

Minutes

1-7-13

**TENNESSEE MOTOR VEHICLE COMMISSION
 BOARD MEETING
 January 7, 2013 10:00 A.M.
 CONFERENCE ROOM 3rd Floor
 ANDREW JOHNSON TOWER, 710 JAMES ROBERTSON PKWY.
 NASHVILLE, TENNESSEE 37243**

ROLL CALL:

	<u>PRESENT</u>	<u>ABSENT</u>
EDDIE ROBERTS	X	
REED TRICKETT	X	
GEORGE BASS	X	
JOE CLAYTON	X	
KEVIN CULLUM	X	
DONNIE HATCHER		X
NATE JACKSON	X	
JOHN MURREY	X	
DON PARR	X	
STAN MCNABB		X
FARRAR SCHAEFFER	X	
MARK PIRTLE	X	
RONNIE FOX	X	
WADE HINTON		X
LYNN WEBB	X	
BILLY KECK		X

The Tennessee Motor Vehicle Commission Meeting was called to order by Chairman Eddie Roberts on January 7, 2013 Roll Call was taken with a total of (12) member's present.

A Motion was made by Nate Jackson, and seconded George Bass to adopt Roberts Rules of Order.

MOTION PASSED UNANIMOUSLY

A Motion was made by Commissioner Joe Clayton, and seconded by Commissioner Ronnie Fox, to approve the minutes from the October 8, 2012 meeting.

MOTION PASSED UNANIMOUSLY

Adopt Agenda

A Motion was made by Commissioner Mark Pirtle, and seconded by Commissioner Kevin Cullum.

APPEALS

The following appeals were heard by Commission.

Jamie Matthew Duty- Slemp Motors, Kingsport TN
Staff denied application

Motion was made by Commissioner Mark Pirtle, and seconded by Commissioner Kevin Cullum to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Abstain
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Abstain
Lynn Webb	Yes
John Murrey	Yes
Kevin Cullum	Yes

Motion passed to grant the license.

Michael Paul Good-Dobbs Nissan, Memphis, TN
Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Lynn Webb to grant the license.

ROLL CALL VOTE

Motion passed to deny the license.

Eddie Roberts	No
George Bass	Abstain
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Lynn Webb	Yes
Kevin Cullum	Abstain
John Murrey	Yes

Motion passed to grant the license.

William B. Massengale-Toyota Scion of Cleveland, McDonald, TN
Staff denied application-NO SHOW

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Kevin Cullum to uphold the denial of the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Lynn Webb	Yes
Kevin Cullum	Yes
John Murrey	Yes

Motion passed to uphold the denial of the license.

Kacy Dale Robinson- Fox Toyota Inc. Clinton, TN
Staff denied application

Motion was made by Commissioner Lynn Webb, and seconded by Commissioner Mark Pirtle to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Abstain
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Lynn Webb	Yes
Kevin Cullum	Yes
John Murrey	Yes

Motion passed to grant the license.

Jason A. Larkin- Town & Country Ford Inc., Madison, TN

Staff denied application-NO SHOW

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Kevin Cullum, to uphold the denial of the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Lynn Webb	Yes
Kevin Cullum	Yes
John Murrey	Yes

Motion passed to uphold the denial of the license.

Troy Dale Moulton-Moulton Motors, Madison, TN

Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Mark Pirtle to uphold the denial of the license.

ROLL CALL VOTE

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Lynn Webb	Yes
Kevin Cullum	Yes
John Murrey	Yes

Motion was to uphold the denial of the license.

Christopher L. Whitney- Auto Village, LLC., Lebanon, TN

Staff denied application

Motion was made by Commissioner Mark Pirtle, and seconded by Commissioner Nate Jackson to grant the license.

ROLL CALL VOTE

Eddie Roberts	No
George Bass	No
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Lynn Webb	No
Kevin Cullum	Yes
John Murrey	Yes

Motion was to grant the license.

DIRECTORS REPORT

Since the last Commission meeting in Oct., 2012 the following actions have been taken:

Dealers Opened, or Relocated135

Active Licensees as of December 1, 2012

Dealers.....	3940
Applications in Process.....	39
Distributions/Manufacturers	168
Auctions.....	31
Representatives.....	578
Salespeople.....	14899
Dismantlers.....	334
RV Dealers.....	24
RV Manufacturers.....	54

Motor Vehicle Show Permits Issued Since October 7, 2012, ...	6
Revenue Received	\$ 1200.00

Motion was made by Commissioner George Bass, and seconded by Commissioner John Murrey to approve the Directors report.

Old Business

None

New Business

None

Legal Report before the Legal Review Committee

Attendance: Chairman-Nate Jackson, Farrar Schaeffer, Joe Clayton, Eddie Roberts.

1. Case No.: 2012017961

Respondent/Dealer was issued a notice of violation for unlicensed activity due to dealer advertising motor vehicles at a location other than its licensed location. Respondent/Dealer had purchased an area behind its dealership which faced a different street and advertised motor vehicles on that location with a sign on the building that the dealership office was located behind the property. Photographs were taken of the site but not did show how many vehicles were actually set at the location for sale. Respondent provided a letter admitting to the second location but stated he did not know this was a violation.

Recommendation: Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

2. Case No.: 2012000901

Respondent received a notice of violation for failing to maintain its temporary tag log as found by an inspector.

Recommendation: Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

3. Case No.: 2012018101

Respondent received an agreed citation for failing to have current city and county business licenses. Respondent provided proof of license renewal. Respondent requested that the civil penalty be waived due to its own business hardship

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

4. Case No.: 2012017771

Complainant/Consumer alleged that she purchased a motor vehicle that is a “lemon”. Consumer listed all problems found with the vehicle. The Complainant appears to have a claim with the manufacturer.

Recommendation: Close – No Violation Found. Lemon law provisions apply to manufacturers.

Commission Action: Approved.

5. Case No.: 2012018431

Complainant/Consumer alleged that Respondent/Dealer sold her a motor vehicle with mechanical issues and requested another vehicle or rescission of the deal. A limited 30 day warranty on the engine and transmission was provided at the time of sale. The allegations of the complainant do not concern those two items sold in the warranty.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

6. Case No.: 2012019251

Complainant/Consumer alleged that Respondent/Dealer took a down payment for a vehicle to be ordered and after the contractual agreement, rescinded the sale and refunded Complainant's down payment. The facts are agreed upon by both parties. Complainant ordered a rare 2013 Ford GT 500 from Respondent/manager who indicated it had an allotment from the distributor. A down payment was taken for the vehicle. The following business day, the manager indicated to the Respondent/owner of dealership that the vehicle was sold. Respondent indicated that the allotment given was an award and the vehicle was not for sale. Respondent communicated this to Complainant and refunded the monies. Complainant demands vehicle be sold.

It is apparent that the owner intended the vehicle not be for sale but failed to relate this to his manager. Failing to notify his manager is a failure to reasonably supervise its agents.

Recommendation: Close with a letter of warning regarding communicating effectively with agents and to supervise their acts reasonably.

Commission Action: Approved.

7. Case No.: 2012019121

Complainant/Consumer alleged that Respondent/Dealer failed to provide title or allow possession of vehicle paid for. Respondent replied and admitted that it was paid approximately \$77,000.00 for a vehicle but would not allow Complainant to take possession due to a breach of contract on part of the Complainant. Specifically, that Complainant agreed not to export the vehicle purchased from Respondent. Respondent, as a part of its franchise agreement cannot sell vehicles that will be knowingly exported. Complainant requested delivery of vehicle to North Carolina. At time of pickup, the transporter's bill of lading indicated the vehicle was to be shipped to Flint, Michigan, to a person listed by the manufacturer as a known exporter.

Recommendation: Close – No Violation Found. Sales contract prohibited Complainant from taking possession of vehicle.

Commission Action: Approved.

8. Case No.: 2012019261

Complainant/Consumer alleged fraud on part of Respondent/Dealer concerning repairs done to a recreational vehicle. Complainant alleged that Respondent failed to correct items indicated as fixed on the bill of sale. Respondent provided documentation of the repair order indicating faults requested service and service performed. The documentation provided does not show a failure to repair any of the mentioned items.

Recommendation: Close – No Violation of Found.

Commission Action: Approved.

9. Case No.: 2011031011

A notice of violation was issued by an investigator for Respondent/Dealer failing to maintain its temporary tag log and for failing to have its phone number posted.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,250.00) (\$1,000 - improperly accounted temporary tags) (\$250 – no phone number posted) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

10. Case No.: 2012019061

Complainant/Consumer alleged that Respondent/Dealer sold her a motor vehicle with a blown engine, further alleged that Respondent did not provide a buyer's guide and that she paid \$4,000 for the vehicle but the bill of sale indicated \$2,000. Documentation in the complaint showed a copy of the buyer's guide with an additional "as-is" notification signed by the Complainant. The bill of sale signed by Complainant indicated sale for \$2,000. The vehicle was sold "as-is" and there is no proof of misrepresentation.

Recommendation: Close – Insufficient proof of misrepresentation.

Commission Action: Approved.

