

MINUTES

January 26, 2021



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

**TENNESSEE
MOTOR VEHICLE COMMISSION MINUTES**

DATE: January 26, 2021

PLACE: WebX Conference

PRESENT: Commission Members:
Christopher Lee
John Roberts
Jim Galvin
Ronnie Fox
Stan Norton
Victor Evans
Ian Leavy
Karl Kramer
John Barker, Jr.
Charles West
Debbie Melton
Farrar Vaughan
John Murrey

ABSENT: Nate Jackson
Kahren White

CALL TO ORDER: Chairman John Roberts called the meeting to order at 9:30am

Executive Director, Denise Lawrence called the roll. A quorum was established.

MEETING NOTICE: Notice advising the Commission of the time, date and location of the meeting being posted on the Tennessee Motor Vehicle Commission website and that it has been included as part of the year's meeting calendar since October 22, 2019, was read into the record by Executive director, Denise Lawrence. The notice also advised that the Agenda has been posted on the Tennessee Motor Vehicle Commission website since October 21, 2020. The meeting has also been noticed on the TN.GOV website.

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

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED

STATEMENT OF NECESSITY

Chairman Roberts asked if the staff attorney, Maria P. Bush wanted to address the Commission. Ms. Bush affirmed that she wished to address the Commission and read the Statement of Necessity into the record.

QUARTERLY MEETING MINUTES: Chairman Roberts requested the Commission look over the minutes from the previous meeting. Commissioner Leavy made a motion to approve the minutes, seconded by Commissioner Fox. Chairman Roberts called for a roll call vote.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED

SALESPERSON/DEALER APPLICATIONS

Darian Michael Wilson
Lance Cunningham Ford, Knoxville, TN

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

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES

Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED. LICENSE IS GRANTED.

Hank Barr
Rucker's Auto Sale, Nashville, TN

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

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	NO
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED. LICENSE IS GRANTED.

Lewis Motors
Jackson, TN

Chairman Roberts requested appeals of Dealer applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Vaughan moved to grant the license, seconded by Commissioner Melton.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED. LICENSE IS GRANTED.

Nash Auto Sales, Inc.
Clarksville, TN

Chairman Roberts requested appeals of Dealer applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner West moved to grant the license, seconded by Commissioner Barker.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED. LICENSE IS GRANTED.



Executive Director’s Report
January 26, 2021

Since the last Commission meeting in October 2020, the following activity has occurred:

	<u>Last</u>
<u>Meeting</u>	
<u>Dealers Opened, or Relocated (Last Quarter)</u>	64
	57
<u>Applications in Process</u>	29
	25

Active Licensees as of January 5, 2021

Dealers.....	3589	3605
Auctions.....	29	29
Distributors/Manufacturers.....	137	135
 Salespeople.....	 16193	 16518
Representatives.....	630	607
 Dismantlers.....	 238	 244
RV Dealers.....	40	39
RV Manufacturers.....	80	79
Motor Vehicle Show Permits.....	2	2

Complaint Report- Opened Complaints from November 2, 2020 – January 11, 2021

Number of Complaints Opened.....	102
Number of Complaints Closed.....	19

Annual Sales Reports-(Due Feb 15) - Ongoing:

Vehicles Reported Sold in 2020.....	ONGOING
1,379,420	
Recreational Vehicles Reported Sold in 2020.....	ONGOING
8,878	

Total Online Annual Sales Report Collected.....ONGOING
3,112
Late Annual Sales Report Collected ONGOING
803

Total revenue from Annual Sales Report collection: N/A

Average Performance Metrics

Average Number of Days to License... **.79 days to license with clock-stoppers**

MVC Customer Satisfaction Rating October 1, 2020 – January 11, 2021

Quarterly Satisfaction Rating.....97%

Disciplinary Action Report October 1, 2020 – December 31, 2020

Total to be collected.....\$10,750

Online Adoption Across All Professions

- **86%** online adoption for New “1010” Applications across all Professions available as of January 11, 2021.

Administrative News

You should have received via email your 2021 Conflict of Interest Statement along with the form to report any consulting you plan to do in 2021. These documents must be kept on file and are also filed with the TN Ethics Commission. If you haven’t already done so please return those to me before January 30th, 2021. Should you need these documents sent again please let me know and I will get them to you.

Pursuant to the Governor’s most recent Executive Order, we are continuing to work mostly remotely. We do have a rotating schedule so that someone from MVC is in the building 2-3 days per week. We expect this to continue likely through April but I will keep you posted. Please be assured that the Motor Vehicle Commission is continuing to function at full capacity and our customers are receiving prompt and accurate service.

Outreach

Our first Newsletter “At the Wheel” was delivered via email on December 15th! You should have all received a copy. We hope to make the newsletter a quarterly event and have been working on updating all our account in CORE to ensure that we have valid email addresses for all our licensees. We would like to feature a commissioner in each of our publications so be forewarned – I may be calling on you to provide some sage advice!

Ongoing efforts to visit county clerks offices will resume as the pandemic allows.

We issued an email to all our licensees (for whom we have email addresses) notifying them of the Governor's Expanded Business Relief program in conjunction with the TN Dept of Revenue. The Dept of Revenue had informed us that over 517 of our Dealers – totaling approximately \$350,000 - took advantage of this program!

At the request of the Commission at a previous meeting, the staff has added a reminder on all renewal notices regarding City/County Business Tax renewals, in order to avoid possible penalty assessment.

Chairman Roberts called for a motion to approve the Director's Report. Commissioner Melton made a motion to approve the Director's Report, seconded by Commissioner Barker.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED.



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: Erica Smith, Associate General Counsel
Stuart Huffman, Associate General Counsel**

DATE: January 26, 2020

SUBJECT: MVC Legal Report

1. **2020062071 (ES)**

2020058861

Date Complaint Opened: 2020062071 - 08/17/2020, 2020058861 – 08/04/2020

First Licensed: 12/03/2019

Expiration: 11/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs): 2020 – Two complaints closed with \$1,000 civil penalty for failure to pay off trade-in vehicle.

2020062071

Complainant purchased a vehicle from Respondent on 7/17/20 and alleges they have not received their title and registration as of 8/13/20. Respondent confirmed the title was issued on 8/17/20 and provided to Complainant. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

2020058861

Complainant purchased a vehicle from Respondent and alleges the false advertisement of a lifetime warranty and claims the vehicle did not have a clean title. Complainant does not provide any evidence to support the allegations. Respondent states the title is clean but notes the vehicle had been in an accident, as shown on the Carfax provided to Complainant. Respondent provided the paperwork showing Complainant was provided with a free lifetime warranty as advertised but also purchased an extended vehicle service warranty. Complainant is able to cancel the extended service contract at any time. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

2. **2020058881 (ES)**

Date Complaint Opened: 08/04/2020

First Licensed: 06/26/2015

Expiration: 05/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with \$1,000 civil penalty for failure to maintain liability insurance.

Complainant purchased a used vehicle from Respondent and alleges he was never told the vehicle had a rebuilt title. An investigation was conducted. Respondent states they have been very honest with Complainant each time they came to look at the car, and he always knew the title was rebuilt. Complainant also took it to a mechanic of their choice the second time they came in. Complainant was able to buy the vehicle for half the price of one that had a clean title. Respondent further explains that every vehicle on their lot has a rebuilt title and they always follow the proper procedure. The sales contract has a note in bold that states the vehicle has a rebuilt title right above Complainant's signature. The advertisement for the vehicle also stated it had a rebuilt title. However, the deal file does not reveal a copy of a Disclosure of Rebuilt or Salvage form. Counsel recommends issuing a Letter of Warning for failure to use the proper DOR form when disclosing the vehicle's rebuilt history.

Recommendation: Letter of Warning for failure to use Disclosure of Rebuilt Vehicle form

Commission Decision: CONCUR.

3. 2020059131 (ES)

Date Complaint Opened: 08/05/2020

First Licensed: 07/15/2016

Expiration: 07/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2019 – One complaint closed with \$500 civil penalty for delivering incomplete titles. 2020 – One complaint recommended of voluntary revocation of motor vehicle dealer license approved by the Commission.

This is an anonymous complaint alleging Respondent is allowing unlicensed sales by an employee. This matter and these issues have already been presented to the Commission recently and Respondent has already signed a Consent Order approved by the Commission admitting to these violations. Counsel recommends closing and flagging this complaint in case Respondent does not comply with the terms of the Consent Order which puts them in a probationary period for the next 12 months, with authorization for revocation upon non-compliance.

Recommendation: Close.

Commission Decision: CONCUR.

- 4. 2020064971 (ES)**
Date Complaint Opened: 08/25/2020
First Licensed: 08/04/2017
Expiration: 08/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant bought a new vehicle from Respondent and purchased GAP insurance, but decided three days later that they did not want it. The Respondent would not rewrite the contract without the GAP insurance when the Complainant first asked, but eventually Respondent and Complainant agreed on a new contract to satisfy the Complainant. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

- 5. 2020058591 (SH)**
Date Complaint Opened: 06/03/2020
First Licensed: 09/26/2011
Expiration: 08/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs): 2015 – One complaint closed with \$1,000 civil penalty for false, fraudulent, or deceptive acts. 2017 – One complaint closed with \$1,000 civil penalty for false, fraudulent, or deceptive acts.

Respondent purchased a vehicle from auction on 4/9/2020 and resold to an individual at some point afterwards. The auction assigned title over to Respondent on 4/9/2020. Complainant

subsequently purchased the vehicle, which was free and clear, from the individual however the title was still in auction company's name and never transferred. Complainant also alleges the title is salvage and they cannot have the vehicle inspected for rebuilt unless Respondent assigns the title.

Respondent claims the deal was completed by a licensed wholesaler that purchases vehicles through their company account. Respondent states they have reached out to the Complainant and resolved the issue.

Research of the VIN shows the vehicle was picked up as abandoned in February 2020 by the auction company. After notifications were sent to the previous owner, the auction company became the owner of the vehicle in March 2020. As of January 2021, the title shows the auction company as the owner and as salvage.

The Complainant and Respondent have not been cooperative in responding to inquiries. Purchase documents were requested from the auction however no response was made.

Recommendation: Authorize a civil penalty of \$2,500 for selling a salvage vehicle.

Commission Decision: CONCUR.

6. **2020061861 (SH)**
Date Complaint Opened: 08/13/2020
First Licensed: N/A (Unlicensed)
Expiration: N/A
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant paid cash for a dump truck on March 16, 2020 however the Respondent will not sign the back of the title in order for Complainant to transfer registration and title.

Respondent signed the back of the title however due to the pandemic there was a delay. The paperwork supplied shows the transfer of title has been completed and the issue is resolved

Recommendation: Close.

Commission Decision: CONCUR.

7. **2020064411 (SH)**
Date Complaint Opened: 08/21/2020
First Licensed: 09/01/1991
Expiration: 05/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle on 7/26/2020 and was told it had a rebuilt title from an accident in the rear of the vehicle. As Complainant was driving back to Michigan, they noticed an issue with the front end and steering. It was determined that the steering wheel shaft has screws missing but the vehicle was sold "as is" and Respondent will do nothing.

Respondent states that Complainant test drove and inspected the vehicle before purchase, signed a Disclosure Statement for Rebuilt title, and the vehicle was properly inspected to obtain a rebuilt title. All signed paperwork was provided.

Recommendation: Close.

Commission Decision: CONCUR.

8. **2020069901 (SH)**
Date Complaint Opened: 09/02/2020
First Licensed: 04/04/1997
Expiration: 09/30/2020
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant alleges Respondent does not have a permanent building with electricity, water, or a working restroom however is selling vehicles from the lot.

An inspection was made and determined that the lot did not have any vehicles present and seemed to be a dealership in the making but unfinished. There was no evidence of a working

dealership. The inspector spoke with the owner of the lot and he stated that due to the pandemic there has been a delay and no business has been conducted.

Recommendation: Close.

Commission Decision: CONCUR.

- 9. 2020061591 (SH)**
Date Complaint Opened: 08/12/2020
First Licensed: 07/19/2011
Expiration: 06/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle on 6/26/2020 making a down payment and receiving a temporary tag. When the temporary tag expired, Complainant reached out to Respondent and learned they had closed their business.

Respondent claims the manager left this deal unfinished before it was closed. The owner is working with the Complainant in obtaining registration. An investigation was made and determined that the Respondent had closed its business and that another dealership was opened on that lot and had no affiliation with Respondent. Surety bond information was sent to Complainant just in case it is needed.

It was verified that the issue has been resolved.

Recommendation: Close.

Commission Decision: CONCUR.

10. 2020062261 (SH)

2020070411

2020076861

Date Complaint Opened: 2020062261: 08/14/2020, 2020070411: 09/04/2020, 2020076861: 10/05/2020

First Licensed: 08/06/2001

Expiration: 07/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2019 – One complaint closed with letter of warning for failure to deliver title. One complaint closed with \$1,000 civil penalty for failure to deliver tags.

2020 – One complaint closed with letter of warning for selling vehicles with known safety issues.

2020062261

Complainant, an Arkansas resident, purchased a vehicle on 5/13/2020 and alleges they have not received their registration from Respondent in three months. Complainant has made 4 payments to the lender but still cannot get their vehicle registered in Arkansas. Respondent claims Complainant has his registration and tags however there was a delay at the Arkansas County clerk's office due to Complainant wanting to keep his previous tags. The County Clerk did not allow this and they had to provide different paperwork causing a delay.

2020070411

Complainant purchased a vehicle made payments to their lender in April 2020. Complainant was informed the account was closed in May 2020 and that Respondent made clerical errors on the registration; the vehicle needed to be refinanced. The new contract was signed and Complainant began payments in June 2020. Complainant alleges they have not received any registration or tags. Registration was transferred in November 2020 and title issued soon after. Customer only received two temporary tags after refinance even though it took a couple of months longer to get registered.

2020076861

Complainant purchased a vehicle on 5/9/2018 and drove to their residence in Illinois. At the time of registering the vehicle Complainant was informed that the traded vehicle had not been transferred. In 2019, Complainant was informed the sales tax they paid had not been credited to IL state tax and owed \$2344 plus interest and penalties. The lender has not been given the title and registration of their current vehicle is still in previous owner's name.

Respondent states the sales tax check and title were sent to IL but they could not follow up at the time due to the office being closed from pandemic. Respondent has issued another check for the tax and applied for a lost title to perfect the lien for the lender. Respondent also states they have contracted with a third-party company to assist with out of state registrations. This issue has been resolved.

Recommendation: Letter of Warning concerning late delivery of titles and out-of-state registrations.

Commission Decision: CONCUR.

11. 2020071391 (SH)

Date Complaint Opened: 09/11/2020

First Licensed: 02/04/2020

Expiration: 02/28/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 8/21/2020 and was told they have 5 days to transfer their insurance. Two days after purchase, Complainant hit an old scrap bumper. Complainant was told that their personal insurance is responsible and Respondent should not have told them there is a 5-day state law in transferring insurance.

Respondent denies they told Complainant they had 5 days to transfer or obtain personal insurance. Respondent points out that Complainant signed an Insurance Requirement Agreement and Agreement to Provide Physical Damage Insurance. Nowhere in those agreements does it state 5 days but only to secure "promptly". Respondent believes they are not responsible for the damage.

Recommendation: Close.

Commission Decision: CONCUR.

12. 2020072691 (SH)

Date Complaint Opened: 09/15/2020

First Licensed: 06/10/2004

Expiration: 06/30/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – One complaint closed with letter of caution for misrepresentation of purchased vehicle. One complaint closed without action. 2017 – One complaint closed without action. 2016 – One complaint closed without action.

Complainant alleges Respondent is a fraud, a danger to the public, and only sells salvaged vehicles or vehicles with no titles. Complainant also alleges Respondent is operating through two fake business names and conducting criminal activity.

Respondent denies the allegations and states they have no record of dealing with Complainant. Respondent further states they are properly licensed, pay all taxes, ensure customer satisfaction, and this complaint is nothing but slander.

This office has had previous dealings with this Respondent and at no time have there been evidence of any fraud or criminal activity.

Recommendation: Close.

Commission Decision: CONCUR.

13. 2020060751 (SH)

2020084181

Date Complaint Opened: 2020060751: 08/11/2020, 2020084181: 10/26/2020

First Licensed: 04/30/2008

Expiration: 03/31/2022

License Type: Recreational Vehicle Dealer

History (5 yrs.): Numerous closed without action due to lack of jurisdiction over boat sales.

2020060751

Complainant, a Florida resident, purchased an RV on 5/4/2020 and have yet to receive their registration and tags. Respondent told them all paperwork was sent to Florida but there is no record, as of 8/21/2020, at the local County Clerk's office. The vehicle was properly registered to Complainant on 9/28/2020 however three temporary tags were issued.

2020084181

Complainant purchased a camper trailer on 9/15/2020 after repairs were made and paid cash in full. After 30 days they had not received their registration and tags. Complainant was issued a 2nd temporary tag but also told on 10/26/2020 that the previous customer's balance was not paid off. Research shows the camper was properly registered on 10/26/2020.

Recommendation: 2020060751: Authorize a civil penalty of \$500 for issuing one more temporary tag than allowed by law. 2020084181: Close.

Commission Decision: CONCUR.

14. 2020064271 (ES)

Date Complaint Opened: 08/21/2020

First Licensed: 10/13/2015

Expiration: 09/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with letter of warning for failure to maintain temp tag log.

