

**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE & INSURANCE
BEFORE THE TENNESSEE MOTOR VEHICLE COMMISSION**

IN THE MATTER OF:)
)
MCDIVITT MOTORS, LLC) **Complaint No. 2019005981**
Motor Vehicle Dealer License No. 15059)

ORDER OF SUMMARY SUSPENSION

This matter was presented to the Tennessee Motor Vehicle Commission (“Commission”) on May 15, 2019, pursuant to the provisions of Tenn. Code Ann. § 4-5-320(c) and Tenn. Code Ann. § 4-5-320(d)(1)(A) which state, in pertinent part, as follows:

... If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. ...

(A) The agency shall issue a notice to the licensee providing an opportunity for a prompt informal hearing, review or conference before the agency prior to the issuance of an order of summary suspension[.]

Pursuant to the provisions of Tenn. Code Ann. § 55-17-114(b)(1)(K), which state, in pertinent part, as follows:

... [T]he commission may ... suspend the license of a motor vehicle dealer or salesperson who:

(K) Commits any act or practice involving the purchase, sale, repair or servicing of a motor vehicle or the parts or accessories of a motor vehicle, that, in the opinion of the commission, is false, fraudulent or deceptive[.]

WHEREAS, the Commission made the following findings on May 15, 2019:

1. McDivitt Motors, LLC is licensed as a Used Motor Vehicle Dealer with the Commission and is therefore not authorized to sell new cars.

2. Marty McDivitt is the owner of McDivitt Motors, LLC.
3. On April 12, 2019, the State of Indiana filed an Affidavit for Probable Cause against Marty McDivitt in the Marshall County Superior Court 1.
4. The Affidavit states that on February 22, 2019, Marty McDivitt picked up a vehicle he had purchased from Auto Park GMC in Plymouth, Indiana.
5. Mr. McDivitt purchased the vehicle in the name of McDivitt Motors, LLC, with a check for \$27,400. The check was returned due to insufficient funds on March 5, 2019.
6. Mr. McDivitt promised to make restitution by April 4, 2019, but no restitution has been made.
7. Based on the Affidavit, the Court found probable cause and issued a warrant for the arrest of Mr. McDivitt for the crime of Check Fraud, Level 6 Felony.
8. The Affidavit also notes that on or around March 22, 2019, the Tennessee Highway Patrol raided McDivitt Motors, LLC and removed a large number of cars and computers from the dealership.
9. Further, the Affidavit states that the Tennessee Highway Patrol is currently investigating Mr. McDivitt for crimes in the state of Tennessee because Mr. McDivitt had done similar acts to several other dealerships from several states, involving approximately sixty (60) vehicles.
10. Since obtaining his Motor Vehicle Dealer license, Mr. McDivitt has purchased numerous new vehicles from dealers out of state and then sold them as new vehicles to consumers in Tennessee from McDivitt Motors, LLC. These transactions include, but are not limited to, the following:

	Date of Transaction	Vehicle	VIN Number	Purchaser
a.	04/17/17	Chevrolet Silverado	3GCUKRECXHG157495	SMP Fullen Farm, LLC
b.	04/25/17	Chevrolet Tahoe	1GNSKBKCXHR169740	Robert M. Sanford, Jr.
c.	05/05/17	Chevrolet Tahoe	1GNCAK2HR183641	Brenda Moss
d.	07/18/18	Chevrolet Silverado	3GCUKREC6JG296433	Roger Cromwell dba Cromwell & Scott, LLC
e.	01/02/19	Chevrolet Silverado	3GCUKREC7JG542275	Roger Cromwell dba Cromwell & Scott, LLC
f.	01/18/19	GMC Sierra	1GT12NEGXKF143457	Fullen and Fullen, LLC

11. Mr. McDivitt, or someone on behalf of Mr. McDivitt, falsified the Manufacturer's Statement of Origin ("MSO") with regards to two (2) of the sales referenced above (c. and d.). Specifically, the typed name of the purchaser on the MSO has been altered in handwriting, changing it from "Marty McDivitt" to "Marty McDivitt Motors, LLC".

12. With regards to the sales referenced above (a. - d.), Mr. McDivitt has not paid sales tax in the states where he purchased the vehicles or in Tennessee.

13. Multiple complaints have been filed against Mr. McDivitt and McDivitt Motors, LLC alleging Respondent is engaging in the unlicensed sales of new cars and failing to pay off liens on vehicles purchased or traded from Respondent.

14. Because of the nature of the alleged violations, the seriousness of the alleged violations, and the number of alleged violations, the Board determined that the health, safety and welfare of the public imperatively require emergency action.

IT IS THEREFORE ORDERED that the Motor Vehicle Dealer license of McDivitt Motors, LLC, License No. 15059, is summarily **SUSPENDED** as of May 15, 2019 pending a formal hearing to be set within a reasonable time.

ENTERED this 16th day of May, 2019.



John Roberts
Chairman
Tennessee Motor Vehicle Commission



Paula J. Shaw
Executive Director
Tennessee Motor Vehicle Commission

APPROVED FOR ENTRY:

Erica Smith

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CERTIFICATE OF SERVICE

A true and accurate copy of this Order of Summary Suspension has been mailed to Respondent at the addresses below on this the 16th th day of May, 2019:

Marty McDivitt
1723 F. Highway 51 South
Covington, TN 38019

Erica Smith

Erica L. Smith, Esq.