11. Case No.: 2012017951

Respondent received a Notice of Violation for failing to properly account for all temporary tags issued as found by an inspector during a biennial inspection.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

12. Case No.: 2012018981

Complainant/Consumer alleged that Respondent/Dealer sold her a motor vehicle with mechanical problems. The vehicle was purchased over the internet. Complainant flew from SC to TN in order to pick up the vehicle. Complainant was provided Carfax signed by her indicating no known accidents, and a buyer's guide indicating an "as-is" purchase. Complainant observed the vehicle and Respondent agreed to replace the radio and spare tire. It appears that Complainant did not test drive vehicle. The vehicle then had mechanical problems on the interstate. Complainant states that the transmission would not shift into overdrive, provided documentation of such at a repair facility and further stated that the vehicle's air bag sensor was out along with the light bulb for the sensor. The vehicle was purchased by Respondent from another dealer the month prior at an Arizona auction.

Recommendation: Close – Insufficient evidence of misrepresentation on part of the Respondent. Complainant signed “Carfax”, purchased “as-is” and had opportunity to inspect vehicle.

Commission Action: Approved.

13. Case No.: 2012017041

Complainant/Consumer alleged that Respondent/Dealer failed to make a promised refund of \$75.00 associated with obtaining tags for Complainant in Marshall County. Complainant also alleged the vehicle came with a quality inspection by Respondent but after purchasing the vehicle, Complainant deemed it necessary to change the cabin filters and have the vehicle rotors lathed. Respondent provided documentation showing the \$75 was refunded to Complainant.

Recommendation: Close – No Violation Found. Respondent provided proof of reimbursement.

Commission Action: Approved.

14. Case No.: 2012017451, 2012017591

These two complaints are related. The first complaint alleged a violation of Respondent/Dealer failing to be separate and apart from a business located next to it. A door was breached by the dealer to the business next to it due to a fire code requirement. The dealer was then informed of its failure to be separate and apart from the neighboring business. The fire marshal allowed the Respondent to seal the wall and gave them an exception. The second complaint alleged that the Respondent was conducting unlicensed activity due to their failure to maintain separate and apart from the neighboring business, however, there is no proof of such.

Recommendation: Close – Insufficient evidence of violation of requirement for dealer to be separate and apart.

Commission Action: Approved.

15. Case No.: 2012017871

Complainant/Consumer alleged misrepresentation on part of Respondent/Dealer. Complainant states she purchased a vehicle from Respondent and traveled from another state to purchase and pick up the vehicle. At time of pick up, Complainant states the vehicle would not drive. Complainant states Respondent informed her of a transmission computer problem that would cost around \$500. Complainant decided to purchase vehicle and had it transported to her home. Complainant was quoted \$4000-\$5000 to fix the issue and states Respondent will not rescind the deal.

Recommendation: No Violation Found. – Complainant was informed of mechanical issue prior to purchase.

Commission Action: Approved.

16. Case No.: 2012007781

Complainant/Consumer alleged that Respondent/Dealer failed to provide title for vehicle paid in full. Respondent's license expired in September 2011. Complainant states she paid off the vehicle in March 2011 and that Respondent provided Complainant with an expired dealer tag to use on her vehicle.

Recommendation: Close and Flag – Respondent's license expired. Referral to the TN Dept. of Revenue regarding misuse of dealer tag.

Commission Action: Approved.

17. Case No.: 2012021561

Complainant/Consumer alleged misrepresentation on part of Respondent/Dealer regarding a 1972 motor vehicle purchased on E-bay, sight unseen. Complainant alleges that upon delivery of vehicle, there were mechanical problems with the vehicle that were not disclosed. Vehicle was purchased "As-Is."

Recommendation: Close – No Violation Found. Vehicle purchased sight unseen. Insufficient proof of misrepresentation.

Commission Action: Approved.

18. Case No.: 2012010881

Complainant/Consumer alleged that Respondent/Dealer misrepresented the brand of title to be delivered. Complainant alleged she received a "rebuilt" title but was promised an unbranded title. An investigation was conducted. Title in possession by Respondent at time of sale was an unbranded Kentucky title. When title was transferred to TN, Complainant received a "rebuilt" title. The TN Dept. of Revenue indicated that the vehicle was previously reconstructed in TN and had a "rebuilt" title but when transferred to Kentucky, that state produced an unbranded title, which was provided to Respondent. Respondent offered to purchase the vehicle back from Complainant but Complainant refused. Respondent could not have determined previous title brand even if requested through TN Dept. of Revenue, as their records did not link the current vehicle title to the previous.

Recommendation: Close with a Letter of Warning regarding representation of vehicle title. Respondent's title in possession was non-branded from KY, but was previously branded in TN.

Commission Action: Approved.

19. Case No.: 2012019011

Complainant/Consumer alleged that Respondent/Dealer failed to pay off trade-in vehicle within 30 days. Complainant purchased a 2009 used vehicle in the spring of 2011 and traded in a 2008 used vehicle. The 2008 vehicle had a lien against it. The Respondent provided a bill of sale indicating that the Complainant failed to indicate there was a lien on the vehicle. The Bill of sale indicates that the Complainant was given \$11,000 credit for the trade-in and there was no payoff on the trade-in. The Complainant purchased the 2009 vehicle with the price discounted by the trade-in value. Respondent indicated that the Complainant failed to communicate that there was a payoff on the vehicle. The Complainant indicated that there was a payoff. Regardless, Respondent never received a payoff amount from 3rd party financing on the purchase of the 2009 vehicle. As such, TCA 55-177-114(b) (2) (D) does not apply as there was not an agreed upon trade-in amount.

Recommendation: Close – No Violation Found. Bill of sale signed by Complainant indicates clear title on trade-in and no payoff amount. Parties did not agree upon a trade-in amount or payoff.

Commission Action: Approved.

20. Case No.: 2012020471

Complainant/Consumer alleged that Respondent/Dealer sold him a vehicle previously salvaged without disclosing such and that Respondent will not recognize a warranty provided verbally. Respondent provided a Buyer's Guide signed by Complainant recognizing "no warranty" provided with the vehicle along with a signed disclosure that the vehicle was rebuilt and previously salvaged.

Recommendation: Close – No Violation Found. Buyer's Guide signed by Complainant indicates "no warranty." Complainant signed statement disclosing vehicle as "rebuilt."

Commission Action: Approved.

21. Case No.: 2012016971

Complainant/Consumer alleged that she was charged a hidden package fee disguised as a doc. fee and was not informed of such in 2010. Respondent has since gone out of business.

Recommendation: Close – Respondent is out of business.

Commission Action: Approved.

22. Case No.: 2012003931

An internal investigation was opened for possible unlicensed activity as a motor vehicle dealer. An investigation was conducted. There was insufficient evidence to substantiate the claim.

Recommendation: Close – Insufficient evidence of unlicensed activity.

Commission Action: Approved.

23. Case No.: 2011032171

Complainant/Consumer alleged that Respondent/Dealer failed to register a vehicle purchased. An investigation was conducted which found the Complainant was unwilling to participate.

Recommendation: Close – Insufficient Evidence of Violation.

Commission Action: Approved.

24. Case No.: 2012011271

An internal complaint was opened against Respondent/Dealer whose comprehensive garage liability insurance previously lapsed. Respondent was alleged to have sold a motor vehicle during the time period of no insurance. An investigation was conducted and found that the vehicle was sold during such period. However, the Respondent's place of business was abandoned and could not be found. The dealer's license also expired.

Recommendation: Close and Flag. Respondent is out of business and cannot be found.

Commission Action: Approved.

25. Case No.: 2012018021

An internal complaint was opened against Respondent/Dealer for employing an unlicensed salesperson. The unlicensed salesperson was the owner of the corporation. An agreed citation was sent to the Respondent who contested the citation indicating that his business was originally a sole proprietorship; that the dealer's license used to come with a pocket card with his name on it along with that of the dealership. Since that time, Respondent's business became incorporated and states he was not aware he had to personally apply for a separate salesperson license. Respondent is now individually licensed as a salesperson.

Recommendation: Close – Respondent became a licensed motor vehicle salesperson.

Commission Action: Approved.

26. Case No.: 2012018081

Respondent/Dealer was issued a notice of violation for failing to properly maintain its signage and for missing information in its temporary tag log. The Respondent replied addressing its temporary tag log missing date.

Recommendation: Authorization for a civil penalty in the amount of Seven Hundred Fifty Dollars (\$750.00) (\$500 temp. tag log / \$250 signage) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

27. Case No.: 2012022641

Complainant/Consumer alleged that Respondent/Dealer failed to disclose the Respondent was a licensed dealer during the sale of an off-road vehicle. Off-road vehicle sales do not require a state MVC license for sale.

Recommendation: Close – Off-road vehicles are not within the jurisdiction of the Commission.

Commission Action: Approved.

28. Case No.: 2012011071

An anonymous complaint was provided to the Commission that a Kentucky dealer living in Tennessee was selling motor vehicles in Tennessee without a license. An investigation was conducted which provided evidence that vehicles were sold from the KY dealership to a TN dealership (wholesale) but could not show that the sales took place in TN and outside of a licensed auto auction or to a consumer.

Recommendation: Letter of Warning regarding sales of vehicle in TN without proper licensure.