Complainant alleges they purchased a vehicle from Respondent 2 years ago and has never received the title. An investigation was conducted. The investigation revealed Complainant had purchased several vehicles from Respondent and wrecked one of them without insurance. In June 2018, Respondent found a similar vehicle for Complainant that had been wrecked. Complainant agreed to pay Respondent to repair it, and pay the balance on the prior vehicle that had been wrecked. Complainant failed to make regular payments and then stopped making

payments altogether in November or December 2018. Respondent provided video of the Complainant coming to the lot and pouring change down the gas tank of the vehicle after it was repossessed. Respondent did not provide title because Complainant never paid for the amount owed. Complainant has also come to the dealership with a baseball bat making threats. Respondent no longer wants to deal with Complainant. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

15. 2020066381 (ES)

Date Complaint Opened: 08/28/2020

First Licensed: 10/16/2015

Expiration: 08/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle from Respondent on 5/9/20. Respondent told Complainant there was a delay in getting the registration and permanent license plate due to COVID. There was also a delay in receiving the limited power of attorney document and proof of residency needed for the registration from Complainant. Respondent confirmed the registration was completed and the permanent tag was delivered to Complainant as well as a \$250 goodwill payment for the delay. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

16. 2020070761 (ES)

Date Complaint Opened: 09/10/2020

First Licensed: 10/16/2015

Expiration: 08/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a used truck from Respondent. Complainant alleges it was advertised to have a 5.7 Liter V8 Hemi engine but when the vehicle was received, it had a 3.6 Liter V6 engine. Complainant wants a refund of the difference for fair market value or a truck with the advertised engine. After Complainant notified Respondent of this issue, Respondent confirmed with the Vehicle Merchandising Team that the truck price paid was based on the V6 engine. The V8 Hemi listed on their website was a mis-annotation. Respondent offers a seven-day money back guarantee on all vehicles purchased and encouraged Complainant to take advantage of it. Complainant decided to accept a \$100 goodwill reimbursement and kept the vehicle. Respondent has passed this information to the relevant teams in their company to avoid this in the future. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

17. 2020083141 (ES)
Date Complaint Opened: 10/22/2020
First Licensed: 11/27/2019
Expiration: 10/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

During an annual inspection on 10/16/20, Respondent was issued a Notice of Violation (NOV) for failure to have an active county business license posted. The license had expired on 5/15/20. Counsel recommends issuing a \$250 civil penalty.

Recommendation: Authorize a \$250 civil penalty for failure to have an active county business license

Commission Decision: CONCUR.

18. 2020071951 (ES)

Date Complaint Opened: 09/11/2020

First Licensed: 09/01/1991

Expiration: 01/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant alleges Respondent misrepresented the vehicle they purchased for their son and refused to make repairs. Specifically, Complainant claims one week after purchase, the window broke, and the tires and thermostat had to be replaced. Complainant further alleges all the lights came on soon after followed by the engine going out. Respondent states the vehicle had been through their service shop before sale and had no issues. The vehicle was sold as-is and it was suggested that Complainant take it to a mechanic before purchase. Respondent notes that all customers are informed verbally and in writing that vehicles are sold as-is and they sign 5 forms when they purchase it. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

19. 2020063801 (ES)

Date Complaint Opened: 08/21/2020

First Licensed: 01/03/2006

Expiration: 12/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a used vehicle from Respondent in April 2014 and alleges Respondent failed to disclose frame damage. Complainant is requesting that Respondent buy back vehicle. Complainant admits the Carfax showed the vehicle had been in an accident. Respondent states they are trying to work with Complainant to come up with a resolution. There is no evidence of

any violations and due to the length of time since the purchase, Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

20. 2020072291 (ES)

Date Complaint Opened: 09/12/2020

First Licensed: 11/04/2002

Expiration: 10/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2020 – One complaint closed with \$1,000 civil penalty for failure to deliver title.

Complainant purchased a used vehicle from Respondent and alleges Respondent conspired to hide information about accident damage and engaged in misleading advertising. Respondent states the vehicle came with a 90-day limited warranty and repairs were made to the vehicle once Complainant brought it in. The repairs were covered under the warranty. Complainant later brought the vehicle back and Respondent provided a full refund to resolve the issue. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

21. 2020073981 (ES)

Date Complaint Opened: 09/21/2020

First Licensed: 06/16/2017

Expiration: 06/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

During a routine annual inspection conducted on 09/17/2020, an investigator issued a NOV because Respondent had issued three temporary tags to a single vehicle and had an expired city and county business license. Counsel recommends issuing a \$1,000 civil penalty for these violations (\$500 for too many temporary tags, and \$250 for each expired business license).

Recommendation: Authorize a \$1,000 civil penalty for issuing too many temporary tags and expired city and county business licenses

Commission Decision: CONCUR.

22. 2020070611 (SH)

Date Complaint Opened: 09/05/2020

First Licensed: 01/13/2011

Expiration: 01/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 4/21/2020 in full and have not received the title as of 9/5/2020. The Respondent states the vehicle was purchased from police impound and did not close out the title causing the delay. There was also delay due to COVID-19. The issue has been resolved and Complainant has requested to close the complaint.

Recommendation: Close.

Commission Decision: CONCUR.

23. 2020073031 (SH)

2020083411

Date Complaint Opened: 09/16/2020, 10/22/2020

First Licensed: 09/01/1991

Expiration: 01/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

2020073031

Complainant alleges that on the test drive the sale representative told them the vehicle had just been received and not inspected. Complainant chose to wait until the inspection before deciding to purchase. When they returned back to the dealership, Respondent claimed the vehicle had been inspected after running the Carfax report. Complainant requested a copy but only received the invoice of the inspection with no detail. The date of the invoice was the next day and not before the test drive as previously explained by Respondent. Complainant believes they were misled about the inspection and have been experiencing issues with the vehicle.

Respondent has been trying to contact the Complainant to schedule a diagnosis however Complainant has refused. The invoice was dated on 9/2/2020 however started days earlier when the vehicle was received. Respondent continues to offer any service available.

Complainant has resolved the issue and requests the complaint to be closed.

2020083411

Complainant purchased a vehicle on 5/7/2019 with a warranty that claimed the vehicle was not in any previous accidents. Complainant claims that he noticed a few days later what appeared to be damage. He took the vehicle back to Respondent a week later. The vehicle' rear axle and drive shaft looked to be from a junkyard according to Complainant. Respondent took the vehicle on 6/13/2019 to do another inspection and found no issues but decided to trade the Complainant out to another vehicle. Complainant claims the subsequent vehicle was in worse shape and did not receive a full trade and lost approximately \$8,000. Complainant claims they did not give the full amount due to the vehicle being previously wrecked.

Respondent claims this issue was resolved last summer and this complaint is regarding a vehicle the Complainant does not own. The Complainant was traded into a newer vehicle with no issues or complaints until this was received over a year later.

Complainant alleges Respondent changed the Carfax report to their advantage and completed a POA without their presence. After review, the report did not show any accidents and the POA

was signed by Complainant allowing Respondent to complete the necessary paperwork to transfer registration and title.

Recommendation: Close both complaints.

Commission Decision: CONCUR.

24. 2020063321 (SH)

Date Complaint Opened: 08/18/2020

First Licensed: 07/19/2012

Expiration: 06/30/2022

License Type: Recreational Vehicle Dealer

History (5 yrs.): 2018 – Two complaints closed with letter of warning for engaging in false, fraudulent, or deceptive acts.

Complainant placed their RV on consignment with Respondent on 7/7/2020 and exchanged the necessary paperwork. On 8/13/2020, Respondent asked for the bottom-line price but Complainant did not hear anything from Respondent for two days so Complainant wanted to pick up the RV on 8/15/2020. Respondent told Complainant the RV sold and they should have financing completed by 8/18/2020. Complainant asked when they would receive the payout check and were told 3-5 weeks. Complainant feels Respondent stole the RV.

Respondent denies any wrongdoing and states that the Complainant picked the payout check a week later on 8/24/2020.

Recommendation: Close.

Commission Decision: CONCUR.

25. 2020064891 (SH)

Date Complaint Opened: 08/24/2020
First Licensed: 07/25/2002
Expiration: 07/31/2018 (Closed)
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – One complaint closed with \$1,000 civil penalty for engaging in false, fraudulent, or deceptive practices and failure to produce business records.

Complainant purchased a vehicle in 2015 and paid in full but never received the title. Respondent closed its business in 2018. Complainant was given the surety bond in order to obtain the title.

Recommendation: Close.

Commission Decision: CONCUR.

26. 2020066261 (SH)

Date Complaint Opened: 08/28/2020
First Licensed: 09/01/1991
Expiration: 07/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant claims their vehicle was towed to Respondent on 6/8/2020 because it would not start. The battery was previously replaced on 2/20/2019 under warranty. Respondent claimed they needed to replace the battery in order to diagnose the issue. Complainant alleges the vehicle was not fixed after 18 days in the possession of Respondent. On 6/30/2020 the vehicle was towed back to Respondent. Respondent claimed they need to order a certain part and did so on 7/5/2020. Complainant was given a loaner vehicle on 7/16/2020 and states the temp tag expired on 8/8/2020. As of 8/24/2020. Complainant claims the Respondent still has the vehicle and waiting on the part.

Complainant informed that Respondent replaced the part a few days later after complaint was filed once it was received. Complainant requests the complaint to be closed.

Recommendation: Close.

Commission Decision: CONCUR.

27. 2020069941 (SH)

Date Complaint Opened: 09/02/2020

First Licensed: 02/28/2013

Expiration: 02/28/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with \$250 civil penalty for failure to provide conditional delivery agreement form. One complaint closed with \$250 civil penalty for expired county business license. 2017 – One complaint closed with letter of warning for failure to maintain garage liability insurance.

Complainant, dealer, alleges fraudulent activity against Respondent, who is also a dealer. Complainant sent a vehicle to Respondent for repairs in January 2019. After almost one year, the vehicle was returned but continued to have the same mechanical issues. Complainant claims he did not receive a detail explanation as to the repairs made, cost of repairs, or taxes paid. Complainant request another vehicle to be returned after Respondent had it for over a year. Respondent claimed the vehicle was taken to a manufacturer dealer to be repaired. Complainant was told by the manufacturer dealer that Respondent never provided the ECM given to Respondent by Complainant, and failed to communicate. This dealer scheduled the abandonment process on the vehicle however Complainant was able to obtain the vehicle. Complainant alleges the vehicle was damaged by Respondent before it was sent to the manufacturer dealer for repairs. Complainant provided an email stating the vehicle was delivered with the key stuck in the ignition and would need a new ECM.

Respondent claims the first vehicle was repaired and resolved over a year ago. Respondent states the second vehicle had a bad ECM and Complainant provided a faulty subsequent ECM. Complainant apparently would not purchase another ECM or a battery. Respondent had the vehicle towed to the manufacturer dealer for repairs and has paid the fees without reimbursement from Complainant. Respondent claims the Complainant was rude and threaten harm.

Recommendation: Close.

Commission Decision: CONCUR.

28. 2020073461 (SH)

Date Complaint Opened: 09/17/2020

First Licensed: 12/06/1993

Expiration: 12/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 4/18/2020; paying in full. After 4 weeks they have not received their title and the temp tag had expired. Respondent told them they would send a 2nd temp tag and that COVID-19 had delayed obtaining the title. On 5/21/2020, Complainant was told that there was a discrepancy on the mileage and causing a delay with the title. The title showed over 60K miles but the odometer when purchased read 45K. As of 9/17/2020, the title had not been received and they were on their 5th temp tag.

Respondent states there was an unknown title discrepancy after sending the title on 5/11/2020 to the local TN County clerk's office. The title was sent to NC and a corrected title was applied for on 6/29/2020. Respondent provided paperwork showing COVID-19 caused a delay and NC was on a 5-month backlog.

Due to the Executive Order in place, one temporary tag was not required to be issued therefore Respondent issued two temporary tags over the limit allowed by law.

Recommendation: Authorize a civil penalty of \$1,000 for issuing two temporary tags over the limit allowed by law without prior authorization.

Commission Decision: CONCUR.

29. 2020074031 (SH)

Date Complaint Opened: 09/21/2020

First Licensed: 06/17/2002

Expiration: 06/30/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2019 – One complaint closed without action. 2018 – Two complaints closed without action. 2017 – Two complaints closed without action. 2014 – \$18,000 Consent Order for two complaints for advertising.

Complainant traded a vehicle with Respondent as partial payment for the purchase of another vehicle on 5/29/2019. Complainant received a letter and invoice for \$3,670 from an impound lot stating they were still the owner of the traded vehicle from 5/2019.

Respondent states the traded vehicle was sent to auction on 7/16/2019 and the new owner did not complete their registration and that is why Complainant received the letter. Respondent provided proof the traded vehicle was paid for and they completed the proper paperwork for the auction sale. Respondent also offered to give Complainant any paperwork needed to resolve this issue with the impound lot.

Recommendation: Close.

Commission Decision: CONCUR.

30. 2020074311 (SH)

Date Complaint Opened: 09/22/2020

First Licensed: 05/10/2019

Expiration: 05/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 9/21/2020 and after an hour of purchase the vehicle began to have mechanical issues and did not make it home. Complainant claims Respondent refuses to help and did not disclose the alternator was bad.

Respondent states the vehicle was purchased “as is” with no warranty and Complainant signed all paperwork. The Complainant was aware that the vehicle was 17 years old and needed to be jump started in order to leave. Respondent claims that should have made Complainant aware to have a third-party mechanic look at it before purchasing.

Recommendation: Close.

Commission Decision: CONCUR.

31. 2020063481 (ES)
Date Complaint Opened: 08/17/2020
First Licensed: 07/03/2014
Expiration: 06/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

A NOV was issued to Respondent during an inspection on 8/17/20 for failure to have an active county business license. Counsel recommends issuing a \$250 civil penalty.

Recommendation: Authorize a \$250 civil penalty for failure to have active county business license

Commission Decision: CONCUR.

32. 2020064331 (ES)
Date Complaint Opened: 08/19/2020
First Licensed: 01/03/2019
Expiration: 12/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

During an annual inspection on 08/18/2020, Respondent was issued a NOV for having an expired county business license. Counsel recommends issuing a \$250 civil penalty.

Recommendation: Authorize a \$250 civil penalty for failure to have active county business license

Commission Decision: CONCUR.

33. 2020064761 (ES)

Date Complaint Opened: 08/24/2020

First Licensed: 11/12/2008

Expiration: 10/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with \$1,000 agreed citation for issuing more temporary tags than allowed.

Complainant purchased a vehicle from Respondent in April of this year and alleges they have not received their tag. Complainant further alleges they received 4 temporary tags. Respondent explained they were waiting for the title to be sent from New York which was shut down due to COVID. No one was able to send the title out from the bank once funding was received for the vehicle from Respondent, which delayed registration here. Due to the delay, Respondent offered to buy back the vehicle but Complainant wanted to keep it so they reached an agreement and Complainant was reimbursed a dollar amount sufficient to their agreement. Respondent confirmed registration and tag were hand-delivered to Complainant. Counsel recommends issuing a Letter of Warning for issuing two additional temporary tags considering the situation causing the delay was out of Respondent's control. Counsel has communicated the need to get proper authorization from the Department of Revenue when the need arises for valid reasons to issue more than two temporary tags and this will be emphasized in the Letter of Warning if approved by the Commission.

Recommendation: Authorize a \$1,000 civil penalty for the issuance of one additional temporary tag.

Commission Decision: CONCUR.

34. 2020074191 (ES)

Date Complaint Opened: 09/22/2020

First Licensed: 07/02/2020

Expiration: 06/30/2022

License Type: Motor Vehicle Dealer

History (5 yrs.):

Complainant brought their vehicle in to Respondent's service department with a concern the transmission was slipping. Complainant alleges Respondent failed to perform necessary repairs. Respondent tried to explain to Complainant that they did not have equipment to diagnose Honda vehicles and suggested a Honda franchised dealer could do the diagnosis properly. Additionally, Respondent explained they could not perform any warranty repairs because they are not a Honda franchised dealer. Complainant did not appreciate the time they spent talking with Respondent but ended up finding a Honda dealer as suggested. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

35. 2020075801 (ES)

Date Complaint Opened: 09/23/2020

First Licensed: 03/09/2011

Expiration: 01/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

During inspection of the dealership on 08/23/2020, an audit of Respondent's advertisements revealed that Respondent was in violation of Rule 0960-01-.12(4). Specifically, the processing fees are not included in the sale price advertised. Counsel recommends a \$250 civil penalty for the advertising violations.

Recommendation: Authorize a \$250 civil penalty for advertising violations

Commission Decision: CONCUR.

36. 2020077401 (ES)

Date Complaint Opened: 09/30/2020

First Licensed: 08/17/2017

Expiration: 08/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

During an annual inspection on 09/29/2020, a NOV was issued to Respondent for having an expired city and county business license and for having 19 vehicles on their lot but only producing 4 titles to the inspector. Respondent stated the other 14 vehicles belonged to another dealer and friends and family. Respondent denies trying to sell these vehicles and they do not appear to be for sale – there are no signs, prices, etc. on the vehicles without titles. Counsel recommends issuing a Letter of Instruction explaining the need for consignment forms if Respondent offers for sale or sells any vehicles for another from their lot. Counsel also recommends issuing a \$500 civil penalty for failing to maintain active county and city business licenses.

Recommendation: Letter of Instruction regarding consignment forms and Authorize a \$500 civil penalty for failure to maintain active county and city business licenses

Commission Decision: CONCUR.

