCUR

114. 2018024531 (SBB)
First Licensed: 12/16/2011
Expiration: 12/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): 2013 – \$2,000 Consent Order for false, fraudulent or deceptive acts and required the purchaser of a vehicle as a condition of sale to also purchase features not requested by the purchaser; 2017 – Letter of Warning for advertising violation

Complainant purchased a vehicle from the Respondent and there were several mechanical problems with the vehicle that needed to be repaired. The Respondent agreed to make the necessary repairs, however, each time the Complainant had to return on multiple occasions to the Respondent dealership because all the repairs were not properly completed. The Complainant alleges the Respondent provided them with a lifetime guarantee for the engine under the Rev Rewards program and later failed to honor the guarantee that was provided to the Complainant. The Respondent provided a response and stated the Complainant purchased the vehicle "AS IS" and was provided a Buyer's Guide. The Complainant was not provided with a Lifetime Engine Guarantee since the vehicle had over 85,000 miles on it and was more than 6 calendar years old. The Respondent's original copy of the Rev Rewards program does not show any signature by the Complainant.

Recommendation: Close.

Commission Decision: CONCUR

RE-PRESENTS

SARA R. PAGE

115. 2017021802 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): None

This complaint was associated as a possible dba for an unlicensed medium-speed vehicle dealer. The Respondents identified in the investigation into the complaints have been issued letters of warning. This complaint was not included for closure by mistake. No business with this name was found to be selling motor vehicles without a license in the investigation.

Recommendation: Close.

Commission Decision: CONCUR

116. 2017025921 (SRP)

First Licensed: N/A

Expiration: N/A

License Type: N/A

History (5 yrs.): None

Originally, this Respondent was assessed \$2,000 for offering four vehicles for sale at Rod Run in Pigeon Forge. The salesperson present was the son of the owner of Respondent dealership, a licensed dealer in another State. Respondent has offered to pay \$1,000 to resolve this matter.

Recommendation: Approve the reduction of the \$2,000 civil penalty to \$1,000 in order to settle this matter.

Commission Decision: CONCUR

117. 2017067511 (SRP)

First Licensed: 05/20/2015

Expiration: 05/31/2019

License Type: Motor Vehicle Dealer

History (5 yrs.): N/A

Previously, this Commission assessed Respondent a \$250 civil penalty for holding an expired county business license. After receiving the Consent Order, Respondent contacted legal counsel and submitted proof that Respondent had paid the county taxes and properly

renewed the license, but the physical license was being held while Respondent underwent a sales tax audit.

Recommendation: Close.

Commission Decision: CONCUR

118. 2018011521 (SRP)
First Licensed: 05/20/2015
Expiration: 05/31/2019
License Type: Motor Vehicle Salesperson
History (5 yrs.): N/A

Previously, this Commission assessed Respondent a \$5,000 civil penalty for unlicensed activity due to his license being suspended. It turns out the suspension, related to child support, was improperly recorded. Respondent's license should have been in an active status.

Recommendation: Close.

Commission Decision: CONCUR

119. 2017081541 (SRP)
First Licensed: 01/01/1992
Expiration: 06/30/2017
License Type: Motor Vehicle Dismantler/Recycler
History (5 yrs.): N/A

Previously, this Commission assessed Respondent a \$2,500 civil penalty for failure to renew. Since, legal counsel spoke with the elderly couple that runs the business. They have retired and closed the business. They were under the impression that the Commission was aware of this, and they apologized for the confusion.

Recommendation: Close and flag.

Commission Decision: CONCUR

SHILINA BROWN

120. 2017078051 (SBB)
First Licensed: 2/25/2013
Expiration: 2/28/2018 - EXPIRED
License Type: Motor Vehicle Dealer
History (5 yrs.): *Compliance Order in Default*, 2017 Close and Flag, 2018 Close and Flag

Complainant purchased a vehicle from the Respondent. The Complainant purchased an extended warranty and claims the Respondent never purchased the vehicle on the Complainant's behalf and never returned the \$1,400 cost of the extended warranty. The warranty company confirmed the payment was never received and the application for warranty was cancelled by the dealer on November 29, 2016. The surety bond information was sent to the Complainant.

Recommendation: Authorize a civil penalty in the amount of \$2,000 for false, fraudulent or deceptive acts pursuant to Tenn. Code Ann § 55-17-114(b)(1)(K). To be settled by consent order or authorize a formal hearing.

Commission Decision: CONCUR

New Information: The Respondent's motor vehicle dealer license is expired and the business has been dissolved according the SOS website since March 2018.

New Recommendation: Close and flag.