Commission Action: Approved.

29. Case No.: 2012012031

An internal complaint was investigated regarding a Memphis news story regarding a complainant indicating that they purchased a mechanically unsound vehicle from a “curb-stoner.” An investigation was conducted. The investigator found that the Respondent was a previously licensed salesperson. No vehicles were found at the Respondent’s location. There was insufficient proof of any vehicle sales taking place. The Respondent admitted to selling 5-6 cars in 1.5 years, which is not sufficient to show unlicensed activity.

Recommendation: Letter of Warning regarding sales of vehicle in TN without proper licensure.

Commission Action: Approved.

30. Case No.: 2012023931

Respondent received a Notice of Violation for failing to properly maintain a temporary tag log as found by an inspector during a biennial inspection.

Recommendation: Authorization for a Civil Penalty the amount of Two Thousand Dollars (\$2,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

31. Case No.: 2012018701

Complainant/Consumer alleged that Respondent/Dealer rolled back and/or lied regarding the miles on a vehicle purchased. An investigation was conducted. Dealer purchased the vehicle wholesale from another TN dealer with 205,000 miles on it. The previous TN dealer purchased the vehicle on trade-in from a consumer with 205,000 miles on it. The Complainant purchased the vehicle from Respondent with 205,000 on it. Complainant took vehicle for service. An OBD II was hooked up to vehicle indicating over 500,000 miles were on the vehicle. The Carfax does not indicate a mileage discrepancy. Vehicle was built in 1998. There is no proof Respondent knew or should have known of a possible discrepancy.

Recommendation: Close – Insufficient proof that Respondent rolled-back or altered the odometer.

Commission Action: Approved.

32. Case No.: 2012018281

An anonymous complaint was received alleging Respondent/Dealer was displaying motor vehicles for sale at an empty lot not licensed. An investigation was conducted. The investigator confirmed that a vehicle at the lot location had the telephone number of the Respondent on it. The Respondent indicated he did not know this was not allowed, as he was licensed for only 6 months. The investigation report did not indicate the number of vehicles listed at the lot for sale by Respondent.

Recommendation: Authorization for a Civil Penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

33. Case No.: 2012018381

Complainant/Consumer alleged that Respondent/Dealer rolled back or failed to disclose rollback of mileage on vehicle purchased. An investigation was conducted. The investigator found that Respondent was aware vehicle had either a clerical error or rollback of mileage due to disclosure at auction when purchased. Respondent stated he verbally indicated this to Complainant. Complainant denied the disclosure. The vehicle is exempt from mileage reporting and was titled as such. Vehicle is now repossessed. There is no evidence of rollback by Respondent. There is insufficient evidence that Complainant was not informed.

Recommendation: Close – Insufficient evidence of misrepresentation by Respondent. No evidence of Respondent rolling back mileage.

Commission Action: Approved.

34. Case No.: 2012018601

An agreed citation for \$500 was sent to Respondent/Dealer for issuing a third temporary tag to a consumer. Respondent contested the citation. Respondent provided notice to this office via facsimile that it had issued the third tag to a consumer, stating it believed this was the proper action to take. Respondent previously received a letter of warning in April 2012 for issuing a third temporary tag in a previous matter.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order of Formal Hearing.

Commission Action: Approved.

35. Case No.: 2012020791

An agreed citation was issued to Respondent/Dealer for what an investigator believed was an open title. The title was not open. The title had not yet been transferred to the Respondent/Dealer.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

36. Case No.: 2012021911

Complainant/business entity alleged that Respondent/Dealer allowed an employee to trade-in a company car, titled to the company for the purchase of a new vehicle in the name of his spouse. Respondent/Dealer replied indicating that the employee was a “member” of the corporation, authorized to allow the trade-in and had previously done a similar transaction the year before with the Respondent. The trade-in vehicle was later sold and the Complainant is holding the title and refuses to provide to the Respondent. There is a civil litigation ongoing in this matter. It appears the Respondent did not require the employee to sign on the bill of sale regarding the trade-in.

Recommendation: Close with a Letter of Warning indicating that Respondent should obtain all proper documentation and authorizations to ensure trade-in vehicles are authorized for trade-in.

Commission Action: Approved.

37. Case No.: 2012021881

A notice of violation was issued to Respondent/Dealer for issuing 6 more temporary tags than allowed and for failing to display buyer's guides.

Recommendation: Authorization for a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) (\$500 x 6 temp. tags) (\$500 – failing to display buyer's guides) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

38. Case No.: 2012021661

Complainant/Consumer alleged that Respondent/Dealer made negligent repairs to a vehicle after purchasing. Respondent paid for repairs that were done by a third party as Respondent does not maintain a repair shop. Vehicle was repossessed before the complaint was submitted.

Recommendation: Close – No Violation Found. Repairs made by a third party.

Commission Action: Approved.

39. Case No.: 2012017461

An agreed citation was sent to Respondent for making an offer of a 'free' item conditioned on the purchase of vehicle, failing to provide the document preparation fee in the advertised price and providing misleading statement regarding "bad credit?, no credit? No worries". The citation remains unpaid and no response was provided.

Recommendation: Authorization for a civil penalty in the amount of Three Thousand Dollars (\$3,000.00) to be settled by Consent Order and Formal Hearing.

Commission Action: Approved.

40. Case No.: 2012020831

Complainant/Consumer alleges that after purchasing a used vehicle from Respondent/Dealer, that it began having mechanical issues. The vehicle was purchased "as-is."

Recommendation: Close – No Violation Found. Vehicle purchased "as-is."

Commission Action: Approved.

41. Case No.: 2012020801

A notice of violation was issued to Respondent/Dealer from an inspector who determined that Respondent had issued 8 more temporary tags than allowed by law. Its city business license was also expired.

Recommendation: Authorization for a Civil Penalty in the amount of Four Thousand Two Hundred Fifty Dollars (\$4,500.00) ((8 x \$500 temp. tags / 1 x \$250 business license expired) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

42. Case No.: 2011031431

Complainant/Consumer alleged that after purchasing vehicle from Respondent/Dealer, it began to have mechanical difficulties. Vehicle was purchased “as-is” and a pre-inspection was conducted by a third party.

Recommendation: Close – No Violation Found. Vehicle purchased “as-is.”

Commission Action: Approved.

43. Case No.: 2012019051

Respondent received a Notice of Violation for failing to properly maintain its temporary tag log as found by an inspector during a biennial inspection.

Recommendation: Authorization for a Civil Penalty in the amount of Two Thousand Dollars (2,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

44. Case No.: 2012012261

Complainant/Consumer alleged that Respondent/Dealer did not provide registration to vehicle purchased, issued more than two temporary tags for the vehicle and wrongfully repossessed the vehicle. An investigation was conducted. The allegations for wrongful repossession were not substantiated. Title to vehicle was obtained and provided to the lienholder. Respondent provided four temporary tags to Complainant for the vehicle.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) (\$500 x 2 temp. tags) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

45. Case No.: 2012020821

A complaint was submitted from a county clerk for possible unlicensed activity as a motor vehicle dealer. An investigation was conducted and found that Respondent sold only one vehicle.

Recommendation: Close - No Violation of Unlicensed Activity.

Commission Action: Approved.

46. Case No.: 2012020941

Complainant alleged that Respondent/Dealer sold him a motor vehicle without first disclosing that the vehicle was previously salvaged. An investigation was conducted which found Respondent is out of business and closed. Documentation provided indicated that vehicle should have obtained a salvaged title from the state of TN after transfer from GA, where Respondent purchased vehicle. However, a clear title was issued by TN. TN Dept. of Revenue was notified and a recall of the title was issued.

Recommendation: Close and Flag. Respondent is closed and out of business.

Commission Action: Approved.

47. Case No.: 2012004871

An anonymous complaint was filed alleging that an individual was working as an unlicensed salesperson. There is insufficient evidence to substantiate the claim.

Recommendation: Close – Insufficient evidence of violation.

Commission Action: Approved.

48. Case No.: 2011029491

Complainant/Consumer alleged that Respondent/Dealer sold a vehicle to now deceased husband and failed to provide title to vehicle thought to be paid off. An investigation was conducted and found that the vehicle had a lien placed on it. Further, that Respondent is out of business and closed.

Recommendation: Close – No Violation Found. Lien was placed on vehicle.

Commission Action: Approved.

49. Case No.: 2012010681

Complainant/Consumer alleged that Respondent/Dealer failed to make warranty repairs on a vehicle purchased with a limited warranty. An investigation was conducted. During the investigation, the complainant failed to cooperate with the investigator in providing a statement.

Recommendation: Close – Insufficient evidence of violation. Complainant failed to cooperate with the investigator.

Commission Action: Approved.

50. Case No.: 2012013031

An anonymous complaint was submitted alleging that Respondent was conducting unlicensed activity as a motor vehicle dealer. An investigation was conducted. The Respondent presented a statement that he assisted persons to place 9 vehicles on Craigslist within a 2 year period. None of the vehicles or owners can be identified. The Respondent indicates he knows the anonymous complainant, whom he is currently in a dispute with regarding a personal relationship. There is not sufficient evidence to prove the unlicensed activity.