37. 2020069311 (ES)

Date Complaint Opened: 09/01/2020

First Licensed: 01/06/2010

Expiration: 12/31/2019 (Closed)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant is a resident of North Carolina. Complainant. The Complainant purchased a vehicle from Respondent for \$3,000 cash after seeing an online advertisement. The Respondent gave the Complainant papers and told her that she could go to the DMV in North Carolina to get a title, but Complainant has been unable to obtain a title, alleging the vehicle had been totaled. The Respondent dealership license has been expired for over a year and the dealership is closed. The surety bond information was provided to Complainant. Counsel recommends closing and flagging this complaint.

Recommendation: Close and flag.

Commission Decision: CONCUR.

38. 2020072451 (ES)

Date Complaint Opened: 09/14/2020

First Licensed: 06/25/1998

Expiration: 05/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a used vehicle from Respondent and alleges serious mechanical issues have made the vehicle almost inoperable 6 months after purchase. Complainant brought the vehicle in to a mechanic upon Respondent's request and they have yet to do anything. Complainant doesn't want the vehicle anymore. Respondent states Complainant purchased this vehicle as-is without warranty in February 2020 with over 130,000 miles on it. Respondent purchased it from an auction and found no issues when they inspected it after their purchase. Respondent does not have mechanics on site and tried to help recommend a part-time mechanic that Complainant could afford, and they are unhappy with how long the mechanic is taking to try to repair the vehicle. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

39. 2020075171 (ES)

Date Complaint Opened: 09/28/2020

First Licensed: 06/11/2013

Expiration: 12/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – One complaint closed with \$2,000 civil penalty for engaging in false, fraudulent or deceptive business practices.

Complainant alleges Respondent sold them a vehicle that needed \$8,000 worth of repairs without disclosing any issues with the vehicle. Respondent states the vehicle was purchased as-is without warranty. Respondent has offered to pay some of the cost of repairs but Complainant is not happy with their offer. An investigation was conducted. Complainant failed to provide a sworn statement or further evidence to the investigator. Respondent provided the deal file which showed Complainant agreed to purchase the vehicle as-is without warranty and has further declined offers made by Respondent to work towards a resolution. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

40. 2020078481 (ES)

Date Complaint Opened: 10/06/2020

First Licensed: 01/29/2013

Expiration: 01/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

An inspection of Respondent's dealership and audit of their advertisements on 10/2/20 revealed that Respondent was in violation of advertising rules, and a NOV was issued. Specifically, a review of Respondent's website shows the document fees are not disclosed or included in the sales price advertised and the vehicles were not specifically identified as used or preowned.

Counsel recommends issuing a \$250 civil penalty for these advertising violations.

Recommendation: Authorize a \$250 civil penalty for advertising violations

Commission Decision: CONCUR.

41. 2020078511 (ES)

Date Complaint Opened: 10/06/2020

First Licensed: 01/10/2008

Expiration: 01/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

An inspection of Respondent's dealership and audit of their advertisements on 10/2/20 revealed that Respondent was in violation of advertising rules, and a NOV was issued. Specifically, a review of Respondent's website showed the document fees are not disclosed or included in the sales price advertised. Counsel's review of the website shows this issue has been corrected and the advertising is compliant. Counsel recommends issuing a \$250 civil penalty for this advertising violation.

Recommendation: Authorize a \$250 civil penalty for advertising violation

Commission Decision: CONCUR.

42. 2020078821 (ES)

Date Complaint Opened: 10/07/2020

First Licensed: 08/06/2019

Expiration: 07/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

An inspection of Respondent's dealership and audit of their advertisements on 10/2/20 revealed that Respondent was in violation of advertising rules, and a NOV was issued. Specifically, a review of Respondent's website showed the document fees are not disclosed or included in the sales price advertised. Counsel recommends issuing a \$250 civil penalty for the advertising violation.

Recommendation: Authorize a \$250 civil penalty for advertising violation

Commission Decision: CONCUR.

43. 2020079111 (ES)

Date Complaint Opened: 10/08/2020

First Licensed: 12/12/2019

Expiration: 12/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

A NOV was issued to Respondent during an inspection on 10/7/20 for failing to be able to provide proof of any licensed salesperson at their dealership. Counsel recommends issuing a \$500 civil penalty for this violation.

Recommendation: Authorize a \$500 civil penalty for unlicensed salesperson

Commission Decision: CONCUR.

44. 2020079251 (ES)

Date Complaint Opened: 10/08/2020

First Licensed: 05/11/2012

Expiration: 05/31/2020 (Expired License)

License Type: Motor Vehicle Dismantler/Recycler

History (5 yrs.): None.

A NOV was issued to Respondent during an inspection on 10/6/20 because they were open and doing business with a license that expired on 5/31/20. Counsel recommends issuing a \$500 civil penalty and follow-up inspection in 30 days if a Consent Order is signed.

Recommendation: Authorize a \$500 civil penalty for unlicensed D & R activity and follow up inspection in 30 days

Commission Decision: CONCUR.

45. 2020069461 (SH)

Date Complaint Opened: 09/01/2020

First Licensed: 09/01/1991

Expiration: 07/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with \$2,000 civil penalty for advertising violations. 2018 – One complaint closed with \$5,000 civil penalty for deceptive practices.

Complainant purchased a vehicle online on 8/14/2020 showing 34,512 miles. It was delivered the same day and placed in a garage. On 8/16/2020, Complainant took the vehicle to get gas (about 10 miles round trip) and took a picture for extended warranty purposes. The picture of the odometer showed 36,832 miles. Complainant claims they purchased the vehicle with 1,500 miles still left under the manufacturer warranty of 36,000 miles.

Respondent claimed that the additional 2,310 miles were due to test drives and mileage was not updated after each drive. Respondent claims that the discrepancy was not intentional and offered to have a second key made at no charge. Complainant rebutted stating that the actual mileage should have been listed on the paperwork, especially if it is close to the end of a manufacturer warranty, but does not think it was intentional but sloppy business practices.

Recommendation: Letter of Warning concerning the importance of keeping accurate mileage online.

Commission Decision: CONCUR.

46. 2020070361 (SH)

2020073201

2020074611

2020078571

2020078751

Date Complaint Opened: 09/04/2020, 09/16/2020, 09/22/2020

First Licensed: 07/07/2005

Expiration: 06/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2020 – one complaint closed with letter of warning for engaging in false, fraudulent, or deceptive practice(s).

2020070361

Complainant states that they visited Respondent in the evening after seeing an advertisement on a vehicle and test drove that night. The advertisement showed \$15,392 - \$500 = \$14,892. After all the costs were assessed, the total was \$17,276.75. Complainant was providing information when the manager came over and offered a lower price of \$16,500. Complainant wanted to think about it and alleges Respondent told them to “take the night” and think about it. Complainant tried to reach the manager the next day but was not able to due to the manager being at a dentist appointment. Complainant wanted to drive to the Respondent but was told the deal was null and void and was a “one-night deal”. Respondent also stated that the price was a mistake and Complainant feels Respondent was conducting a bait and switch scheme.

Respondent states the advertised price was incorrect, but they would offer the deal as advertised. Respondent even offered a better deal however that deal was one-night only. Respondent contacted their website company and had the price corrected that night.

Recommendation: Letter of Warning concerning advertising.

Commission Decision: CONCUR.

2020073201

Complainant received an email about a “credit recovery program” being offered by Respondent a day after it expired but was told that the program was extended. Complainant was two hours away and made an appointment with Respondent after completing an online application. According to Complainant, on 8/1/2020 the terms made were trading current vehicle, no money down, credit ran once, and payments close to \$400 per month. Respondent stated a co-signor was needed and asked for boyfriend’s license. Complainant received 7 credit alerts while waiting and expressed her concern. Complainant eventually signed the paperwork to trade her vehicle and purchased a newer model. On 8/14/2020, Complainant received a call from the finance company of the traded vehicle and notified them of the trade. On 8/28/2020, the finance company called stating the loan had not been paid off yet and was close to 30 days late. The finance company notified that they were unable to reach the Respondent on numerous occasions. Complainant reached the Respondent and was told the paperwork did not show a trade even though they left the traded vehicle with Respondent and it was part of the agreed terms. Complainant alleges on 9/4/2020, Respondent stated the trade was not part of the deal even though the salesman took the keys and took off the plate the night of the deal. Complainant also requested a new temporary tag and had not received it by 9/16/2020.

Respondent states that the Complainant signed the contract showing no trade and did not respond to the allegation of keeping the vehicle.

Complainant presented two applications from a finance company that funded the new deal. The first application requests a trade and proof of income for Complainant at \$3700/month. The second application shows income reduced to \$2700/month and added boyfriend’s income of \$2500 even though Respondent knew he was unemployed. Neither showed a trade as part of the deal.

2020074611

Same complaint as 2020073201 above.

Recommendation: Authorize a civil penalty of \$1,000 for engaging in false, fraudulent or deceptive practices.

Commission Decision: CONCUR.

2020078571

Complainant received an email from Respondent and made an appointment to discuss a trade deal on 5/30/2020. After discovering that Complainant could not afford the deal they decided to leave. Respondent apparently could not find the keys to Complainant's vehicle and asked if she wanted to test drive another vehicle. Complainant agreed and eventually began to sign the paperwork for the trade. Complainant noticed the paperwork started the mileage was listed as 15 miles but the vehicle had 4200 miles because it was a demo vehicle. Respondent stated they would revise the contract. On 6/3/2020, Respondent called and stated the contract date needed to be revised because the credit union was not opened on the weekend. Complainant was given revised paperwork, signed, and later noticed the mileage was not changed to 4200. Respondent told Complainant that the deal had already gone through and it could not be changed. As of 9/2/2020, Complainant has yet to be able to register the vehicle because Respondent was waiting on the title from the manufacturer. Respondent sent another temporary tag. On 9/9/2020, Complainant learned that the vehicle had been previously titled to an individual. On 9/12/2020, Complainant went back to Respondent to complete a new deal because of the mess up. The previous salesman allegedly had been fired due to deceptive business practices. Respondent offered a newer vehicle but the payments were higher and one year longer. Complainant refused the deal.

Research shows the vehicle was registered to an individual before Complainant purchased the vehicle as new.

Recommendation: Authorize a civil penalty of \$500 for selling an used vehicle as new; \$500 for failure to supervise employees; and \$1,500 for engaging in false, fraudulent or deceptive practices.

Commission Decision: CONCUR.

2020078751

Complainant purchased a vehicle on 8/13/2020 and the temporary tag has expired on 9/12/2020. Calls to the Respondent regarding another temporary tag have been unanswered.

Respondent sent another temporary tag and provided proof that the vehicle has been registered to Complainant on 10/14/2020.

Recommendation: Close.

Commission Decision: CONCUR.

47. 2020075091 (SH)

Date Complaint Opened: 09/24/2020

First Licensed: 08/02/2016

Expiration: 07/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 3/14/2020 and, as of this complaint date, had not received their permanent tags. On 8/19/2020, Complainant's girlfriend was in an accident and issued a violation for improper temp tags because the tag was issued to a different vehicle. Complainant went to the local county clerk's office and learned that the transfer paperwork had not been received.

Respondent states the temp tag was properly registered to the correct vehicle but was expired. Respondent could not complete the registration and title process because Complainant failed to obtain an emissions test after numerous requests. Complainant also failed to maintain insurance and pay their monthly installments therefore the vehicle was repossessed. Complainant further caused cosmetic and mechanical damage to the vehicle.

Recommendation: Close.

Commission Decision: CONCUR.

48. 2020075181 (SH)

Date Complaint Opened: 09/24/2020

First Licensed: 03/03/2017

Expiration: 01/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – One complaint closed with letter of warning for false, fraudulent, or deceptive acts.

Complainant purchased a vehicle on 9/11/2020 but after two days the headlight was out and check engine light came on. Codes were pulled and showed that emissions code was previously flashed 8 times. Respondent stated the EVAP box was broken and there was a leak; costs were \$700. Complainant states Respondent admitted the code flashes and repaired the vehicle at no cost; giving her a loaner vehicle. On 9/22/2020, Complainant picked up the vehicle and the engine light came back on one day later. According to Complainant, Respondent cleared the code and registered the vehicle in their county that does not require emissions testing.

Respondent states the vehicle was purchased “as is” and denies clearing codes. Respondent provided the service documents showing no issues before purchase. Respondent states Complainant became irate when asked for a bumper to bumper warranty and was refused.

Complainant rebuts that after Respondent was shown proof of the flash before test drive and purchase, it was then that Respondent repaired the vehicle at no cost. Complainant believes Respondent has cleared codes before other purchases and falsifies service documents.

Recommendation: Letter of Warning

Commission Decision: CONCUR.

49. 2020076491 (SH)

Date Complaint Opened: 09/30/2020

First Licensed: 05/12/2017

Expiration: 04/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant alleges Respondent is acting as an unlicensed automotive dismantler/recycler. There are numerous wrecked vehicles stored on the Respondent's property with parts removed for resale.

An investigation was made and discovered that Respondent owns a dealership and is properly licensed as a motor vehicle dealer. Respondent states they use the parts to place on other vehicles in order for them to sell and the dealership and do not sell parts to individuals. There was no evidence of Respondent operating as a dismantler/recycler.

Recommendation: Close.

Commission Decision: CONCUR.

50. 2020077691 (SH)

Date Complaint Opened: 10/02/2020

First Licensed: 01/27/2020

Expiration: 01/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2020 – One complaint closed with \$750 civil penalty for false, fraudulent, or deceptive practices.

Complainant alleges they were signed up for two credit cards with balances of \$3500 each without their knowledge after they purchased a vehicle from Respondent. Complainant alleges those cards were used as a down payment of \$7000 for the vehicle. Complainant further alleges the copy of the contract was not what they signed and signatures were transposed. Complainant alleges forgery and fraud.

Respondent states that Complainant negotiated a deal of \$7000 trade value and \$7000 down payment on a manufacturer credit card. Complainant decided not to sign on that particular model listed on the contract but agreed to another model. Complainant also was made aware of an extra \$2000 that would be needed to achieve the desired monthly payment so they chose to go with a longer payoff contract to reach the desired payment. Respondent states all

signatures are valid and deny any forgery and fraudulent practices.

Recommendation: Close.

Commission Decision: CONCUR.

51. 2020069351 (SH)

Date Complaint Opened: 09/02/2020

First Licensed: 07/01/1991

Expiration: 06/30/2021

License Type: Motor Vehicle Manufacturer/Distributor

History (5 yrs.): 2018 – Three complaints that were closed due to no jurisdiction; 2017 – Two complaints closed due to no jurisdiction; 2016 – Agreed Order of Dismissal

Complainant alleges that the manufacturer is fraudulently advertising the chargeability a particular model. Complainant alleges they have never been able to achieve the mileage on one charge that is advertised. Complainant has filed a Lemon Law action in their home state of Virginia. There is no proof the vehicle was purchased in Tennessee. The only connection to Tennessee is that the manufacturer is located in this state. Respondent denies any allegations made and is working with the Complainant's attorney.

Recommendation: Close.

Commission Decision: CONCUR.

52. 2020077271 (SH)

Date Complaint Opened: 10/01/2020

First Licensed: 05/22/2020

Expiration: 05/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant was charged \$113 for DMV fees that was listed on the contract. Complainant received paperwork showing the Respondent paid only \$40 to their local county clerk. Complainant inquired with Respondent and was told the difference is for other fees. Complainant is seeking a refund of \$73 in order to pay the local county clerk fees where they live. Respondent agreed to refund the \$73 to Complainant.

Recommendation: Letter of Warning regarding additional inconspicuous fees.

Commission Decision: CONCUR.

**53. 2020077821 (SH)
2020078891
Date Complaint Opened: 10/02/2020, 10/07/2020
First Licensed: 06/18/2018
Expiration: 06/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.**

2020077821

Complainant purchased a vehicle on 8/27/2020 but had too many issues with the vehicle within two days. Respondent agreed to accept the vehicle in return of partial reimbursement. Respondent deducted the two days usage and doc fees from the down payment. Complainant has not received the reimbursement as of 9/21/2020. Respondent states the Complainant picked up the reimbursement check on 10/5/2020 (video recorded) which was two days before filing this complaint.

2020078891

Complainant purchased a vehicle on 8/21/2020 and still has not received their registration after nearly two months. Respondent provided proof that the registration and tags were received by Complainant on 10/14/2020.

Recommendation: Close both complaints.

Commission Decision: CONCUR.

54. 2020077131 (SH)

Date Complaint Opened: 10/02/2020

First Licensed: 01/12/2016

Expiration: 03/31/2020

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant attempted to contact Respondent to obtain a copy of the title and lien release letter in order to sell her vehicle however Respondent has closed its business. Although the Respondent is no longer in business due to COVID-19, it is still accepting payments on loan balances. Complainant still has a balance (payment history provided) and therefore Respondent will not release the title.

Recommendation: Close.

Commission Decision: CONCUR.

55. 2020079851 (SH)

Date Complaint Opened: 10/09/2020

First Licensed: 11/21/2006

Expiration: 10/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 8/10/2020 and the 2nd temp tag has expired. Their lender has not received the title within the 60 days either. Respondent states the paperwork was processed on 8/11/2020 and contacted the credit department on 9/15/2020 inquiring about the title. The credit department explained that they were delayed due to COVID-19 and had over

1,000 titles to process. On 10/13/2020, Respondent contacted the department and was able to obtain a lien release and immediately sent it to the Complainant's local county clerk for registration which was processed that day.

Recommendation: Close.

Commission Decision: CONCUR.

56. 2020080691 (SH)

Date Complaint Opened: 10/13/2020

First Licensed: 08/14/2002

Expiration: 08/31/2020 (Expired)

License Type: Motor Vehicle Dismantler/Recycler

History (5 yrs.): None.

