

Minutes

10-7-13

**TENNESSEE MOTOR VEHICLE COMMISSION
 BOARD MEETING
 July 15, 2013 10:00 A.M.
 CONFERENCE ROOM A-1
 DAVY CROCKETT TOWER, 500 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 VAUGHAN	X	
MARK PIRTLE		X
RONNIE FOX	X	
LYNN WEBB	X	
BILLY KECK		X

The Tennessee Motor Vehicle Commission Meeting was called to order by Chairman Eddie Roberts on October 7, 2013 Roll Call was taken with a total of (9) member's present.

A Motion was made by Commissioner Kevin Cullum, and seconded by Commissioner Farrar Vaughan, to approve the minutes from the July 15, 2013 meeting.

MOTION PASSED UNANIMOUSLY

A Motion was made by Commissioner Reed Trickett, and seconded by Commissioner George Bass to adopt the Agenda.

MOTION PASSED UNANIMOUSLY

A Motion was made by Commissioner Mark Pirtle, and seconded by Nate Jackson to adopt the Calendar for next year.

MOTION PASSED UNANIMOUSLY

APPEALS

The following appeals were heard by the Commission.

Dan Cox- Kia of Johnson City, Elizabethton, TN
Staff denied application

Motion was made by Commissioner Reed Trickett, and seconded by Commissioner Mark Pirtle to grant the license.

ROLL CALL VOTE

Eddie Roberts	No
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
Kevin Cullum	No
George Bass	No
Mark Pirtle	Yes

Motion passed to grant the license.

Cecil Ray Davis-Chuck Graves Chevrolet, Humboldt, TN
Staff denied application

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

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Abstain
Reed Trickett	Yes
Lynn Webb	Yes
Kevin Cullum	Yes
George Bass	Yes
Mark Pirtle	Yes

Motion passed to deny the license.

Christopher L. Looper-Rainbow Ford LLC, Lafollette, TN
Staff denied application

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

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	No
Reed Trickett	Yes
Lynn Webb	No
Kevin Cullum	Yes
George Bass	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

Darryl A. Myers- Gary Mathews VW Kia, Clarksville, TN
Staff denied application –NO SHOW

Motion was made by Commissioner Farrar Vaughan, and seconded by Commissioner Farrar Vaughan to uphold the denial of the license.

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
Kevin Cullum	Yes
George Bass	Yes
Mark Pirtle	Yes

Motion passed to deny the license.

William Lesemann jr.- Downtown Hyundai Subaru, Nashville, TN
Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Don Parr, to grant the license.

ROLL CALL VOTE

Eddie Roberts	No
Don Parr	Yes
Nate Jackson	No
Farrar Schaeffer Vaughan	No
Reed Trickett	Yes

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Farrar Schaeffer Vaughan to approve the Directors report.

Old Business

None

New Business

The Staff Attorney Anthony Glandorf recommended to the Commission that some of the Motor Vehicle applications need changes and updates made to them.

Motion was made by Commissioner Kevin Cullum and seconded by Commissioner Farrar Vaughan to have changes made to the required forms.

MOTION PASSED UNANIMOUSLY

Legal Report presented to the Legal Review Committee

1. Case No.: 2013008951

An anonymous complainant alleged that Respondent/dealer changed its name without providing notice to the commission administration. Upon review of the complaint, the Respondent obtained the required name change.

Recommendation: Close. Respondent received a change of name for dealership.

Commission Action: Approved.

2. Case No.: 201102661

An internal complaint was opened regarding unlicensed activity as a Dismantler & Recycler. The allegations were not substantiated based upon the information given.

Recommendation: Close.

Commission Action: Approved.

3. Case No.: 2013008481

Complainant/neighbor alleged that Respondent/unlicensed individual was conducting unlicensed activity at his residence. An investigator had previously stopped by the residence and verified that three vehicles were for sale, all titled to the name of the owner/Respondent. Less than 5 vehicles were found, as such, no unlicensed activity was found.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

4. Case No.: 2013008781

Respondent/licensed dealer purchased the assets of a previous motor vehicle dealership. Prior to obtaining its own motor vehicle dealer license, the Respondent admitted that it sold two motor vehicles and issued temporary tags purchased by the previous dealership.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500) for unlicensed activity to be settled by consent order or formal hearing.