Recommendation: Letter of Warning regarding licensing to sell or offer to sell motor vehicles.

Commission Action: Approved.

51. Case No.: 2010036501

Complainant alleged that the vehicle purchased by Respondent/Dealer was not serviced according to their agreement upon purchase and further that the vehicle was repossessed without being in default. An investigation was conducted and did not find sufficient proof of the vehicle not being serviced. Further, the vehicle did have a late payment, which was listed on the contract.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

52. Case No.: 2012012351

Complainant, a Florida finance company alleges that Respondent/TN dealer fraudulently sold a vehicle purchased by Respondent from a person in Florida. Both parties are represented by legal counsel. Respondent claimed that the seller to Respondent was not a true owner. This claim was not substantiated by Complainant. As such, it is a civil matter.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

53. Case No.: 2012008452/2012008451

A complaint was provided from a citizen alleging unlicensed activity on part of Respondent/unlicensed person. An investigation was conducted and found that the location was a vehicle repair shop. The vehicles listed for sale were those in possession of Respondent due to outstanding repair orders. Respondent provided the investigator with all documentation. Respondent was in possession of an open title. This possession by an unlicensed person is not within the jurisdiction of the Commission and should be forwarded to the TN Dept. of Revenue.

Recommendation: Close – Insufficient evidence of unlicensed activity. Evidence of open title provided to the TN Dept. of Revenue.

Commission Action: Approved.

54. Case No.: 2011019191

Complainant alleged fraudulent title transfer by Respondent/individual who previously was a dealer, but currently unlicensed. The Dept. of Revenue was contacted by Complainant. This matter does not involve any licensed entity, as such, it is not within the authority of the Commission.

Recommendation: Close and Flag.

Commission Action: Approved.

55. Case No.: 2011019591

A complaint was internally opened based upon a Memphis news report alleging that a dealer was selling false temporary tags online. An investigation was conducted but did not produce evidence to substantiate the allegations.

Recommendation: Close – Insufficient evidence of violation.

Commission Action: Approved.

56. Case No.: 2012015951/2

An anonymous complaint was opened alleging that Respondent/Dealer employed an unlicensed salesperson. An investigation was conducted which could not substantiate the allegations. The person is no longer employed by Respondent/Dealer who indicated during time of employment, did not assist customers.

Recommendation: Close – Insufficient evidence of employing an unlicensed salesperson.

Commission Action: Approved.

57. Case No.: 2011021801

Complainant alleged that Respondent/Dealer sold him a vehicle with a dealer tag on it. An investigation was conducted. The Complainant could not be found. The Respondent indicated he was related to the Complainant, who stole the vehicle with the tag on it because he kicked the Complainant out of his house; that the complaint was made falsely.

Recommendation: Close – No Violation found.

Commission Action: Approved.

58. Case No.: 2012007331

An internal complaint was opened against Respondent/Dealer based upon information from a County Clerk that Respondent was misusing temporary tags. The Respondent's license expired at the time the complaint was filed in April 2012. Respondent is out of business.

Recommendation: Close – Respondent license expired and out of business.

Commission Action: Approved.

59. Case No.: 2012010262, 2012010261

A complaint of unlicensed activity as a Dismantler/Recycler and motor vehicle dealer was internally opened after notification from the Dept. of Revenue. Respondent is a licensed dealer and dismantler/recycler. An investigation was conducted. Respondent's dealer license was renewed within the 90 day renewal timeframe. Respondent's dismantler license was also renewed. There is insufficient evidence to determine the number of violations for selling parts as a dismantler/recycler during the time of expiration.

Recommendation: Authorization for a Civil Penalty in the amount of Five Hundred Dollars (\$500.00) for unlicensed activity as a dismantler/recycler. No violation found for unlicensed activity as a motor vehicle dealer. To be settled by consent order or formal hearing.

Commission Action: Approved.

60. Case No.: 2012022871

An investigator for the department provided a newspaper advertising insert which included prices of vehicles offered by dealers but did not state the amount of the doc. fee included. The insert was created by the newspaper without the consent of the dealer by pulling online sales from the internet and creating the insert as the newspaper's own advertisement to obtain advertising from car dealers. This was a type promotion to show dealers that the newspaper could list all of its online sales easily. The doc. fee language indicated to see each individual dealer regarding details. This type language is misleading and in violation of the Commission's advertising rules. However, the culpability is on the newspaper which the Commission does not regulate, as opposed to the dealer. As such, the newspaper should be notified that this activity should cease.

Recommendation: Authorization for a letter of warning indicting the violation of the Commission's advertising regulations with future violations being referred to the Attorney General's office.

Commission Action: Approved.

61. Case No.: 2012022941

Respondent/Dealer was issued a Notice of Violation for failing to properly maintain a temporary tag log for the issuance of tags.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

62. Case No.: 2012022931

Complainant/Consumer alleged that Respondent/Dealer falsified a contract for a sold vehicle. The dealer is closed and out of business.

Recommendation: Close and Flag – Out of Business.

Commission Action: Approved.

63. Case No.: 2012017971

Respondent/Dealer was issued a Notice of Violation for failing to properly maintain a temporary tag log for the issuance of tags.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

64. Case No.: 2012021191

Complainant/Consumer alleged that Respondent/Dealer sold her a rebuilt vehicle without disclosing such prior to the sale. An investigation was conducted. Respondent stated that Complainant was verbally informed of such title branding. None of the documents contain any statement informing as such. The vehicle appears to have been sold at a price consistent with a rebuilt vehicle. The Respondent purchased the vehicle back from Complainant at the full purchase price.

Recommendation: Close with a Letter of Warning regarding deceptive acts of failing to disclose rebuilt vehicle branding.

Commission Action: Approved.

65. Case No.: 2012018241

Complainant/Consumer alleged that after signing to purchase a vehicle and providing Respondent/Dealer with her trade-in, she changed her mind and wanted to rescind the deal. Respondent initially refused until a competing dealer indicated that Complainant purchased a similar vehicle from them and had traded the vehicle in possession of Respondent. Respondent rescinded the deal.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

66. Case No.: 2012020781

An internal complaint was opened by an investigator regarding allegations of fraudulent titling of a vehicle. An investigation was conducted. The investigation found the following:

- June 10 2012, Bill of sale indicates Respondent sells a 1998 camper to purchaser 1 indicating trade-in from consumer of a 2000 Chevy. (Chevy title not noted on trade in). At time of sale, purchaser 1 is NOT indicated on the title.
- June 28, 2012, Title on camper indicates Respondent purchases the 1998 camper from seller. (Note: This is after the purported sale to purchaser 1) – Respondent is listed as lien holder on title of the camper to seller.
- July 2, 2012 – Registered owner of the 2000 Chevy (not purchaser 1) applies to Dept. of Rev. for a Duplicate Title. (Note: to date, 2000 Chevy never titled to purchaser 1)
- July 16, 2012 – the Camper is sold by Purchaser 1 to consumer/Purchaser 2 via Craigslist.
- July 27, 2012 – Respondent sells the 2000 Chevy on Bill of Sale to Insurance Company (Note: No title in any deal file indicating owner).
- After July 2012 – Respondent places the name of Purchaser 2 on the title in lieu of Purchaser 1 (at request of Purchaser 1). Title skips purchaser 1 as either owner or seller and also falsely indicates Purchaser 2 traded-in the 2000 Chevy).
- September 2012 – Dept. of Revenue makes Respondent apply for title in name of purchaser 1 and pay appropriate sales tax (Note – the 2000 Chevy is no longer listed as a trade-in). Purchaser 1 then assigns title to Purchaser 2, who then applies for title and registration in their name.

The above scenario indicates fraud on part of Respondent by 1) falsely listing the 2000 Chevy as a trade-in from purchaser 1 without ever receiving title of ownership. 2) Placing purchaser 2 on title of camper, skipping chain of title on purchaser 1 and falsely indicating 2000 Chevy trade-in by purchaser 2.

Recommendation: Authorization for a civil penalty in the amount of Three Thousand Dollars (\$3,000.00) (\$1,000 x 3 false acts) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

67. Case No.: 2012021831

Complainant/ out of state consumer alleged that Respondent/Dealer sold her a rebuilt vehicle without disclosing such prior to the sale. An investigation was conducted. Respondent stated vehicle was purchased at a TX auction and was not informed vehicle was rebuilt. The title provided by auction had a sticker on the title covering a small area which indicated “rebuilt”. The Complainant did not realize the vehicle was rebuilt until an attempt was made to title it in CA. The vehicle appears to have been sold at a price consistent with a rebuilt vehicle. The Respondent purchased the vehicle back from Complainant at the full purchase price plus \$1,000 for expenses on shipping the vehicle back. The Complainant was satisfied with this.

Recommendation: Close with a Letter of Warning regarding deceptive acts of failing to disclose rebuilt vehicle branding.

Commission Action: Approved.