A Notice of Violation was issued on 10/7/2020 for an expired Dismantler/Recycler license that expired on 8/31/2020. Respondent has since renewed its license.

Recommendation: Authorize a civil penalty of \$250 for operating on an expired license.

Commission Decision: CONCUR.

57. 2020077881 (ES)

Date Complaint Opened: 10/02/2020

First Licensed: 05/03/2004

Expiration: 03/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2017 – One complaint closed with \$500 civil penalty for failure to disclose salvage title. 2019 – One complaint closed with letter of warning for false advertisement.

Complainant purchased a used vehicle from Respondent and admits to missing one of their payments. Complainant takes issue with the late fees which have built up at a rate of \$10 per day. Respondent provided a copy of the contract which included Complainant's signature on the late fee policy. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

58. 2020076621 (ES)

Date Complaint Opened: 10/01/2020

First Licensed: 10/24/2019

Expiration: 10/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a used vehicle from Respondent and alleges it has had mechanical issues. Complainant wants Respondent to fix the issue or refund his down payment. Respondent states Complainant purchased the vehicle as-is without warranty but they still tried to assist by replacing the engine, catalytic converter and radiator. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

59. 2020077771 (ES)

Date Complaint Opened: 10/05/2020

First Licensed: 07/08/1997

Expiration: 06/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a used vehicle from Respondent on 3/6/2015. Complainant recently tried to trade in the vehicle and was told it had a branded title from New York. Complainant alleges Respondent failed to disclose this was a salvaged vehicle. Respondent went to their county clerk after being notified of this issue by Complainant to find out why it was showing rebuilt. The clerk talked to several people and finally found out the title should have a rebuilt brand but it had been missed and had a clean title. Respondent produced documentation to support this response and doesn't feel they should be to blame for a mistake that was not discoverable by them or caused by them. Specifically, the clerk sent Counsel a signed statement with documentation stating that they did not brand the title correctly when it was registered in 2011 and the mistake was not caught until the complaint was filed. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

60. 2020078351 (ES)

2020081781

2020064441

Date Complaint Opened: 2020078351: 10/06/2020, 2020081781: 10/16/2020, 2020064441: 08/21/2020

First Licensed: 10/30/2012

Expiration: 10/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): Dealership: 2017 – One complaint closed with \$2,000 civil penalty for engaging in false, fraudulent, or deceptive practices.

2020078351

Complainant alleges Respondent never provided a title or a sales contract for the vehicle they purchased. An investigation was conducted. It was revealed that Complainant did not purchase the vehicle from Respondent, but from an individual. The complaint below is related to the proper individual who sold Complainant the vehicle. That individual was a salesman at Respondent's dealership years ago but has no relation at this time. Counsel has advised Respondent they must terminate the salesman's license with the Commission since they no

longer work there. Otherwise, Respondent has nothing to do with this complaint and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

2020081781

Complainant alleges Respondent never provided a title or a sales contract for the vehicle they purchased. An investigation was conducted. Complainant confirmed that they purchased the vehicle from Respondent at their residence. Respondent provided a sworn statement to the investigator and cooperated by providing the Bill of Sale and documents from the sale to Complainant. Respondent kept the title until Complainant paid the total amount owed. This was an individual sale but the investigation revealed some issues that need to be brought to the attention of the Department of Revenue. Counsel recommends referring this matter to the DOR.

Recommendation: Refer to the Dept. of Revenue and Close.

Commission Decision: CONCUR.

2020064441

Complainant alleges Respondent failed to re-print the bill of sale in order to be able to obtain the title. Complainant then requested to withdraw this complaint and stated all issues had been resolved. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

61. 2020080661 (ES)

Date Complaint Opened: 10/13/2020

First Licensed: 08/06/2018

Expiration: 07/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

A NOV was issued to Respondent during an inspection on 10/12/20 for employing two salesmen with expired licenses. Counsel recommends a \$1,000 civil penalty for these violations.

Recommendation: Authorize a \$1,000 civil penalty for expired salesman licenses

Commission Decision: CONCUR.

62. 2020078001 (ES)

Date Complaint Opened: 10/05/2020

First Licensed: 01/07/2010

Expiration: 02/28/2021

License Type: Motor Vehicle Salesman

History (5 yrs.): None.

Complainant is alleging deceptive business practices from the Respondent by not disclosing an issue with the vehicle that was purchased because a warning light came on soon after purchase. Respondent is a salesman. An investigation was conducted. Complainant purchased the vehicle as-is without warranty and Respondent was unaware of any problems with the vehicle before it was sold to Complainant. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

63. 2020064791 (ES)

Date Complaint Opened: 08/26/2020

First Licensed: 02/25/2019

Expiration: 04/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs): None.

Complainant is a resident from North Carolina who purchased a vehicle through an online advertisement from Respondent. Complainant alleges Respondent failed to disclose major issues with vehicle and failed to deliver title. Complainant is requesting that the Respondent buy back the vehicle. Complainant states the vehicle was advertised online as being in excellent condition with new brakes. Complainant ended up having to replace the brakes and make other repairs, although Respondent agreed to some goodwill repairs. Complainant claims they called Firestone and was informed by the manager that it was not officially inspected. Complainant took the vehicle to a local Firestone and stated they said the vehicle needed approximately \$2,400 in repairs/service to be in good working order. An investigation was conducted. Respondent provided the deal file which revealed the vehicle was purchased as-is without warranty. Confirmation was obtained showing the title was received by Complainant. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

64. 2020063751 (ES)

Date Complaint Opened: 08/19/2020

First Licensed: N/A (Unlicensed)

Expiration: N/A

License Type: Motor Vehicle Dismantler/Recycler

History (5 yrs): None.

Complainant is a licensed motor vehicle dismantler/recycler alleging Respondent is buying and selling used cars, dismantling used cars and selling parts, and rebuilding wrecked cars and selling them. An investigation was conducted. Internet research did not reveal any advertising by Respondent. Complainant revealed they were sick of people coming into their licensed dismantling/recycling business looking for Respondent's business, considering they are next door to each other. Complainant denied knowing of anyone who actually bought parts from Respondent. The investigator contacted the county clerk who denied knowing of any activity that would make them suspicious of any excessive motor vehicle transactions being conducted by Respondent. When the investigator visited Respondent's property, there appeared to be vehicles scattered in inoperable or partially disassembled states. Nothing was advertised for sale and Respondent denied selling motor vehicles on a regular basis. Respondent works on vehicles as a hobby and has done it for as long as they can remember. They use parts of the disassembled vehicles for their own personal use and occasionally give friends/acquaintances parts they need at no charge. Respondent admits they may have sold a couple hundred dollars' worth of parts in

the last year. Counsel recommends issuing a Letter of Warning for possible unlicensed dismantler/recycler activity.

Recommendation: Letter of Warning for unlicensed activity as dismantler/recycler

Commission Decision: CONCUR.

65. 2020072771 (ES)

Date Complaint Opened: 09/15/2020

First Licensed: 04/07/2016

Expiration: 07/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant alleges Respondent misrepresented purchased vehicle and failed to deliver title. An investigation was conducted. Complainant confirmed Respondent provided title and they wanted the complaint withdrawn. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

66. 2020078631 (ES)

Date Complaint Opened: 10/06/2020

First Licensed: 05/06/2002

Expiration: 04/30/2016 (Closed)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a used vehicle from Respondent in 2015 and alleges there is a lien on the vehicle. Respondent has not had an active license since 2016 and has not responded to this complaint because mail has been returned. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

67. 2020080991 (ES)

Date Complaint Opened: 10/14/2020

First Licensed: 07/09/2015

Expiration: 06/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with \$500 agreed citation for unlicensed activity.

Complainant financed a 2003 vehicle from Respondent in February and has been having mechanical issues with it causing them to pay for repairs. Complainant alleges there has been 4 recalls on the vehicle which wasn't disclosed. Complainant feels they paid too much for the vehicle and wants their deposit and payments made refunded. Respondent provides proof the vehicle was purchased as-is without warranty and confirmation there have been no recalls on the vehicle as of 10/21/20. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

68. 2020083101 (ES)

Date Complaint Opened: 10/21/2020

First Licensed: 09/01/1991

Expiration: 12/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – One complaint closed with \$1,500 civil penalty for possession of open title and engaging in off-site sales.

During an annual inspection, Respondent was issued a NOV for a missing temporary tag in the temporary tag logbook. The inspector gave Respondent ample time to produce it but they were

unable to do so. Counsel recommends issuing a \$500 civil penalty for the missing temporary tag.

Recommendation: Authorize a \$500 civil penalty for temporary tag log violation

Commission Decision: CONCUR.

69. 2020076381 (SH)

Date Complaint Opened: 09/28/2020

First Licensed: 02/25/2011

Expiration: 04/30/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant provided financing for three customer purchases from Respondent however have not received perfected titles showing them as lienholder. The purchases were made in January and March of 2020.

Respondent states the liens were perfected within 30 days however due to COVID-19 there has been a delay in obtaining the titles to send to Complainant. Respondent further states they are working with their attorney diligently to resolve the issue.

Recommendation: Close.

Commission Decision: CONCUR.

70. 2020078271 (SH)

Date Complaint Opened: 10/07/2020

First Licensed: 09/09/2008

Expiration: 08/31/2018

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant is trying to obtain the title for their lender but the Respondent has closed its business. Surety bond was sent to Complainant in order to assist.

Recommendation: Close.

Commission Decision: CONCUR.

71. 2020078881 (SH)

Date Complaint Opened: 10/07/2020

First Licensed: 05/03/2005

Expiration: 03/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 4/25/2020 in full and received the title that day. The signature and information on the back was messy and hard to read. Complainant signed the title over to their nephew to take to college. The nephew went to register the vehicle in Alabama on 5/2/2020 but the clerk would not accept the title due to it being illegible. The clerk requested a duplicate title and for all parties to mark and sign clearly in order to process. Complainant alleges Respondent refused to accept and now the vehicle cannot be driven.

Respondent disagrees with the legibility of the title and provided a copy which seems to be easy to point out the parties' names, addresses and signatures. Respondent claims that the Complainant was refused a temp tag and then made this complaint.

Complainant rebutted, stating he could not have the vehicle inspected due to COVID-19 but when the inspection center opened the vehicle failed. Complainant wanted Respondent to diagnose the issue but they refused because the vehicle was sold "as is". The nephew stated that inspection was not required in Alabama so Complainant reassigned the title to his nephew which was the 2nd reassignment. Alabama clerk refused to accept because of too many assignments and requested that Respondent register the vehicle in their name and continue the

assignment. Respondent apparently refused due to sales tax issues even though Complainant offered to pay all fees. Subsequently, Respondent allegedly lost the title causing more delays and will not apply for another dupe title.

According to documents the Complainant has had the vehicle registered on 11/23/2020. This matter is more of a customer service issue and Respondent did sell the vehicle "as is" without the knowledge that Complainant would reassign to the nephew and causing the need for an extension form or dupe title.

Recommendation: Close.

Commission Decision: CONCUR.

72. 2020080641 (SH)

Date Complaint Opened: 10/12/2020

First Licensed: 09/11/2012

Expiration: 08/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs): 2016 – One complaint closed with \$500 civil penalty for failure to provide title. 2020 – One complaint closed with letter of warning for odometer tampering.

Complainant traded a vehicle to purchase another from Respondent on 9/3/2020. Respondent notified the Complainant that the vehicle's electrical system is defective and the A/C does not work. Complainant states that while driving, the seat belt light, ABS light, engine light, doors light, and tires light were on. Respondent requested Complainant to return the vehicle on 9/4/2020 to fix the issues or return the deposit if unable to fix. Respondent apparently wanted Complainant to find a mechanic to fix the issues and send them the invoice. On 9/5/2020, Complainant was pulled over for a non-working headlight. Respondent offered a refund but wanted to deduct two days driving and service but Complainant refused.

Respondent explains that Complainant was fully aware of the issues with the vehicle and signed all paperwork acknowledging the vehicle was sold "as is" and denied a service contract. Complainant provided a list of issues that were found by a mechanic on 9/26/2020 and the only

light that was on was the emissions light, including no A/C, rear view mirror needing replacing, no jack for spare, interior lights stay on, and head light out.

Recommendation: Close.

Commission Decision: CONCUR.

73. 2020082381 (SH)

Date Complaint Opened: 10/09/2020

First Licensed: 02/27/2020

Expiration: 01/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant took the vehicle to Respondent to have a flat tire fixed at 11:45am and found out the tire could not be fixed and needed a replacement. The word "wait" was written on the paperwork. Complainant states at 4:30pm they went to check on the repair and learned that it was ready. Complainant was charged a disposal fee for the tire even though Complainant took the old tire. They needed a new key lock that was \$10.49 but the invoice was \$71.50 and no one would explain the charges. The Respondent also took personal information that Complainant wanted to get back but Respondent refused.

Respondent states that Complainant came in for a tire repair but needed a new one due to the nail being in the side. Complainant also needed a new wheel lock because the other was stripped. After the repair was completed, Complainant wanted all personal information returned however Respondent did not take any personal information in writing.

Recommendation: Close.

Commission Decision: CONCUR.

74. 2020007541 (SH)

Date Complaint Opened: 01/30/2020

First Licensed: 10/08/2015

Expiration: 06/30/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with agreed order for \$5,200 for unlicensed activity. 2019 – One complaint closed with \$250 civil penalty for advertising violation.

Complainant purchased a vehicle on 1/9/2020 with the understanding that the Respondent would replace the front windshield, door panel, and \$200 gas money. Respondent was to have someone in St. Louis where Complainant resides fix the issues. Complainant states that nothing has been done.

Respondent states that the deal included \$200 travel money, replacing the door panel, and front windshield. The local repairman for the windshield was unable to be there within 2 hours so they agreed to find someone in St. Louis to do the repair. Complainant wanted the tires to be replaced so Respondent agreed but would not issue the \$200 travel expense. Respondent states that they gave the windshield vendor information to Complainant but Complainant never made contact. The door panel was on back order but has been delivered. Respondent has offered a free extended warranty at no cost as a good gesture.

Recommendation: Close.

Commission Decision: CONCUR.

75. 2020077891 (ES)

Date Complaint Opened: 10/05/2020

First Licensed: 12/21/20

Expiration: 10/31/22

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle from Respondent before they obtained a dealer license.

Complainant alleges the vehicle is salvaged and claims they still have not received the title. An investigation was conducted and revealed evidence of unlicensed activity. Counsel recommends issuing a \$500 civil penalty for unlicensed sales by Respondent.

Recommendation: Authorize a \$500 civil penalty for unlicensed activity

Commission Decision: CONCUR.

76. 2020074551 (ES)

Date Complaint Opened: 09/22/2020

First Licensed: 09/24/2018

Expiration: 08/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant alleges Respondent failed to disclose a vehicle's salvage history and failed to deliver title. Respondent states the title was clean so an investigation was conducted. Complainant confirmed with the investigator that they had since received the tag and title to the vehicle. The VIN number for the vehicle at issue was checked through the National Crime Insurance Bureau which showed that the vehicle was listed in the salvage records, with a date of loss on 12/16/19 due to a collision. A vehicle information request was made through the Dept. of Revenue which reflected a "regular title" issued to Complainant on 10/30/20. Respondent provided the deal file to the investigator which included the proper signed Notice of Rebuilt or Salvage Vehicle form, but it was signed by Complainant on 5/16/20, which is more than two months after the original purchase. This may be when Complainant brought it to Respondent's attention that the vehicle had a salvage history. Respondent also provided copies of two titles for the vehicle. Respondent provided an affidavit to the investigator swearing to the following: Respondent was provided an original title from an auction that did not show any salvage history. Respondent explained they have all customers sign the Notice of Rebuilt or Salvage form in the event a vehicle was salvaged and they had no knowledge of it at the time of sale. When Complainant went to register the vehicle, they returned to the dealership demanding a refund. Respondent advised Complainant they had no knowledge the vehicle was salvaged and offered Complainant a refund and to take the vehicle back. Complainant was not willing to return the vehicle but still wanted a full refund. Respondent refunded Complainant \$1,000 for the inconvenience which was accepted. Respondent had the vehicle rebuilt and issued a Rebuilt title after they learned it had been salvaged in Tennessee. One of the titles produced to the investigator was from Arkansas, listed Progressive Casualty Insurance Co. dated 1/30/20, purchased by Respondent on 2/17/20 and then sold to Complainant on 3/2/20. This title

did not show the vehicle to be salvaged or rebuilt. The second title listed the dealer who rebuilt the vehicle for Respondent, dated 10/8/20, purchased by Respondent on 10/8/20 and then sold to Complainant on 10/8/20. Respondent explained the first title is the one they originally received from the auction when they purchased it. The second title was the one received after they learned it was salvaged and had another dealer rebuild it. There was only one temporary tag issued to Complainant on 3/2/20 when it was purchased. While the investigator was looking over Respondent's temporary tag log, it was revealed that Respondent issued three temporary tags to two different customers. Counsel recommends assessing a civil penalty of \$1,000 for one more temporary tag than allowed to two customers.

Recommendation: Authorize a \$1,000 civil penalty for issuing too many temporary tags

Commission Decision: CONCUR.