Commission Action: Approved.

5. Case No.: 2013008391

Complainant/out of state consumer alleged that he purchased a motor vehicle from Respondent/dealer who failed to provide him with registration for the vehicle. An investigation was conducted. The Complainant would not communicate with the investigator to provide further details for information.

Recommendation: Close – Insufficient evidence of violation. Complainant would not communicate with investigator.

Commission Action: Approved.

6. Case No.: 2013008491

Complainant/consumer alleged that Respondent/dealer would not provide title to vehicle purchased. An investigation was conducted. The complainant could not be found for further details.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

7. Case No.: 2013009841

Complainant/consumer alleged that she purchased a motor vehicle in 2012 and was told by Respondent/dealer that she was required to purchase a GAP policy in order to obtain financing. Complainant recently traded the vehicle. Respondent denied the allegations and cancelled the GAP and for a refund of the unused policy. The

GAP contract signed by Complainant stated in bold letters that it was not required for financing approval.

Recommendation: Close – No Violation Found. GAP contract signed by the Complainant stated it was not required for purchase or financing.

Commission Action: Approved.

8. Case No.: 2013010451

Complainant/consumer alleged Respondent/dealer failed to provide title and registration for vehicle purchased. Respondent replied stating that it lost the title after receiving from its floor-planner. Respondent issued 3 temporary tags to the complainant in the interim. Respondent then provided a copy of registration of the vehicle to the Complainant.

Recommendation: Authorization for a civil penalty in an amount of Five Hundred Dollars (\$500) (providing 3rd temporary tag) to be settled by consent order or formal hearing.

Commission Action: Approved.

9. Case No.: 2013008781

Complainant/consumer alleged that Respondent/dealer illegally repossessed a motor vehicle sold. The Respondent provided documentation of the contract signed by Complainant and payments received. The documents did not show that the Respondent engaged in any false, fraudulent or deceptive act.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

10. Case No.: 2013010851

Complainant/out of state consumer alleged that Respondent/dealer misrepresented the type transmission present on a 1955 Chevrolet sold via EBay. The vehicle was sold “as-is,” sight unseen. The complainant chose not to inspect or test drive the vehicle. The EBay listing indicated that the vehicle had a rebuilt M-21 transmission. Complainant asserts that the vehicle arrived with a T-10 transmission with mechanical faults. The Complainant has not provided sufficient proof to substantiate its claim. The Respondent states he believes the vehicle had an M-21 transmission; that they represented such from their mechanics who state that was the transmission present. As such, there is insufficient proof of a deceptive act on part of Respondent.

Recommendation: Close – Insufficient Evidence of Violation.

Commission Action: Approved.

11. Case No.: 2013008881

Complainant/consumer alleged that Respondent/dealer engaged in deceptive acts. The Complainant did not provide a specific set of facts. The Respondent replied stating the vehicle was repossessed and at the time of repossession had been stripped at the home of the Complainant. Respondent stated they attempted to collect the deficiency, at which time this complaint was filed.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

12. Case No.: 2013009181

Complainant alleged that Respondent/dealer is holding the title after vehicle was paid off. Respondent stated that on the day the vehicle was sold the salesperson failed to include tax on the contract. Respondent alleges that Complainant did not engage in good faith upon the contract. From the documents presented, there is no evidence of deceptive acts or fraud on part of Respondent. It appears the issue between the parties is contractual.

Recommendation: Close with a Letter of Warning. Contractual issue between parties.

Commission Action: Approved.

13. Case No.: 2013008151

Complainant/purchaser alleged that Respondent/dealer sold him a vehicle and misrepresented the mileage of the vehicle. Respondent obtained the vehicle as a trade-in with 555,000 miles upon it (semi-truck) and disclosed this mileage to purchaser. Two years after purchase, the Complainant alleges an on board diagnostics read that the vehicle at time of sale actually had over 800,000 miles upon it. It appears that a rollback is possible but there is not sufficient proof indicating Respondent had any knowledge of this. Respondent attempted to pay the Complainant the difference in value. Complainant refused this offer.