Commission Decision: CONCUR

121. 2017076701 (SBB)
First Licensed: 10/08/2015
Expiration: 10/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs.): 2017 Agreed Order

Complainant purchased a vehicle from the Respondent and was advised the title would be mailed to the Complainant within two weeks. The Complainant has contacted the Respondent on numerous occasions and has been unable to obtain the title.

Recommendation: Authorize a formal hearing with authority to settle by consent order with an assessed civil penalty in the amount of \$500 for failing to timely provide tags/title.

Commission Decision: CONCUR

New Information: The Respondent provided the Complainant two temporary tags as permitted under the law. The Respondent had to pay the floor planner and wait for the auction to send the title. The Respondent always tells customers that it will take between 21 to 30 days and the Respondent sent the title to the Complainant approximately one month after the purchase of the vehicle. This was an inadvertent delay and not because the Respondent intended not to provide the title to the Complainant.

New Recommendation: Close.

Commission Decision: CONCUR

122. 2018012711 (SBB)
First Licensed: UNLICENSED
License Type: Motor Vehicle Dealer
History (5 yrs.): None

Complainant purchased a vehicle from the Respondent and claims the Respondent is advertising vehicles on Craigslist without a license and engaged in false advertising of the vehicles for sale. Respondent provided a response and stated the ad on Craigslist was not for a business, but for an individual that was seeking parts for the vehicle. Upon further investigation, the Respondent is selling motor vehicles without a motor vehicle dealer license.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$500 for unlicensed activity to be settled by consent order.

Commission Decision: CONCUR

New Information: The vehicle was sold by the Respondent's friend in North Carolina and the Respondent did not own the vehicle at the time his friend sold it to the Complainant. According to the Respondent, the vehicle title listed a username which would tend to indicate it was an automotive dealership, however, the Respondent did not and does not have a dealership. Also, the vehicle was originally purchased by the Respondent from an auction. The Respondent has not sold any vehicles in the State of Tennessee.

New Recommendation: Close.

Commission Decision: CONCUR

123. 2018007301 (SBB)

First Licensed: 06/24/2016

Expiration: 05/31/2018 (Closed)

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – Close and Flag for deceptive acts

Complainant made all payments for the vehicle purchased from the Respondent. The Respondent delayed in providing tags/title to the vehicle and has now closed. The Complainant is unable to drive the vehicle because the drive-out tags have expired.

Original Recommendation: Authorize a formal hearing with authority to settle by consent order with an assessed civil penalty in the amount of \$500 for failing to timely provide tags/title.

New Information: Consent Order returned as undeliverable. Per internal verification, Respondent closed their Motor Vehicle Dealer license on May 3, 2017.

Commission Decision: CONCUR

New Recommendation: Close.

Commission Decision: CONCUR

ASHLEY GENO

124. 2016010833 REPRESENT

First Licensed: 8/31/2000

Expiration: 5/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs): None.

Originally presented to the Commission at the July 2016 meeting as follows:

Complaint alleges Respondent 1 is selling motor vehicles unlicensed through Respondent 2 and 3 dealers. Investigation conducted to determine if any unlicensed activity occurring. Investigation did not reveal any unlicensed activity, however it did reveal that Respondent 3 dealer was engaging in tax fraud by under reporting the sale price of its vehicles to the State. Investigation also revealed that Respondent 3 dealer appears to be forging customer's signatures in order to perpetrate the tax fraud.

Original Recommendation: Authorization of revocation to be settled by consent order or formal hearing.

UPDATE: Further analysis reveals only one instance of possible under reporting of taxes in an amount less than \$200.00. Also, no complainant cooperation; cannot demonstrate forgery. Based on this, we suggest amending original recommendation as follows:

Recommendation: Letter of Warning with referral to Revenue.

Commission Decision: CONCUR

125. 2017003161 REPRESENT

Unlicensed

History (5 yrs): 2014 – Letter of Warning for unlicensed activity

Originally presented to the Commission at the April 2017 meeting as follows:

Complaint received from a county clerk alleging Respondent engaged in unlicensed sales of motor vehicles. Complaint included a list of vehicles sold by Respondent starting in 2011. Investigation conducted to determine the extent of the unlicensed activity. Investigation revealed that Respondent was issued a consent order for \$13,000 in 2013, however the matter was represented in 2014 for a letter of warning when it was discovered that Respondent was on fixed disability income. Investigator met with Respondent who admitted to selling more than five (5) vehicles in a 12 month period, but Respondent again plead ignorance to the laws. Documents from the county clerk reveal that Respondent sold 33 vehicles in 2014, 48 vehicles in 2015, and 54 vehicles in 2016. All vehicles were titled and registered in Respondent's name.