77. 2020075011 (ES)

Date Complaint Opened: 09/23/2020

First Licensed: 05/01/2017

Expiration: 02/28/2021 (Closed)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant made their last payment on their vehicle purchased from Respondent and has been unable to get in contact with them. Complainant takes issue that they were not notified Respondent's dealership was closing. There are no further details provided and Respondent's mail has been returned undeliverable. Respondent cancelled their license in early August. Counsel reached out to Complainant to see how we could assist them and obtain details of what the allegations are against Respondent. Complainant failed to respond. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

78. 2020079301 (ES)

Date Complaint Opened: 10/08/2020
First Licensed: 04/06/2017
Expiration: 03/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant takes issue with Respondent calling them because their son was delinquent on their car payment. Some heated text exchanges were made between Respondent's repo vendor and Complainant but there is no evidence of any violations. Respondent was provided Complainant's contact information by their son when the vehicle was purchased and Respondent states it was Complainant who tried to convince them to sell the vehicle to Complainant's son. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

79. 2020080171 (ES)

Date Complaint Opened: 10/12/2020
First Licensed: 09/01/1991
Expiration: 01/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from Respondent and alleges they knew the vehicle had major problems but failed to disclose it. An investigation was conducted. Complainant purchased the vehicle as-is without warranty and Respondent was unaware of any problems with the vehicle before it was sold to Complainant. There is no evidence of any violations and Counsel recommends closure. (Related to No. 63 which is the complaint against the salesman at Respondent's dealership)

Recommendation: Close.

Commission Decision: CONCUR.

80. 2020080751 (ES)

Date Complaint Opened: 10/15/2020

First Licensed: 03/31/2017

Expiration: 03/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant alleges Respondent required them to make a purchase in order to receive a prize they claim they won in a sweepstakes, misrepresented the terms of purchase, and failed to award winnings. Respondent's General Manager met with Complainant to discuss the transaction at issue which included Complainant trading in their vehicle for another. Complainant was given the choice to rescind the deal but chose to keep the original deal intact and accepted the \$3,000 check for his prize included in the deal. Complainant realized they were confused when they filed the complaint and is now satisfied with the outcome. There is no evidence of any violations. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

81. 2020081141 (ES)

Date Complaint Opened: 10/14/2020

First Licensed: 09/01/1991

Expiration: 08/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant took their vehicle to Respondent for a diagnostic check and alleges they caused problems to occur with the vehicle. Respondent states they treated Complainant fairly in this case. Complainant's vehicle had many problems which is why it was brought to Respondent and they spent more time trying to diagnose the problems than what they charged Complainant for.

Respondent finally ended up telling Complainant they did not want to continue to work on the vehicle because they felt it could end up costing more than the value of the vehicle and some parts that may have been necessary to correct problems were no longer available. The vehicle was 19 years old with 300,000 miles on it and Complainant had just purchased it a few days before bringing it to Respondent because they got such a good deal. Respondent believes it had been worked on by people who may not have been qualified to work on it which probably created more problems. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

82. 2020083161 (ES)

Date Complaint Opened: 10/22/2020

First Licensed: 04/17/2018

Expiration: 03/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

An anonymous Complainant alleges Respondent is falsifying documents and altering tags. An investigation was conducted. This complaint is identical to a past anonymous complaint made in 2018 which revealed no violations. The same investigator handled this matter and reviewed the dealership's business records and temporary tag log. There is no evidence of any violations as alleged, and a recent annual inspection revealed no violations by the dealership. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

83. 2020084641 (ES)

Date Complaint Opened: 10/28/2020

First Licensed: 09/26/2012

Expiration: 12/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Respondent was issued a NOV on 10/26/20 during a routine inspection for issuing three temporary tags for the same vehicle. Counsel recommends issuing a \$500 civil penalty for this violation.

Recommendation: Authorize a \$500 civil penalty for one too many temporary tags

Commission Decision: CONCUR.

84. 2020085051 (ES)

Date Complaint Opened: 10/29/2020
First Licensed: 06/04/2003
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – Two complaints closed with a letter of warning for engaging in false, fraudulent, or deceptive practice(s).

Respondent was issued a NOV on 10/26/20 during a routine inspection for employing 14 salespersons either with expired licenses or no license at all. Counsel recommends issuing a \$500 civil penalty for each violation, for a total \$7,000 civil penalty.

Recommendation: Authorize a \$7,000 civil penalty for employing 14 unlicensed salespersons

Commission Decision: CONCUR.

85. 2020073151 (SH)

Date Complaint Opened: 09/16/2020
First Licensed: 07/05/2017

Expiration: 07/31/2019 (Closed)
License Type: Motor Vehicle Dealer
History (5 yrs.): 2018 – One complaint closed with \$500 civil penalty for failure to deliver title. 2019 – One complaint closed with Letter of Warning for failure to disclose salvage title. 2020 – One complaint closed and flagged for failure to deliver title.

Complainant purchased a vehicle in 2018 but never received the title. Respondent closed its business after the owner was arrested for felony charges. The surety bond has been given to the Complainant.

Recommendation: Close.

Commission Decision: CONCUR.

86. 2020079031 (SH)
Date Complaint Opened: 10/07/2020
First Licensed: 09/24/2013
Expiration: 12/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle on 8/14/2020 and paid all taxes and fees on 9/12/2020. A 2nd temporary tag was received by the Complainant but has now expired (10/8/2020) and the local County clerk states they have not received any paperwork from Respondent.

Respondent states they have issued the tags to the Complainant but there was a delay with the local County clerk's office due to COVID-19. Complainant has received their permanent registration and tags as well as issued a partial refund of registration fees.

Recommendation: Close.

Commission Decision: CONCUR.

87. 2020080771 (SH)

Date Complaint Opened: 10/15/2020

First Licensed: 01/31/2019

Expiration: 02/28/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 8/18/2020, paid in full, and was told they could pick up title on 8/25/2020. On 8/25/2020, Complainant was told there was a mix up at corporate and was given a copy of a title to register the vehicle. The local County clerk stated they needed the original title, reassignment form, and release of lien. On 10/7/2020, Complainant was told the title was coming from Missouri and could be an additional 6-8 weeks.

Respondent states that Complainant was aware of the lost title and the duplicate title request to Missouri. After the 2nd temporary tag expired, Respondent offered to purchase the vehicle back but instead took a rental until the duplicate title was received. The title was received on 10/23/2020 and Complainant picked it up on 10/27/2020.

Recommendation: Close.

Commission Decision: CONCUR.

88. 2020083951 (SH)

Date Complaint Opened: 10/23/2020

First Licensed: 04/24/2015

Expiration: 04/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a vehicle on 2/25/2020 but never received the permanent tags. The

lienholder continued to request the registration papers but Respondent was closed due to COVID-19.

Respondent closed temporarily in March 2020 due to the pandemic. They have been trying to contact Complainant to assist with obtaining the tags and registration but have been unable to reach Complainant. Complainant was asked to contact Respondent in order to complete the registration process.

Recommendation: Close.

Commission Decision: CONCUR.

89. 2020075991 (SH)

Date Complaint Opened: 09/30/2020
First Licensed: 03/10/2014
Expiration: 03/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle in cash on 7/24/2020. On 8/26/2020 the transmission went out and the Complainant needs the vehicle fixed or money returned. Respondent states the Complainant purchased the vehicle "as is" and test drove the vehicle.

Recommendation: Close.

Commission Decision: CONCUR.

90. 2020082631 (SH)

Date Complaint Opened: 10/23/2020
First Licensed: 08/15/2012

Expiration: 08/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

On 8/22/2020, Complainant purchased a vehicle from Respondent and was told the title would be received in 2 weeks. After two months the title has not been received. Respondent contacted the auction where the vehicle was originally purchased. The auction company reached out to the seller of the vehicle and were advised a duplicate title was requested.

Recommendation: Close.

Commission Decision: CONCUR.

91. 2020083521 (SH)
Date Complaint Opened: 10/22/2020
First Licensed: 02/11/2019
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle on 1/24/2020 and as of October has not received the title. Respondent states that the lienholder went out of business in March 2020 due to COVID-19, but Respondent was waiting on a title correction affidavit. Respondent closed its business from March 2020 to August 2020. The affidavit was finally received in October 2020. Respondent has been in touch with Complainant and informed them that the title is ready to pick up. Complainant has verified receiving the title.

Recommendation: Letter of Warning for late delivery of title.

Commission Decision: CONCUR.

92. 2020077181 (ES)

Date Complaint Opened: 10/01/2020
First Licensed: 04/15/2019
Expiration: 09/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant alleges Respondent misrepresented purchased vehicle, refused to make repairs, and was verbally hostile. Complainant was having mechanical issues with the used vehicle purchased from Respondent in August 2020. An investigation was conducted. Complainant never responded to the investigator's voicemails or emails. Respondent provided the deal file in its entirety and the vehicle was sold as-is without warranty. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

93. 2020082051 (ES)

Date Complaint Opened: 10/18/2020
First Licensed: 12/07/2015
Expiration: 11/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – One complaint closed with \$500 civil penalty for offsite sales. One complaint closed with letter of warning for incomplete temp tag log. 2018 – One complaint closed with \$2,500 civil penalty for offsite sales.

Complainant alleges Respondent failed to deliver title and charged for the issuance of temporary tags. Respondent states they did not sell a vehicle to Complainant and claims Complainant purchased it from an individual in an undisclosed location separate and apart from their dealership and lot. Respondent did admit to helping the individual and Complainant with the sale by taking in payment on the individual's behalf and helping with paperwork but denies any further involvement. An investigation was conducted. The investigation revealed that an individual who used to be a salesman for Respondent sold a vehicle to Complainant at a mechanic shop. The investigator tried many times to get in touch with the individual who sold the vehicle but was unsuccessful. The investigation also revealed that Respondent issued a temporary tag to Complainant for the vehicle. The Respondent admits to receiving \$100 for their "assistance" with the sale. The vehicle was

eventually towed for being inoperable and parked on a street, and is no longer in Complainant's possession. A vehicle history report shows the vehicle has never been registered in Tennessee. Counsel recommends issuing a \$2,000 civil penalty for severe false, fraudulent and deceptive acts related to the sale of the vehicle by an individual not licensed as a salesperson or employed by Respondent, for taking compensation for their "assistance" and for issuing a temporary tag to a vehicle that was not technically sold by the dealership. Counsel also recommends referring this to the Dept. of Revenue concerning possible sales tax issues and the issuance of the temporary tags by a dealer related to an individual sale.

Recommendation: Authorize a \$2,000 civil penalty for false, fraudulent or deceptive acts and refer to the Dept. of Revenue

Commission Decision: CONCUR.

94. 2020086721 (ES)

Date Complaint Opened: 11/04/2020

First Licensed: 11/17/2016

Expiration: 10/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Respondent was issued a NOV on 11/2/20 during a routine inspection for employing three salespersons with expired licenses and for being unable to produce a county business license. Counsel recommends issuing a \$250 civil penalty for the business license violation and a \$500 civil penalty for each of the three unlicensed salespersons, for a total \$1,750 civil penalty.

Recommendation: Authorize a \$1,750 civil penalty for unlicensed salespersons and no county business license

Commission Decision: CONCUR.

95. 2020086501 Rice Buick GMC Inc. (ES)

Date Complaint Opened: 11/04/2020

First Licensed: 09/01/1991
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant is a resident of Virginia who purchased a vehicle from Respondent in July 2020. Complainant alleges they have not received the license plate for the vehicle and claims the bank has not been made a lienholder. Respondent states the issues causing the delay are out of their control and they have done everything they can do to resolve the situation. Respondent provides a timeline as follows: 7/6/20 – Respondent issued a check to pay off and receive the title for the vehicle at issue; 7/13/20 – Complainant purchased the vehicle from Respondent and agreed to title it on their own in Virginia; 8/6/20 – Respondent sent the title via FedEx to Complainant's address provided. Then Complainant advised they had never received the package with the title so a duplicate title was applied for. Virginia informed Respondent that due to COVID restrictions and limited staff, the duplicate title may not be processed until December. Respondent explained this to Complainant and provided all documentation. When Respondent mailed a temporary tag to Complainant, it was returned to them by USPS. Because of all of the inconvenience to Complainant, Respondent offered them \$1,000 towards two months of car payments in hopes it would ease some of their displeasure until the duplicate title arrived. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

96. 2020078971 (ES)

Date Complaint Opened: 10/07/2020

First Licensed: 04/06/2017

Expiration: 03/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – One complaint closed with letter of warning for expired county/city business license.

Respondent was issued a NOV on 10/2/20 during an annual inspection for being unable to produce a county business license. Counsel recommends issuing a \$250 civil penalty for this violation.

Recommendation: Issue a Letter of Warning.

Commission Decision: CONCUR.

97. 2020087201 (ES)

Date Complaint Opened: 11/09/2020

First Licensed: 08/20/2008

Expiration: 07/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant purchased a new vehicle from Respondent in 2015 and alleges it is using an excessive amount of oil. Complainant feels Respondent should provide compensation for the issue. Respondent performed an engine oil consumption test and over the course of a few months, recorded the results. The results were provided to the manufacturer and they determined the oil consumption was considered to be within a tolerant level and confirmed with Respondent that no repair would be covered under warranty. Respondent then agreed to perform additional tests as time passed and the manufacturer eventually agreed to replace the engine under warranty. The issues have been resolved and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

98. 2020087561 (ES)

Date Complaint Opened: 11/08/2020

First Licensed: 09/22/2005

Expiration: 09/30/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant's daughter purchased the vehicle from Respondent in April 2018 and recently brought it to Respondent for a recall issue and standard oil change and it was determined the engine needed to be replaced during inspection. Respondent advised Complainant the VIN matched vehicles with defective engines for oil consumption and suggested a claim be filed with the manufacturer but also advised that they had no ability to authorize warranty issues. Complainant felt they got the runaround from Respondent and also wants the manufacturer to accept responsibility for denying consumers the right to the extended warranty set for under a class action lawsuit. Complainant's issues seem to be directed at the manufacturer. Respondent apologizes for the issues Complainant's daughter has had with their vehicle but notes it was never brought into their service department for oil changes and Complainant admits the vehicle was past due at the most recent oil change leading to the discovery of the issues. Respondent feels this could have been avoided if oil changes were made at the recommended intervals and inspected prior to recently by their manufacturer certified technicians. Respondent did offer \$3,000 towards the cost of a replacement engine but states they do not have the authority to provide or approve any type of extended warranty coverage on behalf of the manufacturer. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

99. 2020088491 (ES)

Date Complaint Opened: 11/11/2020

First Licensed: 06/07/2004

Expiration: 05/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant alleges Respondent failed to notify them that the vehicle they were purchasing was used. Complainant thought they were buying a new vehicle but when they went to register it, they were told they had to get the emissions tested. Complainant is also worried about the warranty and alleges there was no Buyer's Guide displayed as required with used vehicles. Respondent explains, in their response from their Legal and Risk Management Coordinator and attorney, that Complainant purchased a wheelchair-accessible vehicle (WAV) that had previously been titled to Braunability (Braun). Braun is the upfitter who performs the wheelchair accessibility modifications and Respondent states it is common practice for the upfitter to take

title to do so. Respondent states a newly modified WAV is still considered a new vehicle under Tennessee law and the manufacturer's warranty. The manufacturer includes a specific form with WAVs to confirm this, and to notify them of the date of consumer delivery so they can begin the warranty period on that date. Complainant signed this form. Specifically, the vehicle qualifies as a "new" under the Tennessee Consumer Protection Act and under Title 55. TCA §55-5-106 defines a new vehicle to be one that has never been the subject of a sale to the general public. Counsel recommends closure. [I am awaiting the deal file and title from Respondent]

Recommendation: Close.

Commission Decision: CONCUR.

- 100. 2020078621 (SH)**
Date Complaint Opened: 10/09/2020
First Licensed: 07/07/2005
Expiration: 03/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2020 – one complaint closed with letter of warning for engaging in false, fraudulent, or deceptive practice(s).

Complainant purchased an electric vehicle online on 4/27/2020 and had it delivered to their residence in Arkansas. Complainant noticed it only had a range of 65 miles instead of the 100 as advertised before recharging. Over a couple of months, the range continued to decline. Complainant contacted the manufacturer and had it transported to a dealership for diagnosis and testing. Complainant alleges the main battery had experienced degrading due to previous damage caused by previous owner from "fast charging" and that Respondent never disclosed this information. The manufacturer is refusing to repair the vehicle. The range is of no service to the Complainant and they want the Respondent to purchase the vehicle back.

Respondent provided repair orders from the dealership that performed the testing of the battery. The diagnosis in 6/2020 and 10/2020 show the battery tested as designed (100% health) and no repair was necessary.

Recommendation: Close.

Commission Decision: CONCUR.

- 101. 2020078981 (SH)**
Date Complaint Opened: 10/07/2020
First Licensed: 11/10/2015
Expiration: 10/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – One complaint closed with \$5,000 civil penalty for false, fraudulent, or deceptive practices.

Complainant, Virginia resident, purchased a vehicle on 6/27/2020 and elected to have the registration and tags sent directly to them. On 7/27/2020, the temp tag expired and the VA DMV notified the Complainant that Respondent had not yet submitted any paperwork. As of 10/7/2020, the lienholder has not received the title and no registration has been made. Title and registration were transferred on 12/8/2020 after Respondent obtained a duplicate title.

Recommendation: Letter of Warning concerning late delivery of title.

Commission Decision: CONCUR.

- 102. 2020081531 (SH)**
Date Complaint Opened: 10/15/2020
First Licensed: 01/13/2017
Expiration: 12/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

A Notice of Violation was issued against Respondent for expired city and county business licenses. The Respondent agreed to the violations and paid the civil penalty assessed however did not sign the Agreed Citation.

Recommendation: Close after obtaining a signed Agreed Citation.

Commission Decision: CONCUR.