Recommendation: Close – Insufficient evidence of deceptive act on part of Respondent. Refer complaint to TN Dept. of Safety for possible investigation as to previous owners and possible criminal odometer tampering.

Commission Action: Approved.

14. Case No.: 2013010481

Complainant/consumer alleged that he purchased a vehicle from an individual via Craigslist. Complainant alleged the vehicle was later found to be water damaged. Complainant conducted his own investigation and alleges that the seller misrepresented himself as a different person. This office could not determine the true identity of the seller. The seller's cell phone number cannot be traced back to the owner utilizing current investigation resources. There is insufficient proof that Respondent sold more than 5 vehicles in any year.

Recommendation: Close – Insufficient evidence of unlicensed activity. Respondent cannot be found.

Commission Action: Approved.

15. Case No.: 2013010841

Respondent/dealer was alleged to be operating a second business in the same location as its dealership. Photographs of the location do not indicate that two businesses are co-located without proper separation.

Recommendation: Close – Insufficient evidence of violation.

Commission Action: Approved.

16. Case No.: 2013012011

Complainant alleged that she sold her vehicle to Respondent/individual and after such time, received parking tickets in her name for the sold vehicle and that the vehicle title was still in her name. She indicated that Respondent acknowledged liability but had not paid such off.

Recommendation: Close – Contractual matter between Respondent and Complainant. Complainant should have bill of sale absolving liability ownership. No evidence of fraud or deceptive act.

Commission Action: Approved.

17. Case No.: 2013012191

Complainant alleged that he purchased the vehicle and did not receive title with release of lien. Respondent stated that the title was given to Complainant at the time of sale with a release of lien and that Complainant lost the title. Respondent indicated it will assist in obtaining a duplicate title. Surety bond information sent.

Recommendation: Close – No Violation Found. Surety bond information sent.

Commission Action: Approved.

18. Case No.: 2013011971

Complainant alleged that after purchase of the vehicle, it began to have mechanical difficulties. Respondent replied indicating that the vehicle was sold with no promises made of repairing any defects; that a limited warranty with a deductible was sold on the vehicle which can be applied for by the Complainant.

Recommendation: Close – No Violation of fraud or deceptive acts found.

Commission Action: Approved.

19. Case No.: 2013009211

Complainant/dealer alleged that a person or persons were engaging in unlicensed activity near his licensed location. In investigation was conducted which did not discover the unlicensed activity. The investigator met with the complaining dealer who confirmed the activity had ceased.

Recommendation: Close – Insufficient evidence of violation.

Commission Action: Approved.

20. Case No.: 2013012671

Complainant/consumer alleged that after purchase of vehicle from Respondent/dealer, he could not obtain title or registration. The Respondent replied indicating that the vehicle was sold under special conditions paperwork; that documentation from the county clerk to the state was lost. Respondent is working to obtain title and registration. Surety bond information was sent.

Recommendation: Close – No Violation Found. Surety bond information sent.

Commission Action: Approved.

21. Case No.: 2013006631

Respondent/dealer was issued a notice of violation for failing to have a temporary tag log. The Respondent disputed this and provided a temporary tag log. The notice of violation did not provide sufficient evidence of a violation.

Recommendation: Close with a letter of warning.

Commission Action: Approved.

22. Case No.: 2013007201

Complainant/ex-employee alleged that Respondent/dealer was requesting sexual favors in lieu of payments. An investigation was conducted. Investigators met with the Respondent and Respondent's attorney. The investigators did not find any evidence to substantiate the allegations. The complaining ex-employee refused to participate in the investigator and recanted on the original complaint.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

23. Case No.: 2011028991

Respondent/dealer was alleged to be conducting unlicensed activity by utilizing an unregistered name and location for the sale of motor vehicles. This case is related to existing 2012019022 in which the Commission authorized a civil penalty in the amount of \$8,500 which has been agreed to by the Respondent/dealer.

Recommendation: Close – In connection with case 2012019022.

Commission Action: Approved.