Original Recommendation: Authorization of a civil penalty in the amount of \$118,000 (118 x \$1,000 for violations of TCA § 55-17-109.

UPDATE: Unable to locate Respondent. We filed a Notice of Hearing & Charges, but were unable to achieve service despite attempting service both by certified mail and personal service at last known address. We were also unable to make phone contact with Respondent. We requested a VIR from Revenue, which did not reveal purchasing activity at last known address for over six (6) months.

Recommendation: Close and flag, with referral to the Department of Revenue.

Commission Decision: CONCUR

ROBYN RYAN

126. 2017061001 REPRESENT

Unlicensed

History (5 yrs): None.

Originally presented to the Commission at the October 2017 meeting as follows:

A complaint was opened after information was received from the Tennessee Department of Revenue alleging that Respondent sold 10-15 vehicles without a motor vehicle dealer

license. Additionally, it is alleged that Respondent is not paying sales tax on any of the sales.

Original Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$10,000 (\$1,000 per unlicensed vehicle sale) to be settled by consent order.

UPDATE: In this file there is only a statement from Revenue with no supporting documents or any other evidence. Therefore a drive by was conducted in April and investigator found just one older model pickup truck at the location. Investigator contacted local county clerk to determine any recent sales by Respondent and found nothing.

Recommendation: Close and flag

Commission Decision: CONCUR

127. 2017018191 REPRESENT

First Licensed: 09/10/2010

Expiration: 08/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs): March 2016 - \$2,000 Consent Order for employing 3 unlicensed salespeople; November 2016 - \$16,000 Consent Order for sales by an unlicensed salesperson.

Originally presented to the Commission at the April 2018 meeting as follows:

Complainant alleges Respondent added a \$3,900 warranty onto their purchase agreement even though Complainant specifically requested no add-ons. Additionally, Complainant has provided a Bill of Sale showing no added warranty and a total amount financed that differs from what ultimately appeared on the loan from Nissan Motor Acceptance Corp.

Original Recommendation: Authorize a civil penalty in the amount of \$2,000 for false, fraudulent or deceptive acts pursuant to Tenn. Code Ann § 55-17-114(b)(1)(K) and failure to provide a response within 14 days of receiving the complaint from the Motor Vehicle Commission pursuant to Rule 0960-01-.23. To be settled by consent order or a formal hearing

UPDATE: Respondent did not purchase vehicle back and this was stated in error. The matter was sent for investigation to determine how many warranties were sold in the time period and whether there were signed sales documents reflecting the same. The matter was also investigated as to whether there was a sales document signed by complainant containing warranty information. The investigation revealed that during this time period, 42 automobiles were sold with warranties and all warranties were noted on the retail buyers order and signed by the buyer. The complainant in this matter states, correctly, that the warranty was not on the retail buyers order provided by complainant, but that order was not signed by complainant. However, the sales contract signed by the complainant had the warranty included. The investigation further found that the particular sales person was no

longer working at this dealership and that the Respondent removed the warranty from the sale, and a check was issued to complainant for the taxes on this amount. Another copy of the retail buyers order was provided with the warranty provided and a signature of customer but that signature is not easily readable.

Recommendation: From all the evidence provided, it is not possible to state with any certainty that the warranty information was not provided as complainant did sign the sales contract. Additionally, the sales person responsible for this particular sale is no longer with Respondent, Respondent addressed the situation by cancelling the warranty, refunding the taxes, and there does not appear to be any other sale in this time period with similar concerns. However, this Respondent should be sent a letter of warning to assure that all documents are printed and given to customers at the time of sale, and to ensure that all documents are properly signed by customer to assure no false or deceptive acts.

Commission Decision: **CONCUR**

128. 2017013441 REPRESENT
First Licensed: 12/10/2012
Expiration: 05/31/2018
License Type: Motor Vehicle Dealer
History (5 yrs): N/A

Originally presented to the Commission at the July 2017 meeting as follows:

Complaint filed against the Respondent concerning a vehicle sold by the Respondent to the Complainant. The Complainant purchased a vehicle that began to have mechanical problems shortly after the purchase. The Complainant has had to spend several thousand dollars trying to get the vehicle to run properly. The Complainant is seeking a refund for the vehicle. The Respondent did not provide a response. Upon further investigation, the Respondent was in possession of six open titles and could not produce the temporary tag log.

