

Minutes

1-6-14

**TENNESSEE MOTOR VEHICLE COMMISSION
 BOARD MEETING
 January 6, 2014 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 January 6, 2014 Roll Call was taken with a total of (10) member's present.

A Motion was made by Commissioner Stan McNabb, and seconded by Commissioner Farrar Schaeffer Vaughan, to approve the minutes from the October 7, 2013 meeting.

MOTION PASSED UNANIMOUSLY

A Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Stan McNabb to adopt the Agenda for this called meeting.

MOTION PASSED UNANIMOUSLY

A Motion was made by Nate Jackson, and seconded by Commissioner Farrar Schaeffer Vaughan to add the following dates of April 23, 24, 2014 for the Formal Hearing.

MOTION PASSED UNANIMOUSLY

APPEALS

The following appeals were heard by the Commission.

Frank G. Wallace-Sunrise Chevy Buick GMC @ Collierville, TN
Staff denied application

Motion was made by Commissioner Don Parr, and seconded by Commissioner Lynn Webb to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
John Murrey	Yes
Kevin Cullum	Yes
Stan McNabb	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

Mark S. Webb-Frontier Chevrolet, Livingston, 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
Don Parr	No
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes

John Murrey Yes
Kevin Cullum Yes
Stan McNabb Yes
Mark Pirtle Yes
Motion passed to grant the license.

Danny Bilyeu-Hodge Auto Sales, Crossville, TN
Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Reed Trickett to grant the license.

ROLL CALL VOTE

Eddie Roberts No
Don Parr Yes
Nate Jackson Yes
Farrar Schaeffer Vaughan No
Reed Trickett Yes
Lynn Webb No
John Murrey Yes
Kevin Cullum No
Stan McNabb Yes
Mark Pirtle Yes
Motion passed to grant the license.

Levi K. Knight-M & M Auto Sales, Clarksville, TN
Staff denied application

Motion was made by Commissioner Don Parr, and seconded by Commissioner Farrar Schaeffer Vaughan to grant the license.

ROLL CALL VOTE

Eddie Roberts Yes
Don Parr Yes
Nate Jackson Yes
Farrar Schaeffer Vaughan Yes
Reed Trickett Yes
Lynn Webb No
John Murrey Yes
Kevin Cullum Yes
Stan McNabb Yes
Mark Pirtle Yes
Motion passed to grant the license.

Darrius J. Cane-Auto Masters West Nashville, LLC. Nashville, TN

Staff denied application- NO SHOW

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
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
John Murrey	Yes
Kevin Cullum	Yes
Stan McNabb	Yes
Mark Pirtle	Yes

Motion passed to uphold the denial.

Willie L. Robertson-Robertson Motor Co. LLC. Nashville, TN

Staff denied application

Motion was made by Commissioner Reed Trickett, and seconded by Commissioner Lynn Webb to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
John Murrey	Yes
Kevin Cullum	Yes
Stan McNabb	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

Charles Woods-GBM Motors, Nashville, TN

Staff denied application

Motion was made by Commissioner John Murrey, and seconded by Commissioner Farrar Schaeffer Vaughan to deny the license.

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes

Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
John Murrey	Yes
Kevin Cullum	No
Stan McNabb	Yes
Mark Pirtle	Yes

Motion passed to deny the license.

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

Staff denied application

Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Reed Trickett to grant the license.

ROLL CALL VOTE

Eddie Roberts	Yes
Don Parr	Yes
Nate Jackson	Yes
Farrar Schaeffer Vaughan	Yes
Reed Trickett	Yes
Lynn Webb	Yes
John Murrey	Yes
Kevin Cullum	Yes
Stan McNabb	Yes
Mark Pirtle	Yes

Motion passed to grant the license.

DIRECTORS REPORT

Since the last Commission meeting in October, 2013 the following actions have been taken:

Dealers Opened, or Relocated91

Active Licensees as of October, 2013

Dealers.....	3807
Applications in Process.....	42
Distributions/Manufacturers	138
Auctions.....	29
Representatives.....	531
Salespeople.....	15333
Dismantlers.....	321
RV Dealers.....	26
RV Manufacturers.....	59

Motor Vehicle Show Permits Issued Since October 7, 2013 ...6

Revenue Received	\$ 12 00.00
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Motion was made by Commissioner Nate Jackson, and seconded by Commissioner Mark Pirtle to approve the Directors report and adopt Roberts Rules of Order.

Old Business

None

New Business

None

TO: Tennessee Motor Vehicle Commission

FROM: Legal Division

SUBJECT: MVC Legal Report adopted by the Legal Review Committee on January 6, 2014.