24. Case No.: 2013013391

Complainant/consumer alleged that Respondent/dealer would not provide an early payoff amount for a vehicle purchased and financed by the dealer. Further the Complainant indicated that the dealership went out of business and should not be able to collect the accounts. This office found that the dealership went out of business and sold its accounts. This company provided payoff information to the Consumer who does not agree with the amount.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

25. Case No.: 2013007031

Complainant/consumer alleged that the day after they purchased a vehicle, it began to have mechanical failures. Complainant stated that the deal was rescinded wherein they purchased another vehicle from Respondent which also had mechanical failures. There is no evidence of a deceptive acts or failure to abide by a warranty.

Recommendation: Close – Insufficient evidence of deceptive or false act.

Commission Action: Approved.

26. Case No.: 2013013921

This complaint originated with an internally generated inspection from MVC administration. Dealer/Respondent was suspected of failing to maintain its facilities. However, the investigator met with the owner. The report indicated that the business appeared to be co-located with another, that the signage was incorrect and that a vehicle parked at the area had signs on the door for another business. None of this was substantiated by the photos or other documentation.

Recommendation: Close - Insufficient evidence of violation.

Commission Action: Approved.

27. Case No.: 2013014281

Complaint/third party alleged that Respondent/dealer was selling a suspicious “add-on” product named ‘Vehicle Simple Interest Insurance and Debt Cancellation Coverage.’ Respondent provided copies of documentation that shows the purchasers initialed by their names indicating that they agreed to and requested the required coverage.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

28. Case No.: 2013014331

Complainant/county clerk alleged that Respondent/dealer provided false documentation to the county clerk’s office. Specifically, it provided a retail installment contract which did not note the amount of taxes collected. A copy of the contract confirms that the contract fails to specify to the purchaser that total amount of sales tax to be paid. Respondent replied with a copy of six month state tax returns. However, the Respondent did not address this particular sale. This office previously provided documentation to the TN Dept. of Revenue.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000) for false and deceptive acts. To be settled by consent order or formal hearing.

Commission Action: Approved.

29. Case No.: 2013016171

Complainant/consumer alleged that Respondent/dealer repossessed her vehicle. Respondent provided a copy of the contract outlining payments to be made along with all payments received by the Complainant. From these documents is appeared that Complainant was in default.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

30. Case No.: 2013010261

An internal complaint was opened upon Respondent/dealer. During a biennial inspection of Respondent's location by an MVC inspector, Respondent's agent refused to allow inspector to examine records as part of the inspection. The inspector left the location. This office communicated with the dealership owner who apologized, indicated that his employee was his wife and requested the inspector to return. The inspector returned and conducted the inspection without incident.

Recommendation: Close with a Letter of Warning.

Commission Action: Approved.

31. Case No.: 2013015491

Complainant/consumer alleged that Respondent/dealer incorrectly collected sales tax upon a vehicle that was leased and later purchased under the option. Respondent replied with documents all of which showed correct sales tax collection. The lease portion paid taxes by month, the purchase option calculated taxes at the beginning of sale.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

32. Case No.: 2013003091, 2013003092, 2013003093

Complainant/consumer alleged that he purchased a motor vehicle through an auction company via an internet site from Respondent/Auctioneer and could not obtain title. Title was eventually provided. An investigation was conducted and found that the auctioneer was engaging as a motor vehicle dealer by selling vehicles on behalf of other without being licensed as a motor vehicle dealer or public automobile auctioneer.

Recommendation: 2013003091 – (Auction Company) Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500) for unlicensed activity to be settled by Consent Order or Formal Hearing.

2013003092, 2013003093 – (Auctioneers) Close with a letter of warning.

Commission Action: Approved.

33. Case No.: 2013000521

Complainant/consumer alleged that Respondent/dealer failed to provide registration for a vehicle purchased and provided more than 2 temporary tags. An investigation was conducted. The investigator found that Respondent issued five (5) temporary tags to the Complainant. Registration was never provided to Complainant. Complainant returned the vehicle. The Respondent purchased vehicle at auction, lost title and had difficulty obtaining a duplicate title from the registered owner in Florida. This was confirmed by the selling auction. During the investigation, Respondent could not provide a copy of its temporary tag log.