68. Case No.: 2012021131

A complaint was submitted alleging misuse of temporary tags and open titles. An investigation was conducted and did not find any evidence of the allegations. The Respondent indicated the complainant was his biological son, recently united with him. There was a falling out between the two regarding money.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

69. Case No.: 2011030921

During a biennial inspection of the Respondent/Dealer, the inspector found that the Respondent failed to maintain its temporary tag log.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

70. Case No.: 2012023311

Complainant/dealer protested that Respondent/manufacture attempted to emplace a new franchise in complainant’s relevant market area without notifying dealer of such intention. After the protest was provided to the Commission, complainant could not show that the location for the new franchise is located in an area that belonged to the RMA of Complainant, as such, there is no jurisdiction for such complaint.

Recommendation: Close – No Violation Found. No jurisdiction for protest.

Commission Action: Approved.

71. Case No.: 2012020141

Complainant/county clerk alleged that Respondent was allowing individuals to transfer vehicles from one owner to another in order for the purchaser to evade having to provide proof of residency for registration. An investigation was conducted and found that Respondent was assisting in the gifting of a vehicle to an individual. The Respondent was noted in the chain of title. The investigation confirmed the payment of gift tax and proof of residence was documented. The Complainant's allegations were incorrect.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

72. Case No.: 2012016761

A notice of violation was issued to Respondent/Dealer during a biennial inspection when it was found that multiple temporary tag violations occurred by issuing more temp. tags than allowed to customers. It was found that Respondent had 127 such violations. On 110 occasions, a 3rd temp. tag was issued to a customer, on 16 occasions, a 4th temp. tag was issued to a customer, and on 1 occasion, a 5th temp. tag was issued to a customer. Respondent has been in business since 2011. Respondent replied through its attorney stating they failed to properly manage the number of temp. tags provided to customers. To correct the problem, Respondent hired an experienced general manager along with an experienced tag/clerical clerk. Respondent is a high volume dealer, having issued over 1,410 temp. tags during the period, stating that the 127 violations were due to their inability to register and title the vehicle within 60 days and equate to 10% of all tags issued. There is no evidence of any fraud or sales tax violations as these vehicles were eventually registered.

This office has been in contact with their attorney and the Respondent has already agreed to pay a civil penalty in the amount of \$31,000, which was suggested by this office.

Recommendation: Authorization of a Civil Penalty in the amount of Thirty One Thousand Dollars (\$31,000.00) (110 counts – 3rd temp tags issued @ \$200 per tag (\$22,000) / 16 counts – 4th temp tags issued @ \$500 per tag (\$8,000), 1 count – 5th temp. tag issued \$1,000 per tag (\$1,000)) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

73. Case No.: 2012018831

A complaint was internally opened after a county clerk's office indicated that a Respondent/Dealer was selling motor vehicles from a location other than its licensed dealership. An investigation was conducted and found that Respondent has abandoned its place of business, confirmed by the landlord. The Commission in a previous case authorized a consent order against Respondent for such unlicensed activity. The Respondent cannot be found through the mail service.

Recommendation: Authorization for the suspension of Respondent's motor vehicle dealer's license until August 31, 2013 (the date of its license expiration) to be settled by voluntary suspension on a Consent Order or Formal Hearing with the previous unaccepted consent order.

Commission Action: Approved.

74. Case No.: 2011022651

An anonymous complaint was submitted alleging that Respondent/Dealer was conducting unlicensed activity as a motor vehicle dealer. An investigation was conducted and could not find that Respondent sold more than 5 motor vehicles in one year. However, a letter of instruction regarding exception of selling 5 vehicles in a year would be beneficial.

Recommendation: Close with a letter of instruction regarding the limitation of selling no more than 5 motor vehicles in one year.

Commission Action: Approved.

75. Case No.: 2012026461

An anonymous complaint was received alleging Respondent/Dealer is not keeping reasonable business hours. The Respondent's business was contacted. Their answering machine indicates it is only open on Fridays.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

76. Case No.: 2012025861

Complainant/Consumer alleged that Respondent/Dealer failed to provide registration. Complainant stated that he defaulted on the payments and the vehicle was repossessed.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

77. Case No.: 2012024621

Complainant/individual alleged that vehicle purchased from another individual (not dealer) on Craigslist had multiple mechanical issues.

Recommendation: Close – No jurisdiction over the sale between individuals.

Commission Action: Approved.

78. Case No.: 2012024611

Complainant/individual alleged that he purchased a vehicle from Respondent/individual but never received the vehicle, has demanded a refund, but has not received such.

Recommendation: Close – No jurisdiction over the sale between individuals.

Commission Action: Approved.

79. Case No.: 2012024071

Respondent/Dealer advertised a “track” model vehicle on its website. The “track” is an option type from the manufacturer. Complainant/Consumer flew from NY and purchased the vehicle. Upon transport to NY, consumer determined that it was not a “track” model and requested a refund from Respondent. Respondent admitted that the vehicle was mistakenly advertised as a track vehicle. It appears the “track” type was a point of negotiation regarding the price. The Respondent has offered a partial refund which complainant has refused as inadequate.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) for the deceptive act of materially misrepresenting the vehicle type, to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

80. Case No.: 2012023641

Complainant/Consumer alleged that Respondent/Dealer inconvenienced them and their time by taking what they believed was too long in conducting warranty repairs to the transmission of a new vehicle purchased. Complainant requested a new vehicle. There are insufficient facts indicating the vehicle has a non-conformity under the lemon law.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

81. Case No.: 2012022961

Complainant alleged that Respondent/individual was conducting unlicensed activity. A report from the Dept. of Revenue did not provide evidence of Respondent selling more than five vehicles in a year.

Recommendation: Close – Insufficient evidence of unlicensed activity.

Commission Action: Approved.

82. Case No.: 2012026981

Complainant/Consumer alleged that Respondent/Dealer produced a contract for the purchase of a vehicle that did not comply with the truth in lending act. A copy of the contract was provided that included a supplemental agreement, executed on the same day which provided for a deferred down payment along with another payment to be made during the first four months of payments. The Complainant signed these documents but complained that the math was incorrect. The supplemental agreement does not comply with the truth in lending act and is deceptive.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) for deceptive act of failing to comply with truth in lending act. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

83. Case No.: 2012014181

Complainant/Consumer alleged that Respondent/Dealer repossessed vehicle after its sale and unilaterally rescinded the contract and failed to refund all of complainant's \$500 down payment. An investigation was conducted and found that the sale and possession was contingent upon 3rd party financing, however, Respondent failed to provide complainant with written notice as such required under 55-17-114(b)(4)(D). Third party lender declined financing. Respondent had the vehicle repossessed and refunded \$300 of the \$500 down payment stating the remainder was due to its expenses.

Recommendation: Authorization for a Civil Penalty in the amount of Five Hundred Dollars (\$500.00) for failing to provide a conditional delivery agreement under 55-17-114(b)(4)(D) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

84. Case No.: 2012013971

Complainant/individual alleged fraudulent acts on part of an individual from whom he purchased a vehicle. An investigation was conducted and found that the seller is not the alleged Respondent. The seller is an individual who allegedly forged a duplicate title to hold an open title, which he passed to Complainant. This matter is between two individuals, outside the jurisdiction of the Commission but should be forwarded to other agencies.

Recommendation: Close with referral to the TN Dept. of Safety and TN Dept. of Revenue.

Commission Action: Approved.

85. Case No.: 2011031001

Respondent/Dealer was issued a Notice of Violation for failing to properly maintain a temporary tag log for the issuance of tags.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

86. Case No.: 2011019881

A notice of violation was issued to a towing company for alleged unlicensed activity. Two open titles were provided to the Commission by the investigator. There is insufficient evidence to show the unlicensed activity. Open titles in possession of a non-dealer are not under the jurisdiction of the Commission and should be provided to the appropriate agency.

Recommendation: Close with referral to the TN Dept. of Revenue for possession of open titles by Respondent.

Commission Action: Approved.

87. Case No.: 2011007861

A complaint was submitted for alleged unlicensed activity on part of Respondent/individual. A notice of violation was provided by the investigator but there is no photographic evidence or statement indicating proof of the unlicensed activity.

Recommendation: Close with a Letter of Warning regarding unlicensed activity.

Commission Action: Approved.

88. Case No.: 2012013461

Complainant/Consumer alleged that Respondent/Dealer refused to provide title after Complainant made payment in full on vehicle purchased. An investigation was conducted. The Complainant refused to cooperate and provide a sworn statement.

Recommendation: Close – Insufficient evidence of violation.

Commission Action: Approved.

89. Case No.: 2012022831, 2012018991

Respondent/Dealer has failed to provide titles to consumers in these two cases. An investigation found that Respondent abandoned its established place of business. The Commission has three other such matters pending. Respondent's bond was also cancelled. Respondent's license does not expire until summer 2013.

Recommendation: Authorization for the Suspension of the motor vehicle dealer of Respondent. To be settled by voluntary surrender or Formal Hearing if necessary.

Commission Action: Approved.