103. 2020081851 (SH)
Date Complaint Opened: 10/19/2020
First Licensed: 01/22/2020
Expiration: 11/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle on 9/25/2020 in order to pull a trailer for his business. A patch on the frame to level the frame was pointed out to the Complainant by the Respondent during the purchase. A few days later, the Complainant noticed the vehicle was riding oddly. The vehicle was taken to the mechanic that did the patch and told Complainant that nothing could be done further since there was no additional material to patch to. Complainant reached out to Respondent and was told the vehicle was sold "as is".

Respondent verified that Complainant was informed of the patch and test drove the vehicle for 2 hours. The vehicle was sold "as is" with no warranty.

Recommendation: Close.

Commission Decision: CONCUR.

104. 2020088431 (SH)
Date Complaint Opened: 11/11/2020
First Licensed: 01/19/2017
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant began discussions about a vehicle with Respondent and decided to go look at it. They noticed a lot of rust that was not in the pictures online. Complainant was offered a \$1000 discount and other deals so they decided to purchase the vehicle on 11/7/2020. Respondent also gave a 3mo/3000-mile warranty for ½ price. Complainant alleges that when they drove away, the TPMS light came on and then later the check engine light came on. The codes were checked and showed two codes had been stored and erased recently. On 11/9/2020, Complainant took the vehicle to a local dealership to have everything diagnosed. It was determined that there were exhaust leaks from the intake, leak in the catalytic converter, and needed a TPMS monitor. The warranty company refused to assist due to prior damage.

Respondent denies any wrongdoing and states the vehicle was inspected; maintenance items were addressed and repaired. The vehicle was sold “as is” and the codes that were alleged to be “stored” show up anytime the vehicle is hooked up to a scan tool for the life of the vehicle. No information was withheld and a Carfax report was provided to Complainant. Respondent states that the Complainant inspected the vehicle, saw numerous “problems” with it, yet decided to purchase.

Complainant rebuts stating that the online advertising was misleading, claiming truck drove straight, no mention of rust, no mention of two previous accidents, etc. Complainant feels Respondent should pay for the repairs that occurred after two days of driving. Complainant offered to pay \$0.10 per mile and return the vehicle for a refund less the mileage.

Pictures of the advertisement and a copy of the Carfax was requested. The Carfax states the vehicle was involved in two previous accidents on 7/25/2014 and 4/28/2017. The advertisement does not mention rust but also does not mention a smooth ride except in a manufacturer’s detail about the type of vehicle.

Recommendation: Close.

Commission Decision: CONCUR.

- 105. 2020089661 (SH)**
Date Complaint Opened: 11/16/2020
First Licensed: 08/15/2018
Expiration: 06/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2019 – One complaint closed with letter of warning for false or misleading practices.

Complainant purchased a travel trailer/camper from Respondent on 5/26/2020 and never received the title after paying in full. The Respondent only provided a Bill of Sale and told Complainant that the travel trailer is not required to have a title. The local County clerk's office informed Complainant that he needed to pay taxes and register the vehicle but the only way to do it is with the original title. Complainant was unsuccessful in obtaining the title from Respondent. After researching the VIN, Complainant learned that the trailer was sold at auction with a non-repairable title which they had no knowledge of and did not sign any papers stating the same.

Respondent sold the trailer from a Tennessee lot however listed an Alabama dealership name as the seller. Respondent has been uncooperative in this matter.

Recommendation: Authorize a civil penalty of \$2,000 for deceptive business practices and selling a non-repairable/salvage vehicle.

Commission Decision: CONCUR.

- 106. 2020087741 (SH)**
Date Complaint Opened: 11/09/2020
First Licensed: 08/01/1994
Expiration: 07/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

An anonymous Complainant alleges Respondent is not an operating business, no active sales,

but using the business to avoid paying local wheel taxes.

Respondent denies the allegations and states the business is not operating due to family issues/divorce. The building will be moved in the near future to another lot so that Respondent may continue to operate.

Recommendation: Close.

Commission Decision: CONCUR.

- 107. 2020088221 (SH)**
Date Complaint Opened: 11/10/2020
First Licensed: 11/01/2016
Expiration: 08/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2017 – One complaint closed with \$250 agreed citation for failure to produce sales tax id number.

Complainant, a Mississippi resident, purchased a vehicle on 9/26/2020 and has not received the title as of 11/10/2020.

Respondent states the Complainant received the title on 11/24/2020. Complainant verified receiving the title and requests the complain to be closed.

Recommendation: Close.

Commission Decision: CONCUR.

108. 2020089161 (SH)
Date Complaint Opened: 11/13/2020
First Licensed: 04/02/2018
Expiration: 03/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from Respondent in 2006 and never received the title and the lien was never released. Complainant alleges Respondent has closed.

Respondent states they are not closed and that Complainant has not finished paying the loan and that is the reason for not releasing the lien. Respondent decided to write off the low balance and send the title to Complainant.

Recommendation: Close.

Commission Decision: CONCUR.

109. 2020079831 (ES)
Date Complaint Opened: 10/09/2020
First Licensed: 09/08/2009
Expiration: 07/31/2021 (Closed)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

A NOV was issued to Respondent during an annual inspection at a sister facility on 10/6/20. Respondent had an expired dealer license on display, had no display of a county business license and no sales tax usage number was posted. The dealership closed and cancelled their license on 6/20/19 and is not selling vehicles from this location, only at the sister location. The inspector was unaware of this fact. The sister location located within walking distance has the required active business licenses and sales tax number posted. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

110. 2020090831 (ES)

Date Complaint Opened: 11/20/2020

First Licensed: 04/05/2000

Expiration: 03/31/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2019 – One complaint closed and flagged for N.O.V. for expired business license, failure to post business hours, expired garage liability insurance, and operating as an unlicensed dismantler and recycler.

A NOV was issued to Respondent during an inspection on 11/17/20 because their garage liability insurance had expired on 6/8/20. This is the second time Respondent has been cited for this violation. Counsel recommends issuing a \$500 civil penalty for this violation.

Recommendation: Authorize a \$500 civil penalty for expired garage liability insurance

Commission Decision: CONCUR.

111. 2020083841 (ES)

Date Complaint Opened: 10/23/2020

First Licensed: 03/19/2019

Expiration: 02/28/2021

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

A NOV was issued to Respondent during an inspection on 10/21/20 because they were unable to produce their county business license. Respondent later disputed the Agreed Citation because they were in the middle of remodeling their office and they had taken the license to get a new frame; it happened to be gone during the inspection for this reason. Respondent provided proof their county business license was active during inspection. Counsel recommends issuing a Letter of Warning for failing to have the active county business license posted

considering the circumstances.

Recommendation: Letter of Warning for failing to post active county business license

Commission Decision: CONCUR.

112. 2020086911 (ES)
Date Complaint Opened: 11/05/2020
First Licensed: 05/11/2018
Expiration: 04/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vintage car from Respondent and alleges they did not properly fill out the title for registration purposes. Complainant does state they were pleasant to deal with and Complainant has since confirmed that Respondent is working quickly to resolve this issue with them. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

113. 2020088381 (ES)
Date Complaint Opened: 11/10/2020
First Licensed: 01/29/2013
Expiration: 12/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant is alleging deceptive business practices by the Respondent and is also alleging that they falsified the odometer on the vehicle purchased. Complainant provided no evidence to

support these allegations. Respondent has since confirmed they were able to secure financing on terms favorable to the buyer and everything has been reconciled to the Complainant's satisfaction. There is no evidence of any violations and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

114. 2020090461 (ES)
Date Complaint Opened: 11/19/2020
First Licensed: 06/07/2017
Expiration: 06/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

A NOV was issued to Respondent during an inspection on 11/16/20 because they were unable to produce their county business license. Respondent later disputed the Agreed Citation because the license was unavailable due to theft. The business had been broken into and filing cabinets and other property was taken. Respondent provided proof that the license was active at the time of inspection and provided a copy of their license showing they have posted it again. Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

115. 2020092101 (ES)
Date Complaint Opened: 11/30/2020
First Licensed: 03/15/2007
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer

History (5 yrs.): 2019 – One complaint opened for open titles and expired county business license.

A NOV was issued to Respondent during an inspection on 11/20/20 because a temporary tag was issued to a salvage vehicle that did not have a rebuilt title. Counsel recommends issuing a \$2,500 civil penalty for this violation.

Recommendation: Authorize a \$2,500 civil penalty for issuing a temporary tag to a salvage vehicle

Commission Decision: CONCUR.

**116. 2020082411 (SH)
Date Complaint Opened: 10/20/2020
First Licensed: 09/12/2017
Expiration: 09/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.**

Complainant purchased a vehicle on 2/11/2019 but the title still shows a lien and the Respondent has allegedly gone out of business. Respondent has closed its business and was unable to be contacted. Surety bond was sent to the Complainant.

Recommendation: Close.

Commission Decision: CONCUR.

**117. 2020082721 (SH)
Date Complaint Opened: 10/23/2020
First Licensed: 12/20/2018
Expiration: 08/31/2020 (Expired)**

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

Complainant purchased a motorcycle for their grandson on 9/4/2020 but never provided a Bill of Sale or MCO therefore cannot register the motorcycle. Respondent states they have sent the MCO three times and Complainant still continues to claim no receipt. Complainant finally verified that the MCO was received on 12/3/2020.

Recommendation: Close.

Commission Decision: CONCUR.

118. 2020087651 (SH)
Date Complaint Opened: 11/09/2020
First Licensed: 06/18/2018
Expiration: 06/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle on 10/17/2020 but after two days the vehicle had mechanical issues and the vehicle was returned. Complainant requested a refund of the down payment but still has not received the money.

Respondent provided a return agreement that Complainant signed stating they would receive a refund in two weeks. On 11/3/2020 a refund check was mailed to Complainant and received on 11/5/2020 however the check has not cleared the bank. Respondent states they will be glad to issue a stop order on the check and issue another one but will wait a few days to make sure the check is not deposited.

Recommendation: Close.

Commission Decision: CONCUR.

- 119. 2020081881 (SH)**
Date Complaint Opened: 10/16/2020
First Licensed: 08/27/2018
Expiration: 08/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2019 – One complaint closed with \$1,000 civil penalty for failure to deliver title/registration.

Complainant purchased a vehicle from a former dealership/franchisee, not Respondent, on 1/25/2016 along with a warranty product. When they traded the vehicle on 11/16/2019, Complainant requested the warranty to be cancelled and remaining balance to be returned. Complainant reached out to the contact information of the warranty product. The Respondent advised the former dealership was purchased by another company and could not help.

Respondent states they purchased the former dealership/franchisee. This dealer was dissolved in 8/2018 and since Respondent is not the selling dealer, they are unable to cancel this product from another dealership. Respondent states they tried to reach out to the warranty company but was unable to assist due to not being the selling dealer. Respondent provided Complainant with the contact information of the warranty company.

Recommendation: Close.

Commission Decision: CONCUR.

- 120. 2020087301 (SH)**
Date Complaint Opened: 11/06/2020
First Licensed: 03/25/2009
Expiration: 05/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – \$250 agreed citation for expired county business license. One complaint closed with Letter of Warning for deceptive advertising.

Complainant claims they were deceived by the Respondent about the condition of the vehicle they purchased which cost them thousands of dollars.

Respondent states that Complainant purchased a vehicle “as is” and signed all the necessary paperwork notifying of any issues. Complainant also purchased a warranty through the lender and Respondent has informed the Complainant to contact them for any mechanical issues that may or may not be covered.

Recommendation: Close.

Commission Decision: CONCUR.

121. 2020087961 (SH)
Date Complaint Opened: 11/09/2020
First Licensed: 07/07/2005
Expiration: 03/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2020 – one complaint closed with letter of warning for engaging in false, fraudulent, or deceptive practice(s).

Complainant bought a vehicle in 5/13/2020 and claims to be waiting on the 6th temporary tag. Respondent states the delay was due to the previous lienholder withheld the title until 10/15/2020 due to misinformation about the balance owed. Respondent sent the payoff amount after the purchase on 5/22/2020, but never receive the title. In 8/2020, when a 3rd temporary tag was issued, Respondent reached out to previous lienholder and was told there was a small balance remaining. Respondent sent the amount on 8/19/2020 and the lien was not released until 10/15/2020.

Complainant verified that the vehicle has been registered and requests the complaint to be closed.

Recommendation: Authorize a civil penalty of \$1,500 for issuing three more temporary tags than allowed by law.

Commission Decision: CONCUR.

122. 2020091901 (SH)
Date Complaint Opened: 11/27/2020
First Licensed: 01/08/2014
Expiration: 12/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – One complaint closed with executed Final Order with \$6,000 Civil Penalty and \$2253.75 Costs for unlicensed activity, \$500 civil penalty for failure to supervise and \$1,000 civil penalty for unlicensed activity.

Complainant states the check engine light came on a day after purchase and was told by Respondent to take it to their mechanic shop. The contract did state that any issues within 30 days were to be fixed by Respondent. The mechanic allegedly said it was the battery and cleared the code. Respondent refused to replace the battery. A few days later the vehicle began to jerk and would not accelerate. Respondent allegedly said there were no problems with the vehicle. Complainant had to replace the battery, alternator, brakes and rotors. Respondent allegedly stated they would reimburse the Complainant however have not done so yet. Further, the transmission is now slipping and will cost \$3000 but Respondent is refusing to fix.

Respondent states the contract does not state within 30 days they will fix any issues. The vehicle was sold "as is" with a 3 month/3000-mile service contract. Respondent provided service documents showing the bucking issues were due to bad spark plugs that were replaced at no cost. An electrical ground wire was causing the check engine lights and it was replaced. A test drive was made with Complainant and she was satisfied with the repair.

Recommendation: Close.

Commission Decision: CONCUR.

123. 2020092331 (SH)
Date Complaint Opened: 12/01/2020
First Licensed: 09/01/1991
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from Respondent on 10/3/2020 but after two weeks determined that the vehicle was not powerful enough for its purpose. Complainant traded the vehicle at another dealer and on 11/24/2020 that dealer called requesting the title to the trade or come in and sign for lost title. Complainant was concerned that Respondent did not give title to funding company. Complainant also believes they paid a higher doc fee and too much for registration. Respondent apparently sent the overage to the funding company.

Respondent states that the registration docs were sent to the local county clerk on 10/13/2020 and title would be sent directly to lienholder. Since Complainant traded after two weeks there was a delay and the title was issued on 12/8/2020. Respondent states they have a standard and average doc fee of \$699 and the registration fee was preloaded for their local county clerk. The county clerk for Complainant was less and the difference was sent to the lienholder on 11/11/2020. Respondent states they will send Complainant the difference once the lienholder returns the check.

Complainant verified receiving the difference and requests the complaint to be closed.

Recommendation: Close.

Commission Decision: CONCUR.

124. 2020091221 (ES)
Date Complaint Opened: 11/23/2020
First Licensed: 05/01/2012
Expiration: 03/31/2022
License Type: Motor Vehicle Dealer

History (5 yrs.): 2016 – One complaint closed with \$500 civil penalty for failure to deliver title.

Complainant is alleging that the Respondent sold them a car and the VIN number on the paperwork does not match the VIN number on the car. Complainant later asked to withdraw this matter because there was a misunderstanding which led to an error on the paperwork. Respondent has refunded Complainant's money and Counsel recommends closure.

Recommendation: Close.

Commission Decision: CONCUR.

- 125. 2020085801 (ES)**
Date Complaint Opened: 11/02/2020
First Licensed: 11/29/2010
Expiration: 08/31/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): 2016 – One complaint closed with \$2,000 civil penalty for failure to maintain liability insurance, maintain city/county business license, license for each location, and possession of 2 open titles.

A Notice of Violation was issued to Respondent during an annual inspection on 10/28/20 because they could not produce an active county or city business license. This is the second time Respondent has been cited for these violations. Counsel recommends issuing a \$500 civil penalty for each violation, for a total \$1,000 civil penalty.

Recommendation: Authorize a \$1,000 civil penalty for failure to maintain an active county business license and city business license

Commission Decision: CONCUR.

- 126. 2020090911 (SH)**
Date Complaint Opened: 11/21/2020
First Licensed: 04/13/1995
Expiration: 06/30/2021
License Type: Motor Vehicle Manufacturer/Distributor
History (5 yrs.): None.

Complainant bought a vehicle on 8/19/2019 and alleges the navigation system on their vehicle placed the vehicle in the wrong state, has no Satellite radio connection, clock or compass, and other issues. Complainant claims they took the vehicle to a dealership to have it fixed but nothing was done after months of waiting. The issues started before they purchased the vehicle and their extended warranty has since expired.

Respondent looked at their records and did not see where the Complainant had visited a manufacturer dealer for the issues. Respondent states the navigation, radio and clock issues would be covered under the warranty if it was under 3 years or 36,000 miles however this vehicle was originally sold on 4/26/2015. Respondent did offer for Complainant to reach out to them to see if there was anything they could assist with.

Recommendation: Close.

Commission Decision: CONCUR.

- 127. 2020083971 (SH)**
Date Complaint Opened: 10/27/2020
First Licensed: 06/30/2020
Expiration: 06/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant, a Georgia resident, purchased a vehicle in TN and requested the sales tax to be included in the purchase price. Complainant paid in full including the sales tax. When Complainant went to register the vehicle in GA, the tax had not been paid, and claims the

Respondent is refusing to help.

Respondent claims they charged Complainant the TN sales tax, as instructed by the Dept. of Revenue, and the GA sales tax is the responsibility of the Complainant. Respondent did not need to collect TN sales tax since the Complainant was a GA resident and taking the vehicle to GA within 72 hours. Respondent should have completed a 3-day affidavit and submitted with their monthly sales tax. Complainant would then pay GA sales tax when registering the vehicle in GA. Respondent did submit the sales tax to Department of Revenue.