Recommendation: Authorization for a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) (\$500 x 3 temp. tags illegally issued) (\$2,000 failing to maintain a temp. tag log). To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

34. Case No.: 2013009761

Complainant/dealer alleged that Respondent/dealer misused a temporary tag by providing to a person who was not a customer. The Respondent dealer denied such stating that tag was stolen. The individual to whom the tag was provided could not be found for questions. There is not sufficient evidence of tag misuse, however, there was no explanation from the Respondent/dealer.

Recommendation: Close with a Letter of Warning.

Commission Action: Approved.

35. Case No.: 2013006491

Complainant/consumer alleged bait and switch tactics against Respondent/dealer after visiting the location of dealer and asking to view vehicles within a certain price range. Complainant alleges that prior to consummation of a deal, the sales manager indicated that the vehicle shown was the incorrect vehicle and that one of the same year and model was quoted. The Complainant viewed the vehicle actually priced and decided not to purchase. An investigation was conducted and found that the vehicle was not advertised by Respondent. Further, there were in fact 2 vehicles of

the same year and model on the lot. It appears the issue was likely due to a miscommunication of the correct vehicle.

Recommendation: Close with a Letter of Warning regarding the communication of vehicle prices to consumers.

Commission Action: Approved.

36. Case No.: 2013008611

Complainant/consumer alleged that Respondent/dealer sold her a motor vehicle that had mechanical difficulties after purchase. Complainant alleged that Respondent failed to post a buyer's guide. The Respondent admitted to such but indicated the bill of sale says such. The Complainant refused to provide a statement to the investigator and participate in the investigation.

Recommendation: Close with a Letter of Warning.

Commission Action: Approved.

37. Case No.: 2013005841

Complainant/consumer alleged that Respondent/dealer provided her with a false temporary tag and further that the Respondent failed to provide registration. An investigation was conducted. The investigator found that registration was provided to the Respondent. The Respondent indicated that he had provided a false temporary tag to the Complainant but was under the belief that such tag was allowed as it was purchased at a Birmingham auction. The tag stated "This car was sold by a licensed motor vehicle dealer." Respondent was interviewed by the TN Dept. of Safety and has now ceased providing such tags.

Recommendation: Authorization for a civil penalty in the amount of Five Hundred Dollars (\$500) for committing a false act of providing a false temporary tag. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

38. Case No.: 2013009221

Complainant/purchaser alleged that Respondent/dealer engaged in deceptive and false acts in the course of the purchase of a motor vehicle. Respondent sold vehicle to Complainant in November 2012. The bill of sale indicated for payments over a period of time. Payment start, end dates and periodic payment date were not listed. Respondent did not comply with regulation Z. Complainant was issued a traffic violation for driving on an expired temporary tag. Respondent eventually repossessed the vehicle in May 2013. Respondent never titled the vehicle in name of

the Complainant, though the vehicle passed emissions. Respondent admitted to issuing three temporary tags. Respondent refused to title and register the vehicle until the vehicle was paid off.

Recommendation: Authorization for a civil penalty in the amount of Two Thousand Dollars \$2,000 (\$500 – deceptive act failure to comply with Regulation Z and repossessing, \$500 for issuing third temporary tag, \$1,000 for deceptive acts of failing to title and register vehicle.) To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

39. Case No.: 2013010441

Complainant/consumer alleged that Respondent/dealer engaged in fraudulent acts by failing to provide registration for a vehicle purchased and financed in-house. An investigation was conducted. Respondent could not provide a record for the issuance of temporary tags to the Complainant. Respondent sold the vehicle in 2011 to Complainant. Respondent has not titled the vehicle into the name of the Complainant. Title is in the name of an owner whom sold the vehicle in 2010. Respondent alleges that Complainant has a \$465 balance due on the vehicle and refuses to register the vehicle to Complainant. The bill of sale states “sales tax must be paid before you get your tags!” Respondent stated they do not have proof of remitting any sales tax to the state of Tennessee though Complainant paid over \$5,000 thus far.