90. Case No.: 2012022651

An internal complaint was opened regarding information provided to an investigator for a location conducting unlicensed activity as a dismantler & recycler. An investigation was conducted wherein the investigator, posing as a consumer, obtained evidence that the location was in possession of dismantled vehicles and further, accepted an offer to purchase motor vehicle parts from the investigator.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000.00) and an order to Cease and Desist. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

91. Case No.: 2012015001

Complainant/Consumer alleged misrepresentation on part of Respondent/Dealer and public automobile auction. An investigation was conducted and found that the vehicle was dropped off for auction on March 14 and auctioned off on March 17. The vehicle was advertised as a 4WD due to a "4wd" sticker on the vehicle. The Complainant purchased the vehicle at auction in person for \$8,600.00. Upon receipt of the vehicle, complainant found the 4WD did not function and further found that the 4WD was not originally part of the vehicle. The body V.I.N., which is listed on the bill of sale indicates the vehicle was originally a 2005 Ford, 2WD. An investigator from the TN Dept. of Revenue joined the investigation and found that the chassis had a different V.I.N., not advertised or announced by the auction. The chassis V.I.N. belonged to a 2007 Ford. The vehicle should have been titled as a "rebuilt" vehicle according to the TN Dept. of Revenue. The consignor of the vehicle was located in KY and as such, was not titled in TN when purchased at auction. The title to the vehicle indicates the V.I.N. for the body. The Respondent/Dealer-auction indicated that it did not inspect the vehicle when consigned. Further, the Respondent refused to buy-back the vehicle or compensate the purchaser in any way other than reselling at auction and announcing the new defect.

The vehicle, having two separate V.I.N.s, provides a material defect upon the price of the vehicle. The vehicle was sold as only one V.I.N., without the disclosure of the chassis V.I.N. Failing to realize this and announce the condition constitutes negligent misrepresentation on part of the Respondent, which may constitute a deceptive act even though it was unintentional.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

92. Case No.: 2012002761

Complainant/Consumer alleged that the Respondent/Dealer refused to sell a vehicle at an advertised price. The complainant could not provide a copy of the advertisement. The Respondent failed to respond to the Commission's request for a response to the allegations as required under Rule 0960-01-.23.

Recommendation: Authorization for a Civil Penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

93. Case No.: 2012017421, 2012019571

Complainant/Consumer alleged that Respondent/Dealer sold him a vehicle without a VIN plate and alleged title provided was an open title. An investigation was conducted. The Respondent consigned a vehicle trade for a third party. Respondent placed the vehicle for sale on the internet. Respondent did not take possession of the title and did not check the status of the title. The Respondent facilitated the trade of the 3rd party's vehicle with the Complainant in exchange for his vehicle. After the Complainant's contention regarding the VIN plate, the 3rd party exchanged the vehicle for a second vehicle. After review with the police department, the VIN plate discrepancy was not confirmed. The investigation did find that the Respondent/Dealer sold the vehicle on consignment; did not endorse the title as the dealer, negligently allowed the consignor/3rd party to pass an open title to the Complainant and further, the title was not even in the 3rd party's name. The title was a FL title with a completely different person's name other than the 3rd party.

Recommendation: Authorization for a Civil Penalty in the amount of Two Thousand Dollars (\$2,00.00) (\$500 for false act of not placing his name in the chain of title, \$500 for allowing the title to be transferred open to the Complainant, and \$1,000 for failing to ensure the title provided to Complainant was in the name of 3rd party/seller). To be settled by Consent Order or Formal Hearing. Refer file to the TN Dept. of Revenue regarding possible sales/usage tax violation.

Commission Action: Approved.

94. Case No.: 2012013051

An internal complaint was opened upon information from an investigator that an individual may be conducting unlicensed activity. An investigation was conducted that found Respondent sold 3 vehicles to individuals in 2012.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

95. Case No.: 2012009671

Complainant/Consumer alleged that Respondent/Dealer sold her a frame damaged vehicle without disclosing such. An investigation was conducted. Complainant would not provide a sworn statement to the investigator.

Recommendation: Close – Insufficient evidence of violation found.

Commission Action: Approved.

96. Case No.: 2012004841/201202684

A complaint was submitted alleging that Respondent/Dealer was conducting unlicensed activity by displaying motor vehicles in a shopping mall, at a dedicated store front. An investigation was conducted. Respondent has a licensed location for its dealership other than at the mall. Respondent also has a store located inside a mall where its vehicles are displayed. The vehicles are parked inside the store, not in the mall's common area. The Respondent has employees/representatives available to answer questions, etc. regarding the vehicles. Respondent indicated that the employees are not licensed motor vehicle salespersons; do not make sales at the location and direct interested customers to the dealership location.

Under the Commission's rules, the display of motor vehicles at a location other than the licensed location where a representative is available to answer questions can only be done so by first obtaining a motor vehicle show permit and the permit is only good for 7 days with a one-time renewal at that location. The rule also states that a dealer may display at a single location without obtaining the show permit but it provides that 1) no representatives of the dealership are present and 2) one of the approved locations is in the interior common areas of shopping malls. Here, the Respondent does have representatives available (though not licensed salespersons, they are representatives of the Respondent acting on behalf of the dealership) and 2) the vehicles are not just being displayed in the common interior of the mall, but are actually being displayed in a private storefront.

Recommendation: Authorization for a Civil Penalty in the amount of Five Thousand Dollars (\$5,000.00) and an order to Cease and Desist. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

97. Case No.: 2012013041

A complaint was opened internally upon information from an investigator that an individual may be conducting unlicensed activity as a motor vehicle dealer. An investigation was conducted. The investigator determined that Respondent had been previously licensed as a motor vehicle salesperson but was not actively employed. Respondent's principal business was obtaining titles and registration for persons. The investigation determined that Respondent was transferring antique vehicles, exempt from emissions into the names of individuals needing registration but could not pass emissions and then transferring that tag from the exempt vehicle to the vehicle that could not pass emissions. None of the customers of the Respondent were interviewed or could be located. An affidavit from the Respondent indicated that he possessed over 300 titles to vehicles which were previously crushed, etc. and those titles were used to obtain registration for persons. The Dept. of Revenue was contacted and informed. They were aware of the Respondent's behavior. The Respondent is not licensed by the Commission.

Recommendation: Close with referral to the TN Dept. of Revenue against Respondent.

Commission Action: Approved.

98. Case No.: 2012026221

Complainant/Consumer filed a complaint stating that after purchasing a vehicle from Respondent/Dealer she decided it was too small and wanted Respondent to rescind the deal and sell her a larger vehicle. Respondent refused to rescind the deal stating that the vehicle could only be traded for another vehicle as the financing was approved, contract signed and title had been placed in Complainant's name.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

99. Case No.: 2012017681

Complainant/Consumer alleged that Respondent/Dealer sold him a vehicle with a branded title without first disclosing such and repossessed the vehicle after Complainant refused to continue making payment. An investigation was conducted and could not find a brand on the vehicle's title. Further Respondent provided a detailed statement regarding Complainant's refusal to provide documentation for the registration of the vehicle.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

100. Case No.: 2012015231

Complainant/out-of-state consumer alleged that Respondent/unlicensed person sold her an RV and would not provide title. An investigation was conducted and found that Complainant did receive title to the RV. The investigator also found that the seller is a previously-licensed dealer whose license expired. The investigator drove to the location of the supposed business, and found RVs sitting in the area but no one at the location. The investigator also found two RVs for sale on E-Bay under the same seller username that sold the RV to the complainant in 2011. The investigator also searched the sale history of the Respondent on EBay, which seemed to indicate that more than 5 vehicles were sold in 2012, however the details of the vehicles offered cannot be found on EBay as they are outdated. By telephone conversation with the Respondent, the investigator stated that Respondent admitted to selling RVs in Tennessee after his license expired. Respondent would not meet with the investigator. The total number of unlicensed sales cannot be verified, however, it appears that more than 5 were sold in 2012.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) for at least one violation of unlicensed activity as a motor vehicle dealer along with a Cease and Desist order. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

101. Case No.: 2012017031, 2012017032

An internal complaint was opened upon information from a county clerk alleging that Respondent 1, an AL dealer, was selling vehicles in TN without a license using an agent (Respondent 2). An investigation was conducted and found that dealer authorized agent to purchase vehicle on its behalf. No authorization was given to sell the vehicles. Agent purchased a vehicle from TitleMax on behalf of dealer and sold it in TN indicating on the title it was sold by dealer. An investigation determined that agent admitted to being at fault and absolving dealer from any knowledge of these sales. Agent was purchasing vehicles under dealer's name while applying for a TN dealer license and intended then to transfer the vehicles to his own dealer's name and sell them as a licensed dealer. There is only one instance of sale that can be shown.

**Recommendation: Respondent 2 - Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.
Respondent 1 – Close – No Violation found on part of dealer.**

Commission Action: Approved.

102. Case No.: 2012017991

Respondent/Dealer was issued a Notice of Violation for failing to properly maintain a temporary tag log for the issuance of tags.

Recommendation: Authorization for a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

103. Case No.: 2012017781

Complainant/Consumer alleged that Respondent/Dealer engaged in misrepresentation regarding the sale of a vehicle. Complainant alleged that when trading in vehicle, she was assured that the wheel chair lift on her trade-in would fit the newly purchased vehicle, however it did not, which subsequently led Complainant to trade in that vehicle for a second vehicle. An investigation was conducted. During the investigation, the Complainant indicated that Respondent lied to her about the NADA value of the second vehicle purchased and sold it to her for \$5000 over NADA retail and \$13000 over the price paid for the vehicle at auction. The investigator could not substantiate the claim regarding the promised NADA value. The investigator did find that the salesperson who sold Complainant the first vehicle was unlicensed at the time. The salesperson cannot be found. Respondent has been cited two (2) times previously for employing unlicensed salespersons.