Recommendation: Authorize a civil penalty of \$500 if Respondent does not agree to refund the Complainant the sales tax and tag fee within 30 days. If fees are refunded, complaint will be closed with no penalty.

Commission Decision: CONCUR.

128. 2020092191 (SH)
Date Complaint Opened: 11/30/2020
First Licensed: 11/02/2001
Expiration: 10/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

On 10/19/2020, Complainant, a Florida resident, purchased a vehicle, in cash. The Respondent explained that they may have lost the title but will get it to them as quickly as possible. Complainant was given a temporary tag and drove back to FL. After 6 weeks the title has not been received and the tag has expired. The previous owner had issues receiving the title from the auction but Respondent has since obtained it and sent to Complainant on 12/14/2020.

Recommendation: Letter of Warning regarding late delivery of title.

Commission Decision: CONCUR.

129. 2020088281 (SH)

Date Complaint Opened: 11/16/2020

First Licensed: 06/10/2004

Expiration: 06/30/2022

License Type: Motor Vehicle Dealer

History (5 yrs.): 2018 – One complaint closed with letter of caution for misrepresentation of purchased vehicle. One complaint closed without action. 2017 – One complaint closed without action. 2016 – One complaint closed without action.

Complainant purchased a vehicle and was told it was in good running condition before it was delivered that evening. The next day the vehicle would not run.

Respondent immediately refunded the purchase amount and issue has been resolved.

Recommendation: Close.

Commission Decision: CONCUR.

REPRESENTATIONS

130. 2019076631 (ES)

Date Complaint Opened: 09/11/2020

First Licensed: 08/28/2007

Expiration: 08/31/2021

License Type: Motor Vehicle Dealer

History (5 yrs): None.

A Notice of Violation was issued to Respondent during an inspection on 9/9/19. Respondent was in possession of 6 open titles and when asked to produce temporary tag logs, Respondent stated

they had been thrown away when they started using the EZ Tag system in October 2018. The investigator informed Respondent that they are required to keep the temporary tags and log for 18 months past the time they were thrown out. Counsel recommends issuing a civil penalty of \$500 per open title (6 x \$500) and a \$500 civil penalty for failure to produce business records, for a total \$3500 civil penalty.

Recommendation: Authorize a \$3500 civil penalty for failure to produce business records and for possessing open titles

Commission Decision: CONCUR

New Information: After Respondent received the Consent Order, they immediately called Counsel to discuss it. Counsel was informed that the open titles were not in the possession of Respondent dealer. Respondent tried to explain that to the inspector at the time of inspection, but it was not documented in the inspection report. Respondent dealer shares an office with a wrecker service and these titles were in the wrecker's possession. Counsel recommends voiding the previous Consent Order and issuing a \$500 civil penalty for failure to produce business records.

New Recommendation: Authorize a \$500 civil penalty for failure to produce business records

New Commission Decision: Further investigate complaint regarding open titles.

New Information: Further investigation was conducted and affidavits were obtained regarding the open titles. Respondent provided an affidavit swearing that the titles do not belong to the dealership and they were simply being held in a file folder at the front desk for the owner's father who owns the towing/wrecker service. When the inspector opened the file during inspection, all of the paperwork and documents fell out and were mixed up, although they are kept completely separate in the file with dividers. Respondent agreed to hold the titles for their father because they were having a difficult time keeping track of them but will no longer allow this, considering this NOV and confusion. Respondent's father, the owner of the towing/wrecker service also provided an affidavit where he swore that the titles at issue were being held by the wrecker service in the title notebook for safe keeping. They hold titles until wrecker bills are paid in full. Counsel recommends issuing a \$500 civil penalty for the single violation of failing to produce business records at the original inspection. Respondent has already agreed to sign a Consent Order and pay the civil penalty if approved by the

Commission.

New Recommendation: Authorize a \$500 civil penalty for failure to produce business records

New Commission Decision: **CONCUR.**

131. 2019084061 (ES)
First Licensed: 07/08/1998
Expiration: 06/30/2020
License Type: Motor Vehicle Dealer
History (5 yrs): None.

A Notice of Violation was issued to Respondent during an annual inspection in October 2019 for having expired city and county business tax licenses. Counsel recommends issuing a \$250 civil penalty for each of the two violations, for a total \$500 civil penalty.

Recommendation: Authorize a \$500 civil penalty for expired city and county business licenses

Commission Decision: CONCUR

New Information: Respondent has provided proof that the county and city business licenses were active at the time of inspection. Counsel recommends issuing a Letter of Warning to Respondent regarding the display of their active business licenses.

New Recommendation: Letter of Warning regarding display of active city and county business licenses

New Commission Decision: **CONCUR.**

- 132. 2019065911 (ES)**
First Licensed: 09/01/1991
Expiration: 11/30/2020
License Type: Motor Vehicle Dealer
History (5 yrs): 2017 – One complaint closed with letter of warning for failure to maintain sales and use tax.

A Notice of Violation was issued to Respondent when an annual inspection revealed several violations. Respondent did not have their dealer license posted and could not produce when we asked by the inspector. Respondent's business license was expired. Respondent did not have a Tennessee Sales Tax number posted and one could not be produced (this is the second violation for failure to display the sales tax number). Respondent's general liability insurance had expired 7/18/19. Counsel recommends issuing a civil penalty for each of these violations to total \$1,250 and conducting another inspection to follow up on these issues within 30 days.

Recommendation: Authorize a civil penalty in the amount of \$1,250 and re-inspection in 30 days

Commission Decision: CONCUR

New Information: Counsel has spoken to the son of the owner for Respondent's dealership because the owner is in his 80s and in bad health. Respondent's license expired and it will not be renewed. Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: **CONCUR.**

- 133. 2019077341 (ES)**
First Licensed: 03/15/2007
Expiration: 01/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs): None.

A Notice of Violation was issued to Respondent when an annual inspection revealed Respondent

was in possession of 8 open titles, had 21 missing entries on the temporary tag log, could not produce a surety bond and had an expired county business license. Additionally, Respondent failed to produce business records. Counsel recommends issuing a \$4,000 civil penalty for the open titles (8 x \$500), a \$500 civil penalty for the expired surety bond, a \$250 civil penalty for the expired county business license, a \$10,500 civil penalty for the deficient temporary tag log (21 x \$500) and a \$500 civil penalty for failure to produce records. In total, Counsel recommends a \$15,250 civil penalty and a follow-up inspection in 30 days.

Recommendation: Authorize a \$15,250 civil penalty for open titles, deficient temporary tag log, expired surety bond, expired county business license, failure to produce records, and re-inspection in 30 days

Commission Decision: CONCUR

New Information: A follow-up inspection conducted soon after the NOV was issued revealed all temporary tag log issues were corrected, the surety bond was active at the time of inspection, the county business license was active at the time of inspection, and requested business records were produced. Additionally, further review revealed there was only one open title at the time of inspection, the others were for vehicles that were never offered for sale and sent to the crusher. This was verified by vehicle history reports. Respondent explained that the inspector was not able to wait for them to get back to the dealership during the first inspection and if they would have waited, compliance would have been revealed at that time instead of waiting until the follow-up inspection. Respondent has been very cooperative and has already signed a proposed revised Consent Order issuing a \$500 civil penalty for one open title, and sent in a check for \$500 for payment of the revised civil penalty. This is being held until the Commission votes on the matter. Therefore, Counsel recommends authorizing the revision of the civil penalty to \$500 for having one open title at the time of the follow-up inspection.

New Recommendation: Authorize a \$500 civil penalty for possession of an open title

New Commission Decision: CONCUR.

134. 2019049391 (SH)
Date Complaint Opened: 05/31/2019

First Licensed: 10/12/1994
Expiration: 09/30/2020
License Type: Motor Vehicle Dealer
History (5 yrs): None.

Complainant alleged that she purchased a vehicle from Respondent on May 9, 2019 and did not receive the title. Complainant saw the vehicle on Facebook and was told to meet at Respondent's lot. Subsequently, Complainant later learned the vehicle was salvaged and an insurance company was the owner. A VIN check search shows the vehicle was a total loss on March 30, 2014.

The investigator met the salesperson for Respondent and learned that the owner of the dealership is closing his business and selling to the salesperson. The salesperson stated that no business was being conducted until the business deal was complete. There were only a few vehicles on the lot and the business seemed to be closed as the investigator went by there several times to find the gate locked.

The investigation determined that the vehicle sold did not belong to Respondent and was actually sold by the salesperson's cousin from the Respondent's lot. The salesperson stated he had no knowledge of this sale. He also admitted that he had another cousin previously sale a vehicle from the lot without his knowledge.

The cousin admitted to selling the vehicle. He told the investigator that he purchased the vehicle from a dealer in West Memphis, Arkansas, but did not know the dealer's name. He said a friend of his advertised the vehicle for him on his personal Facebook page. The cousin met the Complainant at Respondent's lot and sold the vehicle there. The cousin said he did not work at Respondent nor did he have permission to sell the vehicle at the lot. He said he used Respondent's Bill of Sale, receipt for payment, Buyer's Guide and copy of a business card because Complainant was adamant about having documentation. He stated to the investigator that he does not sell cars or work for a dealer or Respondent and does not have a salesman's license in the State of TN. The cousin stated he is in the process of getting the title for the vehicle so he can give it to the Complainant.

The Complainant has filed against the surety bond for reimbursement.

Recommendation: Authorize a civil penalty in the amount of \$500 for unlicensed activity.

Commission Decision: Approved

New Information: A request for an investigator to drive by the location was made. The investigator verified that the Respondent has ceased operations and there was no sign of business activity.

New Recommendation: Close.

New Commission Decision: **CONCUR.**

135. 2020026561 (SH)
First Licensed: 05/12/2015
Expiration: 03/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs): None.

Complainant purchased a vehicle on 12/23/2019 and has not received her tags as of 4/6/2020. Complainant alleges Respondent's assets have been frozen and unable to get the title.

There has been no response from the Respondent and research has failed to provide any answers on the alleged frozen assets.

The 2nd temporary tag would have expired on 2/23/2020. A third temporary tag was issued, and this tag would have not expired until 6/15/2020 due to the COVID pandemic.

Recommendation: Authorize a civil penalty of \$500 for issuing one temporary tag than allowed by law without authorization.

Commission Decision: APPROVED

New Information: A review of this matter revealed that due to the COVID-19 pandemic the Respondent has cancelled their license and closed operations.

New Recommendation: Close.

New Commission Decision: CONCUR.

136. 2020046591 (ES)
Date Complaint Opened: 06/18/2020
First Licensed: 05/23/2018
Expiration: 04/30/2022
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant was issued a Notice of Violation (NOV) during an inspection on 6/16/20 for having an unlicensed (expired) salesman and an expired county business license. Counsel recommends a civil penalty of \$250 for the expired business license and \$500 for expired salesman license for a total \$750 civil penalty.

Recommendation: Authorize \$750 civil penalty for expired business license and expired salesman license

Commission Decision: Concur.

New Information: Counsel received a letter and supporting documentation from Respondent's attorney providing proof that the salesman with an expired license was not working at the dealership at the time of inspection. Additionally, they provided proof the county business license was not expired at the time of the inspection due to an extension granted by the county due to COVID. Counsel recommends closure.

New Recommendation: Close.

New Commission Decision: CONCUR.

137. 2020015581 (SH)
First Licensed: 01/24/2018
Expiration: 12/31/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant purchased a vehicle from Respondent on 11/16/2019 and after three months the title has not been produced. The title is still under the previous owner's name. Complainant further alleges the Respondent gave them a dealer plate, but Complainant is not comfortable in using the plate.

Research shows the registration was transferred on 3/12/2020 and lien perfected on 5/5/2020.

Recommendation: Authorize a civil penalty of \$500 for misuse of a dealer plate.

Commission Decision: APPROVED

New Information: A request for an investigator to drive by the location was made. The investigator verified that the Respondent has ceased operations and there was no sign of business activity.

New Recommendation: Close.

New Commission Decision: CONCUR.

138. 2020018331 (SH)
First Licensed: 08/30/2017
Expiration: 08/31/2021 (CLOSED 4/13/2020)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Customer traded a vehicle with Complainant/dealership in December 2019 but at the time did not have the title. Customer previously purchased the vehicle from Respondent in November 2019. Customer stated the Respondent never sent the title before it closed, and the titles were apparently in storage.

The vehicle was properly registered and titled as of 5/27/2020. Respondent has closed operations.

Recommendation: Authorize voluntary surrender of paper title.

Commission Decision: APPROVED

New Information: A request for an investigator to drive by the location was made. The investigator verified that the Respondent has ceased operations and there was no sign of business activity.

New Recommendation: Close.

New Commission Decision: **CONCUR.**

139. 2019023651 (ES)
2019023791
2019025381
2019057901
2019078901
**Date Complaint Opened: 2019023651:03/25/2019, 2019023791:03/25/2019, 2019025381:
03/28/2019, 2019057901: 06/28/2019, 2019078901: 09/23/2019**
First Licensed: 04/18/2005
Expiration: 03/31/2019
License Type: Motor Vehicle Dealer
History (5 yrs): 2018 – One complaint closed without action

2019023651, 2019023791, 2019025381

Complainant is a competitor dealer who alleges Respondent is selling new cars without a franchise license. After this complaint was filed, Respondent's license expired on 3/31/19 and no renewal application has been received. Respondent denies the allegations and claims they only sell used cars and do everything "by the book." A brief investigation was conducted until the investigator was contacted by a Special Agent from the Department of Revenue. We were asked to put this case on hold because they are investigating Respondent based on the same allegations made in this complaint, as well as fraud and tax evasion. Days later, the dealer's owner was arrested on a warrant out of Illinois after purchasing a vehicle from a dealer there and failing to pay for it. Additionally,

another Special Agent is investigating Respondent for issues related to temporary tags. Respondent was recently raided by state authorities and at least fifty cars were towed from the lot. Respondent will most likely face criminal and federal charges here in Tennessee based on the information provided to me from state authorities. Once the state investigations are concluded, we can revisit these complaints with the information provided to us and our investigator can finish his investigation.

2019057901, 2019078901

Respondent was arrested for a third time recently and charged with two counts of filing a false sales tax return. Respondent bonded out and is scheduled for a status hearing on 6/19/20, and trial is set for 7/20/20. Respondent is also under Receivership due to charges filed by the Department of Revenue. Respondent's next status conference with the DOR is 2/14/20. Respondent's license is suspended and expired.

At the last meeting, the Commission voted to put all of the open complaints related to this Respondent into Monitoring status. Counsel recommends placing these two complaints into Litigation Monitoring status as well, considering these matters will be represented at a later date once the criminal cases and DOR case has concluded.

Recommendation: Authorize Litigation Monitoring status for this complaint and any additional complaints that are filed against Respondent based on similar or related allegations.

Commission Decision: CONCUR

2019023651

New Information: This complaint was filed on 3/22/19 by a consumer who purchased a vehicle from Respondent on 7/19/18. Complainant traded their vehicle and alleged Respondent failed to pay off the lien for it. Counsel recently reached out to Complainant to find out if Respondent ever resolved this and Respondent has not. Complainant still owes for the truck they traded in. Counsel recommends authorizing revocation of Respondent's license and merging this matter with those that led to summary suspension.

New Recommendation: Close.

New Commission Decision: **CONCUR.**

2019023791

New Information: This complaint was filed on 3/25/19 by a consumer who purchased a vehicle from Respondent on 12/5/18. Complainant traded their vehicle and alleged Respondent failed to pay off the lien for it. Respondent had been making payments towards the lien up until February 2019 but was arrested in March 2019 and the lien had not been paid off. Counsel has reached out to Complainant to find out if Respondent paid off the lien. Counsel has not received a response or any evidence to prove the allegations. Considering the other matters and request for authorization to revoke Respondent's license, Counsel recommends closing and flagging this matter.

New Recommendation: Close and flag.

New Commission Decision: **CONCUR.**

2019025381

New Information:

This is an administrative complaint opened on 3/28/19 simply requesting further investigation into Respondent considering the amount of complaints we had received prior to the summary suspension of Respondent's license. This complaint is duplicative of the others summarized on this report related to Respondent. Counsel recommends closure.

New Recommendation: Close.

New Commission Decision: CONCUR.

2019057901

New Information: This is an administrative complaint opened on 6/28/19 after information was received from a county clerk that Respondent was asking another dealer to broker a deal for them while their license was summarily suspended. Counsel recommends authorizing revocation of Respondent's license and merging this matter with those that led to summary suspension.

New Recommendation: Authorize revocation of Respondent's dealer license

New Commission Decision: CONCUR.

2019078901

New Information: This complaint was filed on 9/21/19 by a consumer who purchased a vehicle from Respondent on 11/9/18. Complainant alleges Respondent never transferred their tags to the purchased vehicle and states the title to the vehicle cannot be found. Counsel recently reached out to Complainant to find out if Respondent ever resolved this and is awaiting response. Counsel recommends authorizing revocation of Respondent's license and merging this matter with those that led to summary suspension.

New Recommendation: Authorize revocation of Respondent's dealer license

New Commission Decision: CONCUR.

140. 2019015051 (ES)
First Licensed: 05/12/2015
Expiration: 04/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs): 2018 – Two complaints closed without action. 2017 – One complaint closed with agreed citation. 2016 – One complaint closed with letter of warning.

Respondent was issued a Notice of Violation during an annual inspection on 2/20/19 for failing to disclose a motor vehicle's salvage history. The inspector found several contract sales of salvaged/rebuilt vehicles that the business failed to notify the customer of salvage history in writing and recorded two of those contracts with the NOV.