Recommendation: Authorization for a civil penalty in the amount of \$1,500. (\$500 for failing to keep a record of issuance of temporary tags, \$1,000 for fraudulent act of failing to provide registration until vehicle was paid off and failure to title vehicle into Complainant’s name.) To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

40. Case No.: 2013012601-2013012602

Anonymous complainant alleged that Respondent was misusing dealer tags and illegally using new dealer plates. An investigation was conducted which could not substantiate the allegations.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

41. Case No.: 201300511

Complainant/consumer alleged that Respondent/dealer sold her a motor vehicle and failed to provide title. An investigation was conducted and found that

Respondent/dealer sold Complainant a vehicle in April 2013 financed “in-house” and failed to place title in the name of Complainant and provide registration. Further, Respondent admitted to employing a person not licensed as a salesperson and provided commission to that person in assisting the sale of the vehicle to Complainant.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) (\$1,000 for deceptive act of failing to title and register the vehicle)(500 for employing an unlicensed salesperson). To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

42. Case No.: 2013008791

Complainant/consumer alleged that Respondent/dealer sold her a salvaged motor vehicle on a salvaged title, and failed to disclose such at the time of sale. An investigation was conducted. The investigator found that the location did not have a landline phone. The investigator visited the location of Respondent (a sole proprietorship) and asked for the owner. An employee indicated that ownership had changed to another individual (this information was not provided to the Commission). The employee was asked to contact the owner and the employee declined. The investigator left the location and the employee locked the gates barring reentrance. The investigator also found that the Respondent’s surety bond was cancelled in 2012. The Respondent failed to cease and desist from operating as a dealership. The investigator interviewed the supposed new owner who sold the vehicle to the Complainant. This person is not licensed as a dealer or salesperson and is thus conducting unlicensed activity. The Respondent admitting to providing Complainant with a salvaged title but insisted that she knew this type of title was being provided. The Complainant provided a sworn statement that she was not aware she was obtaining a salvaged vehicle and stated that she has been driving this vehicle for months and that Respondent knew she was currently driving this vehicle on the road.

Recommendation: Authorization for revocation of Respondent’s motor vehicle dealer license for fraudulent act of selling a motor vehicle for operation on the road with a known salvaged title, for operating over 15 months without a surety bond protection to consumers, for employing a person not licensed as a motor vehicle salesperson.

Commission Action: Approved.

43. Case No.: 20130116311

Complainant/consumer alleged that Respondent/dealer engaged in deceptive acts in selling and repossessing a travel trailer sold to him. Complainant alleged he purchased the vehicle with in-house financing and for over 3 months could not

obtain title or registration. An investigation was conducted. The Complainant agreed to allow Respondent repossession of the vehicle. The Respondent admitted he did not have proof of ownership of the travel trailer he sold to the complainant. The Respondent indicated it was purchased from an unknown person and did not have a title or documentation showing its ownership. Respondent indicated he had planned on providing complainant a bill of sale only on the travel trailer. The investigator conducted an inspection of its dealership and found that Respondent failed to properly maintain a record of temporary tags issued. The Respondent indicated that travel trailer was repossessed, sold to his brother and dismantled for parts.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000)(\$500 for selling a vehicle without proof of ownership)(\$500 for failing to maintain a temporary tag log). To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

44. Case No.: 2013012511

Complainant/consumer alleged that Respondent/dealer engaged in deceptive acts in failing to disclose that a rebate was used in order to lower the price of the vehicle to come to the agreed upon price. An investigation was conducted and found all documentation was in favor of the dealer indicating the Complainant understood the use of the rebate. The investigator indicated there may have been a language barrier between the Complainant and Respondent which could have contributed to the confusion.

Recommendation: Close with a letter of instruction as to the importance of providing clear information as to how the rebate is applied to the customer upon execution of the sale contract.

Commission Action: Approved.

45. Case No.: 2013014661

Complainant/consumer alleged deceptive acts upon Respondent/dealer regarding the type of warranties provided with vehicle. Respondent provided a copy of buyer's guide indicating "Warranty" covering "any remaining factory warranty." At the time, there was part of a remaining factor warranty regarding emissions and corrosion. Complainant indicates she was lead to believe this covered the powertrain. Shortly after purchase, the vehicle's transmission failed. The factory warranty had expired.

Recommendation: Close – No Violation Found. Vehicle warranty included only those remaining factory warranties.