#1. Case No.: 2012012931

Complainant/consumer alleged that Respondent/individual sold her a motor vehicle and did not disclose known defects. An investigation was conducted in part to determine if Respondent was engaging in unlicensed activity. The investigation found that Respondent sold five or less vehicles in the previous year.

Recommendation: Close - No Violation Found.

Commission Action: Approved.

#2. Case No.: 2012026482, 2012026483

Complainant/Dealer alleged that Respondent/unlicensed persons were engaging in unlicensed activity by offering vehicles for sale in front of their grocery store. An investigation was conducted. The investigator found that a married couple purchased and sold 7 vehicles between September to November 2012. The vehicles were purchased by the couple at a licensed dealership through a salesperson related to them. The vehicles were sold to consumers.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000) (2 vehicles sold illegally x \$500). To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#3. Case No.: 2013003551

Complainant/consumer alleged that Respondent/Dealer held himself out to be an authorized dealer of specific line of campers, and was not, in fact, an authorized dealer of that line of campers. Complainant/consumer attempted to rescind purchase prior to delivery of the travel trailer. Respondent/dealer provided documentation negating complainant allegations, and eventually Complainant was able to re-negotiate contract and accepted delivery of travel trailer.

Recommendation: Close – No violation found

Commission Action: Approved.

#4. Case No.: 2013009231

Complainant/consumer alleged that Respondent/previous salesperson, now owner of dealership committed fraudulent acts. Complainant alleged she sold her vehicle personally to Respondent, however 8 months later, received a traffic ticket due to the vehicle still being registered in her name. An investigation was conducted. The Complainant could not be found. The Respondent stated that he paid the ticket and the non-registration was due to the subsequent owner not obtaining a passing emissions test.

During the investigation, the Respondent/owner admitted that he had stolen temporary tags from his previous employer and issued temporary tags upon the vehicle traded-in by Complainant to the subsequent owner. The Complainant's previous vehicle was located abandoned at another dealership for previous repairs. The vehicle displayed a temporary tags issued by Respondent/dealer, though the vehicle was not sold through Respondent/dealer. A listing of temporary tags purchased by Respondent from January 2013 was obtained. Respondent had purchased 345 temporary tags from February 2013 to August 2013. Respondent's temporary tag log did not account for 304 temporary tags. Respondent provided a listing of all vehicles sold since January 2013. Respondent provided a listing of 115 vehicles sold. Respondent was also asked to provide a copy of each bill of sale of every vehicle sold. Respondent provided only 75 bills of sale. As such, 40 reported sales did not have a bill of sale kept as a business record.

Recommendation: Authorization for a civil penalty in the amount of Twenty One Thousand Five Hundred Dollars (\$21,500) (\$5,000 for failing to maintain a temporary tag log, (\$13,500 - 40 x \$250 for each bill of sale business record missing), \$500 for issuing a temporary tag to the purchaser of Complainant's vehicle – not sold by Respondent, \$2,500 for failing to supervise its agents who failed to record/maintain 304 temporary tags). To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#5. Case No.: 2013009771

Complainant/consumer alleged that Respondent/dealer failed to provide registration for a vehicle purchased in March 2013. An investigation was conducted. The investigation found that Respondent provided registration to the Complainant in August 2013. Further, the vehicle was sold to the Complainant in March 2013 on a Salvaged title after it was cosmetically rebuilt. The Respondent did not apply for a Rebuilt title until April 2013. Rebuilt title was not issued until May 2013. The complainant drove the vehicle on temporary tags issued by Respondent while the vehicle was salvaged.

Recommendation: Authorization for a civil penalty in an amount of Four Thousand Dollars (\$4,000) (\$2,000 for fraudulent act of selling a salvaged vehicle rebuilt prior to obtaining a rebuilt title, \$1,000 for the deceptive act of selling the salvaged vehicle to consumer for operation on the roadway and \$1,000 for issuing a temporary tag to Complainant while vehicle bore a salvaged title.) To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#6. Case No.: 2013010461

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.

#7. Case No.: 2013010871

Complainant/Dept. of Revenue alleged that Respondent was operating an unlicensed business as an automotive dismantler and recycler. An investigation was conducted. The investigation found that the Respondent was operating the business for approximately eight months unlicensed. The Respondent was in the process of applying for a dismantler and recycler's license, however he was selling motor vehicle parts. The Respondent cooperated fully with the investigators. An inspection of the premises of Respondent found them to be in compliance with all documentation requirements. Further, vehicle V.I.N.s were scanned and no stolen vehicles were found.