Recommendation: Authorize a civil penalty of \$1,000 for failing to disclose salvage history to customers

Commission Decision: CONCUR

New Information: Respondent signed a Consent Order related to a more recent complaint and agreed to the voluntary surrender of their dealer license so Respondent is no longer in business and the license is revoked. Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: CONCUR.

141. 2019065541 (ES)
First Licensed: 05/12/2015
Expiration: 04/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs): 2018 – Two complaints closed without action. 2017 – One complaint closed with agreed citation. 2016 – One complaint closed with letter of warning.

An inspection was conducted at Respondent dealership on 7/24/19 which revealed the following violations:

- Issuing temporary tag to a salvage vehicle in violation of TCA §55-17-114
- Failure to produce business records in violation of Rule 0960-01-.11

- Failure to disclose motor vehicle salvage history in violation of Rule 0960-01-.29

The inspector notes that he has issued Notice of Violations to Respondent for some of the same recurring violations on 6/30/16, 8/7/17 and 2/20/19. A Notice of Violation was issued during this inspection as well citing the three violations in referenced in bullet points above. Counsel recommends assessing a \$1,000 civil penalty for each of the three violations for a total \$3,000 civil penalty.

Recommendation: \$3,000 civil penalty for violations of TCA §55-17-114, and Rules 0960-01-.11 and 0960-01-.29 and re-inspect dealership in 30 days.

Commission Decision: Approved

New Information: Respondent signed a Consent Order related to a more recent complaint and agreed to the voluntary surrender of their dealer license so Respondent is no longer in business and the license is revoked. Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: CONCUR.

142. 2019050311 (ES)

2018050471

First Licensed: 08/11/2016

Expiration: 07/31/2020

License Type: Motor Vehicle Dealer

History (5 yrs): 2018 – One complaint closed with \$500 civil penalty for failure to deliver title.

2019050311

Complainant alleges Respondent sold her a vehicle on 3/2/18 that had been declared a total loss without disclosing that information. Complainant filed a lawsuit against Respondent in civil court alleging violations of the Tennessee Consumer Protection Act, fraud, and misrepresentation regarding their sales practices. Respondent requests this matter be held in abatement until the conclusion of the civil case, therefore Counsel recommends placing this complaint in a Litigation Monitoring status.

Recommendation: Place in Litigation Monitoring

Commission Decision: CONCUR

New Information: Counsel has reached out to Respondent's attorney requesting an update regarding the civil case numerous times and has not received a response. A vehicle history report shows the vehicle at issue was not salvaged as alleged. There is no evidence of any violations and Counsel recommends closure.

New Recommendation: Close.

New Commission Decision: **CONCUR**.

2018050471

New Information: Complainant is a former employee of Respondent's who alleged Respondent disregards safety over greed, and claims Respondent sells vehicles without air bags and does not properly title rebuilt vehicles. This matter was placed into Litigation Monitoring status after Respondent filed a libel lawsuit against Complainant for these claims. Complainant filed this complaint after Complainant appeared in court unprepared to proceed, most likely in retaliation against Respondent. Respondent had terminated Complainant for overcharging for parts. Counsel has requested an update from Respondent's counsel but has not received a response. Due to the age of this complaint and lack of evidence to prove the allegations after an investigation was conducted, Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: **CONCUR**.

143. 2020009361 **(ES)**
Date Complaint Opened: 02/05/2020
First Licensed: N/A
Expiration: N/A
License Type: Motor Vehicle Dealer
History (5 yrs): N/A

Complainant is a licensed dealer and alleges unlicensed activity and an investigation was conducted. The investigation revealed that address provided in the complaint is being used for unlicensed activities. The advertisement of vehicles in excess of five by the same individual is ongoing, as per the phone number listed on all the vehicles. The investigator was unable to meet with anyone at the location but returned multiple times and confirmed that there is a turnover in the vehicles being advertised and the property is being maintained around the vehicles. The Respondent did talk to the investigator over the phone and claims they aren't doing anything wrong but the investigator states that Respondent gave false information over the phone and has not been forthcoming on providing a statement. The investigator concluded that Respondent is unlicensed, advertising the sale of vehicles, offering for sale vehicles they are not the registered owner of, and operating from multiple unlicensed locations, including a residence.

Recommendation: Authorize a civil penalty of \$1,000 or obtain a dealer license within 60 days

Commission Decision: Authorize a civil penalty of \$1,000 and obtain a dealer license within 60 days

New Information: The Respondent has since cooperated with Counsel and has been in communication with the program about applying for a dealer license. Respondent is committed to become compliant and received their dealer application packet in the mail in late December. Respondent has someone helping him complete the application and to obtain the documents needed to meet the requirements. Respondent has stopped all unlicensed activity after speaking with Counsel and the program, and will be sending in their dealer application as soon as they can. Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: CONCUR.

**144. 2019083401 (ES)
2019089341**

First Licensed: 12/14/2010

Expiration: 06/30/2020

License Type: Motor Vehicle Dealer

History (5 yrs): 2017 – One complaint closed with \$1,000 civil penalty for failure to deliver title.

Complainant alleges failure to deliver title after purchasing a used vehicle from Respondent and confirms the dealer has closed. Respondent dealer is owned by the same person and is part of the same business as the Respondent in Nos. 130 and 131 above. Counsel recommends approving voluntary revocation of this license considering the Respondent above already entered into a Consent Order voluntarily revoking their license at their sister location.

Recommendation: Authorize Voluntary Revocation of dealer license

Commission Decision: CONCUR

New Information: Respondent's dealer license has been expired since 6/30/20 and there has been no attempt at renewal. Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: CONCUR.

145. 2019083351 (ES)
First Licensed: 04/23/2018
Expiration: 03/31/2020
License Type: Motor Vehicle Dealer
History (5 yrs): None.

Complainant alleges failure to deliver title after purchasing a used vehicle from Respondent. Complainant also states that Respondent has closed their business. Respondent dealer is owned by the same person and is part of the same business as the Respondent in No. 130 above and No. 132 below. Counsel recommends approving voluntary revocation of this license considering the Respondent above already entered into a Consent Order voluntarily revoking their license at their sister location.

Recommendation: Authorize Voluntary Revocation of dealer license

Commission Decision: CONCUR

New Information: Respondent's dealer license has been expired since 3/31/20 and there has been no attempt at renewal. Counsel recommends closing and flagging this complaint.

New Recommendation: Close and flag.

New Commission Decision: CONCUR.

146. 2019072271 (ES)

First Licensed: 01/21/2016

Expiration: 12/31/2019 – check before meeting

License Type: Motor Vehicle Dealer

History (5 yrs): 2018 – One complaint closed with \$500 civil penalty for expired city and county business license.

During an annual inspection at Respondent's dealership on 8/22/19, Respondent was issued a Notice of Violation because they could not produce their county and city business licenses or their sales tax identification number. Counsel recommends assessing a civil penalty of \$500 per violation for failure to maintain city and county business licenses considering this is the second offense of this kind, and issuing a \$500 civil penalty for failing to display sales tax identification number, for a total civil penalty of \$1,500. Counsel also recommends a follow-up inspection in 30 days.

Recommendation: Authorize \$1500 civil penalty for failure to display sales tax identification number, and failure to have an active county and city business license, and re-inspection in 30 days

Commission Decision: CONCUR

New Information: Counsel has received proof from Respondent that their county and city business licenses were active at the time of the 8/22/19 inspection, as well as their sales tax identification number. Counsel recommends issuing a Letter of Warning regarding the display of the licenses and sales tax identification number.

New Recommendation: Letter of Warning regarding display of sales tax id number, and city and county business licenses

New Commission Decision: CONCUR.

147. 2020012341 (ES)
2020032311
First Licensed: 12/03/2019
Expiration: 11/30/2021
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

2020012341

Complainant alleges Respondent two and a half months to get their trade-in vehicle paid off. An investigation was conducted. Once the Complainant was contacted by the investigator, they revealed they had been made whole, confirmed the trade-in vehicle had been paid off, and stated they no longer wished to pursue the complaint. Respondent cooperated with the investigator fully and admits to experiencing problems while trying to secure a lender for final funding of the Complainant's deal in a timely fashion. Respondent noted they are a brand-new dealer (Dec. 2019) and this was a part of the problem and source of delay. Respondent was trying to get familiarized and established with lenders. However, Respondent denies any intentional misconduct and/or deceptive business practices as a result of the delays. Respondent also reimbursed Complainant for two payments made towards the trade-in vehicle as a gesture of goodwill.

2020032311

Complainant alleges Respondent failed to pay off the vehicle they traded in when they purchased a used car on or around 3/20/20. After this complaint was filed, Respondent confirmed the vehicle has been paid off and had been for some time. Respondent explained that the delay was caused by the fact that they only had half of their staff working due to COVID-19. Counsel recommends issuing a \$500 civil penalty for each violation for failure to pay off a trade-in vehicle within 30 days, for a total \$1,000 civil penalty.

Recommendation: Authorize a \$1,000 civil penalty for failure to pay off two separate trade-in vehicles within 30 days

Commission Decision: Remove from legal report and send for further investigation.

New Information: Counsel has requested further investigation but is still awaiting the deal file, to no fault of the Respondent. Specifically, the Commission requested information on whether there was a Conditional Delivery Agreement included in the sale of these vehicles. If Respondent produces a Conditional Delivery Agreement, Counsel recommends closure. If there was no Conditional Delivery Agreement, Counsel recommends issuing a \$500 civil penalty for each violation for failure to pay off a trade-in vehicle within 30 days, for a total \$1,000 civil penalty.

New Recommendation: Close if Conditional Delivery Agreement is produced OR Authorize a \$500 civil penalty for each violation of failure to pay off a trade-in vehicle within 30 days

New Commission Decision: CONCUR.

148. 2019045861 (SH)
Date Complaint Opened: 05/17/2019
First Licensed: 07/01/1991
Expiration: 06/30/2021
License Type: Motor Vehicle Manufacturer/ Distributor
History (5 yrs): None.

Complainant is a franchise dealer and has alleged many violations concerning an incentive program instituted by Respondent, Complainant's distributor. There are six components that the dealer must comply in order to receive bonuses and surplus payments. Complainant alleges that Respondent has imposed requirements to this bonus program that are unreasonable, unfair, arbitrary, unattainable and inequitable due to the market of the regions where Complainant is located. Complainant alleges that the bonuses are not offered on the same terms as made available to other dealers participating in this program. Complainant alleges that Respondent is forcing it to accept inventory that was not ordered by Complainant and Respondent is selling its vehicles to unlicensed dealers therefore competing against its own franchise. Complainant further alleges that Respondent is attempting to impose a requirement that Complainant spend millions of dollars in order to comply and receive program discounts and surplus payments. This requirement will change the capital structure of Complainant and threatens the future existence of Complainant.

Respondent denies the allegations in its response and filed a motion to dismiss based on the Commission not having jurisdiction to hear and adjudicate Complainant's complaint. Respondent justifies this by stating the Licensure Act does not authorize the Commission to hear this type of complaint and only allows the Commission to revoke or suspend licenses. Respondent states that Complainant is seeking unspecified relief and has not requested any revocation or suspension of licenses. Further, Respondent states the statutes do not authorize Complainant to be a "plaintiff" in a contested case proceeding seeking remedies for any violations. The statutes do authorize dealers to file complaints to file complaints with the

Commission, and authorize the Commission to conduct contested case hearings and grant relief, only with respect to specific provisions; 1) a dealer can challenge a manufacturer's plan to add an additional same-brand dealer in the relevant market area, and 2) a dealer can file a complaint alleging a notice of termination violates certain statutes. As such, the Respondent believes the Commission does not have authority to convene a contested case hearing instituted by a dealer as "plaintiff".

Recommendation: Due to the allegations raised and the voluminous information provided by both parties, it is recommended to place this matter in monitoring status to be further investigated and presented at a later date.

Commission Decision: Approved

New Information: Please see the overview of the allegations and responses above. Complainant, franchise dealer, has raised six allegations against Respondent, distributor/manufacturer.

The first allegation is a violation of TCA 55-17-114(c)(14). Complainant alleges Respondent does not provide the same incentives to Complainant that are under the Program to all Tennessee dealers of the same line-make. Complainant further alleges it is unable to achieve the highest levels of discounts based on Respondent's improper sales objectives, arbitrary market expectations, and unreasonable notion that Complainant is able to penetrate the local market as other same line-make dealers across the nation. Due to the unfair components, Complainant was placed in the lowest Tier and can never be placed in the highest Tier.

Respondent denies the allegations and states that the Complainant is responsible for marketing and selling in its area of responsibility ("AOR"), the market potential component is based on competitive group registrations in the AOR as a weighted percentage of national competitive group registrations and refers to a Manual for the formula for calculating the incentive level Tier. The sales objective is based on the individual market, which is calculated by taking into account the dealer's prior sales as a percentage of national sales and market potential. Further, Respondent believes the statute does not apply to its incentive program based on the language, "offered any refunds or other types of inducements to any person for the purchase of a new motor vehicle". According to Respondent, the program does not offer refunds or incentives to dealers "for the purchase" of a new motor vehicle. The program offers incentives to dealers for the retail sale of new vehicles. Moreover, Complainant has not offered any proof that Respondent does not apply the same criteria to all of its Tennessee dealers based on the Manual

or that the requirements are more arbitrary to Complainant.

The second allegation and third allegation are violations of TCA 55-17-114(c)(17) and (19). Complainant alleges that Respondent is selling motor vehicles to unlicensed dealers in the relevant market area ("RMA") of Complainant therefore is competing against its franchised dealer. Complainant alleges vehicles are being sold to unlicensed rental car agencies affect Complainant's sales objectives. Respondent believes these allegations are meritless because just like all manufacturers and distributors that provide large quantities of vehicles to national rental car companies, Respondent enters into master contracts with rental car companies pursuant to which the rental car companies order large volumes of specific models and request delivery of those models to their various locations throughout the country. To comply with state licensing and franchise laws, the vehicles are ultimately sold through licensed, authorized dealers. Respondent contracted with a licensed California dealer and sold to the rental car agency corporation located in Missouri based on a master agreement; the only connection to Tennessee were the 6 vehicles out of 400+ delivered to Tennessee. Respondent states that the sales in this matter are not considered in establishing its national sales objectives therefore cannot affect Complainant. Research revealed that the entities involved in these allegations were properly licensed as motor vehicle dealers however do not participate in selling the vehicles to the public. The vehicles are used for rental purposes only.

The fourth allegation is a violation of TCA 55-17-114(c)(5). Complainant alleges that Respondent is attempting to change the capital structure of Complainant by forcing it to spend millions of dollars to renovate its facility in order to receive Program Discounts and Surplus Payments. The expenditures required by Respondent will threaten the financial existence of Complainant. Complainant further alleges that Respondent does not require all franchisees to incur the same costs in order to participate in the programs and incentives. Respondent explains that the statute referring to the term "capital structure" means the distribution of debt and equity that makes up the finances of the company. The requirement in the agreements, signed by the Complainant, do not require it to adopt any particular distribution of debt or equity, or the implied costs of complying with its contractual obligations as implied by Complainant. Respondent continues to explain that the Complainant was not forced to agree to this requirement if it did not believe it could afford the costs. The requirement is only necessary of the Complainant, or any other franchisee, if it wanted to receive more incentives.

The fifth allegation sixth allegations are violations of TCA 55-17-114(c)(1) and (22). Complainant alleges Respondent coerced or attempted to coerce it to accept delivery of vehicles that were not voluntarily ordered by Complainant. Complainant also alleges Respondent threatened to

not deliver certain vehicles that Complainant ordered. Complainant provided a statement saying Respondent called Complainant in July 2018 after it turned down all certain vehicle models due to excessive inventory and would not allow Complainant to purchase any of the popular models if it refused to accept less desirable vehicle models. Respondent denies any threats and submitted a statement that shows Complainant accepting 53% of the vehicles that it claims having denied all in that same conversation in July 2018. Respondent further claims that Complainant never stated that they felt coerced, never accepted any certain vehicle models that it did not voluntarily ordered, and that Respondent refused Complainant to purchase other certain vehicle models.

New Recommendation: Discuss.

New Commission Decision: Defer to January 2021 meeting.

New Information: In order to facilitate this matter to a resolution, the complaint will be filed with the Administrative Procedures Division along with all exhibits. This matter will be set at a future date in order for the Commission to hear directly from the Complainant and Respondent.

New Recommendation: File with APD.

New Commission Decision: CONCUR.

Commissioner Galvin made a motion to approve the Legal Report, seconded by Commissioner Fox. Chairman Roberts called for a roll call vote.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED.

LEGISLATIVE UPDATE – Chief Counsel, Anthony Glandorf

Chief Counsel, Anthony Glandorf, conveyed the legislative updates that were currently in process. Mr. Glandorf indicated language was being reviewed for possible bills that would be supported through the administration that could impact the Motor Vehicle Commission. Specifically, time frames for dealers who are terminating salesperson licenses, and also salesperson license transfer applications.

RULES COMMITTEE

Nothing to Report

AUDIT COMMITTEE

Nothing to Report

NEW BUSINESS

OLD BUSINESS

ADJOURN

Chairman Roberts called for a motion to adjourn.

Commissioner Norton made a motion to adjourn the meeting, seconded by Commissioner Fox.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
John Murrey	YES
Debbie Melton	YES
Christopher Lee	YES
John Barker	YES
Ronnie Fox	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Karl Kramer	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED.

MEETING ADJOURNED

John Roberts, Chairman_____