Recommendation: Authorization for a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) for employing an unlicensed salesperson as a third separate offense. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

104. Case No.: 2012019131

Complainant/Owner of vehicle alleged fraud on part of Respondent/Dealer regarding the notarization of a power of attorney presented to the owner of the dealership. An investigation was conducted. The investigator found that Respondent, a sole proprietor, was requested by Customer A to notarize a power of attorney to allow her to conduct transactions for a motor vehicle owned by Customer B. Customer B was not, in fact, the person whom Customer A claimed he was, nor was he the owner of the vehicle, unbeknownst to Respondent at the time. The owner of the vehicle was not present and Respondent did not make Customer B show identification. Customer A then obtained a duplicate title of the vehicle owned by the Owner and sold it to herself for \$500.00, obtained title and then received a loan from Titlemax against the vehicle. The Owner eventually sued Customer A, his niece, and recovered title. Further, it was found that Respondent himself was not a Notary, but used his mother's notary and forged her name on it. Respondent claims responsibility for his actions.

Recommendation: Authorization for a Civil Penalty in the amount of Five Thousand Dollars (\$5,000.00) to be settled by Consent Order or Formal Hearing for engaging in a false act.

Commission Action: Approved.

105. Case No.: 2012019022/2012019021

An anonymous complaint was received alleging unlicensed activity on part of Respondent 1. An investigation was conducted and found that Respondent 1 had a website advertising vehicles for sale as a vehicle brokerage/dealership. It was found that the purported point of contact/seller for the website was a licensed salesperson for licensed dealer, Respondent 2. Respondent 2 is a sole proprietorship and has a joint account with its salesperson, allowing him to purchase vehicles at auction. The Salesperson then places these vehicles on its website under the name of Respondent 2. The bill of sale and title work is all done under the name of Respondent 1. From the documentation standpoint, all vehicles are owned and sold through the licensed dealership; however the Salesperson is advertising under an unlicensed dealership and maintains an unlicensed location where the vehicles are stored. The investigator traveled to the unlicensed location, under cover and negotiated the purchase of one of the vehicles for sale at the unlicensed location by an unlicensed salesperson.

The advertised name was voluntarily removed from one advertising source pointed out to the dealer.

Recommendation: 2012019021: Respondent 1 (including Salesperson) – Authorization for a civil penalty in the amount of Ten Thousand Dollars (\$10,000.00) (\$5,000 for at least 1 count of unlicensed activity, 48 total vehicles advertised), (\$5,000 for the deceptive act of advertising as a dealer under an unlicensed name and selling the vehicle through the owning dealership)

2012019022 – Respondent 2 (licensed dealership) – Authorization for a civil penalty in the amount of Eleven Thousand Dollars (\$11,000.00) (\$5,000 for at least 1 count of unlicensed activity at an unlicensed location), (\$2,500.00 for deceptive advertising, \$2,500 for failing to include the name of the dealership or dealer number on

the advertised vehicles, \$1,000 for having an unlicensed salesperson at the unlicensed location attempting to sell vehicles owned by the dealership.)

Commission Action: Approved.

106. Case No.: 2012021901

Complainant/dealer alleged that Respondent/Dealer was advertising with an unsubstantiated selling claim. The Complainant and Respondent have been in an ongoing dispute regarding advertising. Respondent has had two advertising violations this year. This complaint involves the same advertising statement, but modified by the Respondent. The opinion from this office is that the modification has negated, though narrowly, any misleading claim.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

107. Case No.: 2012010931

Respondent received a Notice of Violation for missing information on their temporary tag log. The Respondent offered to settle the matter for \$250.00.

Recommendation: Authorization for a Civil Penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

108. Case No.: 2012016101

Respondent received a Notice of Violation during a biennial inspection for issuing 4 more temporary tags than allowed by law.

Recommendation: Authorization for a Civil Penalty in the amount of Two Thousand Dollars ((\$2,000.00) (4 temp. tags x \$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

109. Case No.: 2012005161, 2012008941, 2012003142, 2012003141

Three Complainant/Consumers alleged that Respondent/manufacture sold specialty vehicles directly to them and failed to timely provide titles to the vehicles. An investigation was conducted and found that Respondent holds a manufacturer/distributor license to have FedEx type vehicles constructed from a chassis with a manufactured shell/box body. It did not appear that the Respondent made the modifications but had these done by another company. The Respondent did sell the vehicles directly to the consumer and incurred problems obtaining the MSOs for the chassis and shell/box body due to several issues including incorrect assignment of the MSO and financial/payment issues with the shell/box owner who was holding the titles for payment by the Respondent. Two of the Complainants received their Title and Registration. One Complainant has not received its MSOs as of date.

Respondent as a manufacturer/distributor is prohibited from selling directly to persons other than licensed motor vehicle dealer. Selling to the consumers is a violation and each consumer here was damaged with additional costs due to the delay.

Recommendation: Authorization for a Civil Penalty in the amount of Twelve Thousand Dollars (\$12,000.00) (3 sales to non-dealers x \$4,000.00) to be settled by Consent Order and Formal Hearing.

Commission Action: Approved.

110. Case No.: 2011018641, 2011022331, 2012004091, 2012018841

Multiple complainants alleged that Respondent/Dealer is altering temporary tags and issuing more tags than allowed by law along with failing to register vehicles. In a separate matter, the Commission has already authorized a formal hearing against the Respondent, for which a date has not been set. These complaints could not be investigated due to a lack of cooperation on part of the Respondent and little documentation and contact information sent by the complainants. As such, these matters would more easily be handled if they were rolled in with the current complaint 201101173 – authorized for a formal hearing. The pertinent facts would be developed through the formal discovery process.

Recommendation: Authorization for the allegations to be attached to case 201101173 for a Formal Hearing.

Commission Action: Approved.

111. Case No.: 2012008731

An internal complaint was opened regarding possible unlicensed activity on part of Respondent, a previously-licensed salesperson, no longer licensed. An investigation was conducted and found that Respondent was advertising vehicles for sale on his property without a license. A total of approx. 10 vehicles were found advertised for sale. The Respondent would not return calls from the investigator in order to complete the investigation

Recommendation: Authorization for a Civil Penalty in the amount of Five Thousand Dollars (\$5,000.00) (\$500 x 10 vehicles for sale) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

RE-PRESENTATIONS

112. Case No.: 2012005671

The Commission previously authorized a consent order in the amount of \$32,000.00 against Respondent for failing to account for two dealer tags and for failing to properly maintain its temporary tag log. The dealer contested the citation providing a police report indicating its missing dealer plates were stolen from the dealership parking lot. Further, the Respondent came to the MVC on two occasions to discuss their temporary tag log issues. Respondent indicated temporary tags were used to transport their own purchased vehicles from other states to Tennessee (which is allowed under Dept. of Revenue Rule 1320-8-10-.03). Respondent had not recorded these tags on their log indicating they did not believe these tags were “issued” at the time. This is the first such time this office has encountered this issue.

Recommendation: Amend previous authorization to decrease the civil penalty to the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing.

Commission Action: Amend previous authorization to decrease the civil penalty to the amount of One Thousand Dollars (\$1,000.00) to be settled by Consent Order or Formal Hearing.

113. Case No.: 2009004071

The Commission in 2010 previously authorized the revocation of the salesperson license of Respondent for theft of motor vehicles of the dealer he represented. The Complainant in this case was the motor vehicle dealer. Respondent could not be found to serve the consent order for revocation of his license. In 2011, Respondent’s license expired and has not been renewed. As such, the license cannot be revoked, but should be flagged for any future application.

Recommendation: Amend previous authorization of revocation to “Close and Flag” – Respondent’s license expired in 2011 pending authorization for consent order.

Commission Action: Approved.

114. Case No.: 2011002911

The Commission previously authorized a civil penalty in the amount of \$500.00 for Respondent failing to renew its city and county business licenses. The Respondent has now gone out of business; its license expired in February 2012 and corporation has dissolved.

Recommendation: Close and Flag. Respondent license expired and is out of business.

Commission Action: Approved.

115. Case No.: 2011025191

The Commission previously authorized a civil penalty in the amount of \$2,000.00 for unlicensed activity upon Respondent. The Respondent cited is incorrect. The investigation found that an individual had sold the vehicle. This person was employed by Respondent, has

since been fired and cannot be found. There is no proof to sustain the allegation against this Respondent.

Recommendation: Amend previous authorization to Close – Insufficient evidence of violation upon Respondent.

Commission Action: Approved.

116. Case No.: 2010021552

The Commission previously authorized a civil penalty in the amount of \$1,000 against Respondent for issuing a third temporary to a customer. The Respondent has since gone out of business in February 2012 and is no longer licensed by the Commission

Recommendation: Close and Flag – Respondent is out of business.

Commission Action: Approved.