Original Recommendation: Authorize a civil penalty in the amount of \$6,600 for violation for failure to maintain a temporary tag log (Tenn. Code Ann. 55-17-114(b)(1)(O)), open titles Tenn. Code Ann. 55-17-114(b)(1)(N) (6 X \$100), and failure to provide a response within 14 days of receiving the complaint from the Motor Vehicle Commission pursuant to Rule 0960-01-.23. To be settled by consent order or a formal hearing.

UPDATE: This respondent is not in Tennessee and an additional investigation revealed that Respondent is not in business. License expired on May 31 and website only shows “under construction”. There is a new dealership at this location and this owner is not related to Respondent and has no knowledge of Respondent.

Recommendation: Close and flag should respondent attempt to re-establish license.

Commission Decision: CONCUR



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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MEMORANDUM

Privileged and Confidential Communication – Attorney Work Product

TO: Tennessee Motor Vehicle Commission

FROM: Sara R. Page, Assistant General Counsel
Shilina B. Brown, Assistant General Counsel

DATE: July 16, 2018

SUBJECT: MVC Legal Report Supplement

SHILINA

129. 2017061881 (REPRESENT)
First Licensed: Unlicensed
Expiration: N/A
License Type: Unlicensed
History (5 yrs.): None

The Complaint alleges the Respondent buys Corvettes and sells the parts and is an unlicensed dismantler. Following an investigation, it was discovered the Respondent is involved in the sale of parts without a dismantler license.

Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$1,000 for operating as an unlicensed dismantler/recycler to be settled by consent order

Commission Decision: Concur.

New Information: The Respondent has submitted an application for a Dismantler/Recycler license with the Motor Vehicle Commission and is taking the necessary steps to be complaint with the law and rules of the Commission.

New Recommendation: Authorize a formal hearing and assess a civil penalty in the amount of \$250.00 as an unlicensed dismantler/recycler to be settled by consent order

Commission Decision: CONCUR

Commissioner Jackson made a motion to approve the Legal Report and Supplemental Legal Report as amended during the Legal Review Meeting, as well as the addendum which contained one case, Seconded by Commissioner Vaughan. Chairman Robert called for a roll call vote.

ROLL CALL VOTE

Ian Leavy	YES
Joe Clayton	YES
Kahren White	YES
John Murrey	YES
John Chobanian	YES
John Barker, Jr.	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Nate Jackson	YES
Victor Evans	YES
Steve Tomaso	YES
Eddie Roberts	YES

MOTION CARRIES

LEGISLATIVE UPDATE – Asst. General Counsel, Elizabeth Goldstein

Staff attorney, Elizabeth Goldstein, updated the Commission on The Fresh Start Act, which impacted the Commission and was signed by the Governor, became effective July 1, 2018. Ms. Goldstein also presented a letter, written by legal, which will be sent to each applicant advising them of the appeal process should the Commission deny their application for licensure.

Commissioner Barker made a motion to approve the Legislative Update Report Seconded by Commissioner Chobanian. Chairman Roberts called for a voice vote.

VOICE VOTE/UNANIMOUS

MOTION CARRIES

NEW BUSINESS

2019 Meeting Dates

MVC Meeting Dates
Davy Crockett Tower
2019

Quarterly Meeting

January 23-24, 2019	Room 1-A
April 23-24, 2019	Room 1-A
July 23-24, 2019	Room 1-A
October 22-23, 2019	Room 1-A

Committee Dates

June 12, 2019	Room 1-B	(Audit and Rules)
August 21, 2019	Room 1-B	(Rules Only)
October 22, 2019	Room 1-A	(Audit Only)

ALJ with Commission

February 20, 2019	Room 1-A or 1-B
March 13, 2019	Room 1-B
May 15, 2019	Room 1-B
September 11, 2019	Room 1-B
November 20, 2019	Room 1-B
December 11, 2019	Room 1-B

After some discussion, Commissioner Leavy made a motion to adopt the meeting dates as revised. Commissioner Vaughan seconded. Chairman Roberts called for a voice vote.

VOICE VOTE

MOTION CARRIED

OLD BUSINESS

NONE

Commissioner Norton, as a point of clarity, asked about Public Chapter 0668 which requires a dealer who finances vehicles in-house, to maintain a record of insurance from the purchaser if a temporary plate has been issued. Commissioner Norton asked how this would be monitored and audited. Executive Director Shaw indicated her understanding was the insurance record requirement was only effective during the time a temporary plate has been issued. She indicated that the obligation of the dealership would be negated at the expiration of the temporary tag.

ADJOURN

Chairman Roberts called for a motion to adjourn.

*inaudible

VOICE VOTE - UNANIMOUS

Motion carried.

Meeting Adjourned

Eddie Roberts, Chairman