Commission Action: Approved.

46. Case No.: 2013015611

Complainant/consumer alleged that Respondent/dealer engaged in bait and switch tactics. An investigation was conducted. The Complainant viewed an internet price advertisement of a vehicle by Respondent on Sunday and printed this off. Complainant attempted to purchase the vehicle for that price on Monday via telephone. Respondent refused to sell the vehicle at the previously advertised price due to recent service work performed on the vehicle. The Respondent provided documentation indicating it increased the internet price through its marketing agent (3rd party) which was uploaded to the internet that Sunday.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

47. Case No.: 2013008601

Complainant/consumer alleges that he bought a new motor vehicle from Respondent/dealer that does not perform as advertised and that the vehicle was deemed unsafe by the NHTSA. An investigation was conducted and found that the Respondent, who does not hold a new motor dealer’s license, sold a new ‘motorcycle’ to Complainant. The vehicle has an MSO as a motorcycle but appears to be a three wheel fully enclosed vehicle. The manufacturer is not licensed to distribute his product in the state of Tennessee. The MSO for the vehicle listed the Respondent on the MSO. The NHTSA placed a recall on the vehicle because it would not stop within the required distance for such vehicle. The vehicles as such are prohibited from operation on the roadway by the NHTSA. The Respondent admitted to selling 5-6 of these vehicles but an exact number was not obtained. It is not known the number of vehicles sold in the state of Tennessee.

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

Commission Action: Approved.

48. Case No.: 2013012961

Complainant/dealer alleged that Respondent/dealer engaged in deceptive acts by failing to conduct motor vehicle safety recalls and for allegedly falsely certifying PDIs to the manufacturer. An investigation was conducted wherein the Respondent provided an affidavit of a former employee who indicated he was fired for not signing backdated PDIs on vehicles he did not sell. A similar complaint is opened against the Respondent. The commission previously authorized for legal counsel to update the Chairman on the Attorney General’s pursuit of legal action.

Recommendation: Request legal counsel to keep the Chairman informed of this case development with the Attorney General's office.

Commission Action: Approved.

49. Case No.: 2013011941, 2013011942

Complainant/consumer alleged that Respondent/dealer and salesperson engaged in fraudulent acts and the salesperson engaged in unlicensed activity as a motor vehicle dealer regarding failure to pay off a trade-in vehicle. An investigation was conducted. The investigation found that Complainant purchased a BMW in 2011 from Dealer 1 who is now out of business but owned by the Respondent/salesperson. In 2012, Complainant alleges he traded in the BMW to Respondent for purchase of a Mercedes. The documentation indicates that the Mercedes was sold by an Arkansas dealer, which was solely owned by Respondent/salesperson. However, the sale took place in TN at the location of Dealer 1. The Respondent/salesperson attempted to sell the vehicle to a pre-planned purchaser but the sale never took place. The BMW was never paid off. The Complainant obtained a loan for the Mercedes. Respondent/salesperson then opened Dealer 2 at the same location as Dealer 1. Respondent/salesperson sold the traded-in BMW to a Tennessee Resident under the name of the Arkansas dealer what purportedly sold the Mercedes to Complainant. This sale took place at the same Dealer 1 location. The BMW was never titled to the new owner. The new owner made payments to Complainant's original loan company but defaulted. The BMW was repossessed and is scheduled for sale and possible default against the Complainant.

This investigation appears to find unlicensed activity as a motor vehicle dealer on part of the Respondent/salesperson along with fraud for failing to pay off the trade-in amount. Further the Respondent/dealer 2 allowed for these actions to take place on its location under the guise of Respondent/salesperson, which can be deceptive or an accessory to fraud and failure to supervise its agents.

Recommendation: 2013011942 - Authorization for the revocation of the motor vehicle salesperson license for deceptive act of unlicensed activity at a licensed location and fraudulent acts.

2013011941 – Authorization for the revocation of the motor vehicle dealer license of dealer owned by above salesperson for fraudulent, deceptive acts and failure to supervise its agents.

Commission Action: 2013011942 - Authorization for the revocation of the motor vehicle salesperson license for deceptive act of unlicensed activity at a licensed location and fraudulent acts. Refer complaint to Federal Trade Commission and Department of Safety.