117. Case No.: 2011003081

The Commission previously authorized a civil penalty in the amount of \$2,500 for what appeared to be selling a frame-damaged motor vehicle without disclosing such. Upon further review of the investigation file and documents provided from the Respondent, this office found that there was no evidence of the vehicle sustaining “frame damage” that jeopardized the integrity of the vehicle. The vehicle was announced at auction as having “unibody damage” of which the Respondent indicated was damage to the passenger door. An accident was never reported on the vehicle. The Respondent provided documentation showing that no adjustments were made to the vehicle’s support structure, only cosmetic repairs. However, the Respondent at the time of sale did printout and present an Auto report which did not list the vehicle’s announced condition at auction.

Recommendation: Amend previous Authorization to decrease the civil penalty to the amount of One Thousand Dollars (\$1,000.00) and amend the language of the consent order that the damage sustained was “unibody damage” without damage to the vehicle structure, and not “frame damage.”

Commission Action: Approved.

Originally presented in April 2012

118. Case No.: 2011029791

This complaint arose as the result of a new dealership inspection of the business premises of Respondent on or about November 14, 2011, which resulted in Respondent being issued a notice of violation for unlicensed activity for selling 252 vehicles on an expired license and

bond. The dealer was aware that the dealership license had expired in July 2011. During the inspection, it was found after checking the temporary tag log and sales analysis report that from August 3, 2011 to November 11, 2011, Respondent had sold Two Hundred Fifty Two (252) vehicles. Respondent co-owner could not offer any explanation as to why the license was not renewed but did confirm the sales number appeared to be correct. After the dealership depleted their supply of temporary tags, customers were told to use previously issued license plates. As a result of this inspection, Respondent was issued an Agreed Citation in the amount of One Hundred Twenty Six Thousand Dollars (\$126,000.00) for 252 counts of unlicensed activity on or about November 15, 2011. Such Citation remains unpaid. After further research of this complaint file, it was ascertained that Respondent's license was reinstated effective October 31, 2011, thus, the violations for unlicensed activity can only be counted up to October 31, 2011. This removes 8 of the violations.

Recommendation: Authorization for a civil penalty in the amount of One Hundred Twenty Two Thousand Dollars (\$122,000.00) to be settled by Consent Order or Formal Hearing for unlicensed activity.

This matter was referred to litigation and was originally set for October 2012 but continued to December 14, 2012. After review for litigation and a full history review, Respondent apparently attempted to renew the license timely but was mistakenly told that due to being incorporated (which occurred in 1995) a new license had to be issued, and this caused delays. Reviews show that the license should have been renewed with the new status and that Respondent had a surety bond in place for all but the first three days after the expiration date but within the 90 day grace period. Respondent paid both a renewal and then a new license fee and a review of the file reveals 4 cars sold in the three day period. Attorneys for Respondent and litigation attorney then reviewed the entire issue and have agreed that Respondent should be cited for the cars sold minus the redundant license fee.

New Recommendation: Civil penalty in the amount of One Thousand Six Hundred Dollars (\$1,600.00)

Commission Action: Approved.

Originally presented in April 2012
119. Case No.: 2011025821

This complaint was internally generated, alleging Respondent, who is not licensed as a motor vehicle dealer, had a detail shop and was selling vehicles in front of the business. It was alleged that Respondent was selling the vehicles through a dealer in Georgia, and the Georgia dealer holds the titles. Complaint alleged there were two to three vehicles parked outside the fence and eight to sixteen vehicles parked inside the fence at Respondent's location. This activity is alleged to have been occurring for several years. The vehicles allegedly have "For Sale" signs in the windows and prices listed on the vehicles. During investigation, Respondent admitted to offering friends' vehicles for sale on its property. Investigator noted

eleven vehicles displayed in a “for sale” manner on Respondent’s property during investigation. Respondent admitted that he had on occasion sold vehicles in the past, but there is no proof as to how many in the investigation report. Respondent was informed that it can only sell 5 vehicles per year that are titled in his personal name and could not offer vehicles for sale on behalf of another individual without first applying for a motor vehicle dealer license.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be settled by Consent Order or Formal Hearing for “curb-stoning

This matter was referred to litigation and reviewed. The consent order was returned as unclaimed. In reviewing the investigation, it appears that the business had cars parked but only one had a “For Sale” sign. Most were on the property and were owned and being sold by the owners. No cars were owned by any dealer and the property owner’s main business is detailing cars and doing minor repairs. Legal counsel provided an opinion that upon review, there is no license requirement if another person allows another to sell their own vehicle on his/her property. Further, that there is no legal definition of “curb-stoning” and no Tennessee laws prohibiting the behavior described in this complaint, in the opinion of legal counsel.

New Recommendation: Dismiss

Commission Action: Approved.

120. Case No.: 2012021651
2012020461
2012019561
2012020181
2012020711
2012020841
2012019291
2012019001
2012018861
2012018851
2012018391
2012018371
2012017471
2012017691
2012017881
2012012501
2012007791
2012018611
2012022681
2012024631
2012023581
2012025991
2012026001
2012023851
2012022841

The above complaints were received stating that the Respondents/dealers had failed to provide titles/registration for vehicles purchased or the dealers has been issued a citation which has not been paid. The dealer has abandoned the business and is no longer operating. Surety Bond information has been sent to Complainants.

Recommendation: Close and Flag – Respondent is out of Business.

Commission Action: Approved.

121. Case No.: 2012023241
2012000041
2011020341
2011021001
2012001671
2012017231
2012021671

The above complaints were received stating the Respondents/dealers had failed to provide titles/registration for vehicle purchased. After receiving the complaint, registration/title was provided to the Complainant.

Recommendation: Close – Title Received.

Commission Action: Approved.

122. Case No.: 2012020481
2012021051
2012015461
2012021841/2
2012020951
2012025641
2012023561
2012023301
2012023261
2012020131
2012020961

The above complaints have been settled between the parties after the filing of the complaint.

Recommendation: Close – Settled between parties.

Commission Action: Approved.

123. Case No.: 201202108
2012022031
2011019141
2012013581/2

The above complaints were withdrawn by the Complainant after having been submitted to the Commission.

Recommendation: Close – Withdrawn.

Commission Action: Approved.

124. Case No.: 2012016091

The above complaint is a duplicate complaint covering the same facts/transaction as a previously-opened or -investigated complaint and should be closed.

Recommendation: Close – Duplicate complaint opened.

Commission Action: Approved.

125. Case No.: 2012021061

The above complaints were opened due to a first advertising violation by a dealer within a one year period. First advertising violations are recommended to be given a Letter of Warning.

Recommendation: Close with a Letter of Warning

Commission Action: Approved.

126. Case No.: 2012022311

The above complaint was opened due to a second advertising violation by a dealer within a one year period. Upon the first violation, a Warning was issued to the dealer. An agreed citation was issued to this dealer which has not been paid within thirty (30) days of sending, or the Respondent has replied with a justification for the violation which is unsatisfactory to this office.

Recommendation: Authorization for the imposition of a civil penalty in the amount of Five Hundred Dollars (\$500.00). To be settled by a consent order or formal hearing.

Commission Action: Approved.

127. Case No.: 2012000221

This complaint was generated as the result of a routine inspection of the business premises of Respondent on or about December 13, 2011, wherein multiple very serious violations and illegal activity were uncovered. Such violations consisted of expired city and county business licenses, signage issues, temporary tag misuse, temporary tag log violations, sales on open titles, possible sales tax fraud, Respondent selling vehicles on salvage titles, failure to maintain business records, etc. Subsequently, an investigation of Respondent was conducted by a team of Investigators from both this office and the Department of Revenue on or about March 1, 2012. The investigation provided evidence of 165 temporary tag violations, 145 vehicles sold prior to being rebuilt, 12 instances of misuse of dealer plates, 172 open titles, 17 excess temporary tags being issued to customers, 3 vehicles with no titles, 1 illegal repossession of a vehicle, 12 salvage certificates, expired business license, and no hours posted. A civil penalty for such numerous violations would add up to an amount of Three Hundred Seventy-Eight Thousand Five Hundred Dollars (\$378,500.00).

Recommendation: Authorization for a formal hearing without a Consent Order to pursue Revocation of Respondent's motor vehicle dealer license. Civil penalty by means of Consent Order would have been in the amount of Three Hundred Seventy-Eight Thousand Five Hundred Dollars (\$378,500.00).

Commission Action: Authorization for Summary Suspension to pursue Revocation of Respondent's motor vehicle dealer license.

The Summary Suspension hearing was scheduled for August but Respondent, through his attorney, agreed to continue the matter for a full hearing. After further review of all documents and the facts, it was determined that there were a total of 75 excessive temporary tags and 65 open titles. The employee who was responsible for the daily operations and who issued the illegal tags was subsequently arrested and plead guilty to violations of the Department of Revenue and has not worked at Respondent's business since that time. Respondent's license has been suspended since August and there has not been in operation.

New Recommendation: An Agreed Order with a civil penalty of \$70,000.00 and payment of court costs with a provision that if the Agreed Order is not satisfied by January 14, 2013, the license would be revoked.

Commission Action: Approved.

Motion made to adjourn was made Mark Pirtle, and seconded by Reed Trickett.

Eddie Roberts, Chairman

Leon Stribling, Executive Director