2013011941 – Authorization for the revocation of the motor vehicle dealer license of dealer owned by above salesperson for fraudulent, deceptive acts and failure to supervise its agents. Refer complaint to Federal Trade Commission and Department of Safety.

50. Case No.: 2012022711, 2012022712

Complainant is neighbor of Respondent 1, motor vehicle salesperson alleging that Respondent 1 was selling motor vehicles from his residence as a dealer. An investigation was conducted. The investigation found that Respondent 1 purchased 4 vehicles from auction or private sellers using personal funds through a licensed motor vehicle dealer for which he did not hold a salesperson license and subsequently sold those vehicles through the same dealership. Respondent 1 then obtained a motor vehicle salesperson license from Respondent 2 and purchased 5 motor vehicles from auction or private sellers using personal funds. Documents indicated that the vehicles were purchased through the dealership of Respondent 2 and sold through the same dealership. Further, the investigator obtained affidavits of 2 persons who indicated that they did in fact purchase vehicles at the residence of Respondent 1. Respondent 2's (dealer's) records indicate that it accepted personal payments from Respondent 1 for the sale of the vehicles.

The investigation appears to show that Respondent 1 was selling motor vehicles owned by him through the dealership.

Recommendation: 2012022712 – Authorization for a civil penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500)(\$500 x 9 counts of unlicensed activity as a motor vehicle dealer) to be settled by Consent Order or Formal Hearing.

2012022711 – Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2,000) for failing to employ its licensed salesperson and failing to reasonably supervise its salesperson for conducting off-site sales.

Commission Action: 2012022712 – Authorization for a civil penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500)(\$500 x 9 counts of unlicensed activity as a motor vehicle dealer) to be settled by Consent Order or Formal Hearing. Request legal counsel to contact auction legal counsel regarding auction account authorizations.

2012022711 – Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2,000) for failing to employ its licensed salesperson and failing to reasonably supervise its salesperson for conducting off-site sales.

RE-PRESENTATIONS

51. Case No.: 2013002721

At its July 2013 meeting, the Commission authorized a \$3,500 civil penalty against Respondent/dealer for altering temporary tags and committing deceptive acts. Respondent's dealer license expired. Respondent cannot be contacted. This office previously forwarded a complaint to the TN Dept. of Revenue against the owner for possible tax fraud by failing to collect sales tax.

Recommendation: Close and Flag with referral to the TN Dept. of Revenue. Respondent is out of business and cannot be found.

Commission Action: Approved.

**52. Case No.: 2013004661
2013007231
2012026361**

At its April 2013 meeting, the Commission assessed a civil penalties of an amount between \$250-\$500 against Respondents various minor infractions. Respondent's licenses have expired and are no longer in business. Respondents cannot be notified of the violation or served for a formal hearing.

Recommendation: Close and Flag. Respondent surrendered its motor vehicle dealer license.

Commission Action: Close and Flag.

53. Case No.: 2013003581

The Commission previously authorized a \$2,000 civil penalty against Respondent/dealer for failing to provide a conditional delivery agreement and allow a consumer to rescind the sale if terms of financing changed. An error was made in the authorization which should have been \$4,000. This amount was agreed to and already paid by Respondent/dealer.

Recommendation: Amend the previous authorization to a \$4,000 civil penalty and close.

Commission Action: Approved.

54. Case No.: 2013011091

The above complaints were received stating that the Respondents/dealers 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.

**55. Case No.: 2013008661
2013013871
2013013901
2013016411
2013015311
2013006471
2013010471
2013014611**

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.

**56. Case No.: 2013008871
2013012031**

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

Recommendation: Close – Settled between parties.

Commission Action: Approved.

**57. Case No.: 2013012811
2013011641
2013010881
2013012391**

The above complaints were withdrawn by the Complainant after submitting to the Commission.

Recommendation: Close – Withdrawn.

Commission Action: Approved.

58. Case No.: 2013007681

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.

Motion made to adjourn was made Commissioner Nate Jackson, and seconded by Commissioner Stan McNabb.

Eddie Roberts, Chairman

Leon Stribling, Executive Director