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

Commission Action: Approved.

#8. Case No.: 2013010931

Complainant/Consumers alleged that Respondents were conducting off-site sales, and engaging in unlicensed activity. Respondents advertised vehicles for sale on Craigslist, and held themselves out as private sellers. Once purchase was completed, purchasers received a bill of sale from Alabama dealership. Respondents are licensed dealers in Alabama, but do not hold a Tennessee dealer license. Negotiations and sale of vehicles took place in driveway of private home in Tennessee. Respondents did not cooperate with investigation.

Recommendation: Authorization of civil penalty in the amount of Four Thousand Dollars (\$4,000) (\$1000 x 2 for unlicensed activity; \$1000 x 2 for off-sites sales) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#9. Case No.: 2013011131

Complainant/out of state consumer alleged Respondent/previously licensed salesperson sold him a vehicle in October 2012 from an auction to be shipped to Lebanon, however that the vehicle was destroyed in transport to Mexico. Complainant alleges Respondent is responsible for the vehicle and has not returned the payment. This sale took place prior to Respondent being licensed as a salesperson. Respondent's salesperson license was terminated in May 2013 and is no longer licensed by the Commission. This matter may be best suited for referral to law enforcement regarding the transfer of payment for this vehicle by electronic means.

Recommendation: Close – Respondent is not licensed by the Commission. Refer to TN Dept. of Safety.

Commission Action: Approved.

#10. Case No.: 2013011621, 2013011622, 2013011623

The above complaints were opened due to a referral from the Morgan County Clerk alleging possible unlicensed activity by Respondent #1, an Alabama dealership owned by Respondent #2. An investigation revealed that at least five vehicles were sold under Respondent #1's bill of sale and title transferred by Respondent #3 per Respondent #2's instructions. Respondent #3 does have an active salesman license under a Tennessee dealer. Respondent #2 was not cooperative with the investigation, and it has been determined that he has been banned from several auctions due to prior incidents. Respondent #3 was uncooperative with the investigation after admitting that he did sell a few vehicles for Respondent #2 and stated that he "would see to it that the Morgan County Clerk lost her job for harassing him".

Recommendation: 2013011621/2013011622 – Authorization for a civil penalty in the amount of Five Thousand Dollars (\$5000) (\$1000 x 5 acts of unlicensed activity) to be settled by Consent Order or Formal Hearing.

2013011623 – Authorization for the Revocation of the Motor Vehicle Salesperson license of the Respondent.

Commission Action: Approved.

#11. Case No.: 2013012111

Respondent/dealer received a notice of violation for failing to maintain a temporary tag log at its location. Respondent has two locations across the street from each other and was using only one temporary tag log. Rule 0960-01-.11 requires a temporary tag log at each location.

Recommendation: Authorization for a civil penalty in an amount of One Thousand Dollars (\$1,000) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#12. Case No.: 2013012401, 2013012402

An internal investigation was opened upon allegations of unlicensed activity. The investigator found that a new dealership applying for a license began obtaining inventory from public auto auctions. The investigator did not find any proof of vehicles being sold prior to the issuance of license; however the vehicles were displayed prior to obtaining a license

**Recommendation: 2013012401 – Close.
2013012402 – Close with a Letter of Warning for displaying vehicles prior to license issuance.**

Commission Action: Approved.

#13. Case No.: 2013012411

Complainant/consumer alleged mechanical problems with vehicle purchased from Respondent/dealer. Complainant purchased vehicle for \$1,500. Respondent purchased vehicle from Complainant at auction as salvaged vehicle. Prior to delivery to consumer, Respondent conducted minor repairs upon the vehicle. Complainant was sold the vehicle “As-Is” and provided a temporary tag while the vehicle was awaiting a Rebuilt Title. The Respondent issued the temporary tag for the vehicle while its title brand was “Salvaged.” Salvaged vehicles are prohibited from operation on the roadway.

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

Commission Action: Approved.

#14. Case No.: 2013012751

Complainant/consumer alleged that Respondent/dealer failed to provide registration and altered a temporary tag provided to her. An investigation was conducted. The Respondent failed to respond to the investigator's questions regarding the alteration of a temporary tag. The Complainant provided two temporary tags issued by Respondent that were altered with white-out multiple times. The temporary tag issuance date was not correctly filled out at the time of issuance. Complainant did receive registration and a \$2,000 refund from Respondent.

Recommendation: Authorization for a civil penalty in an amount of One Thousand Dollars (\$1,000) for fraudulent activity of altering a temporary tag. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#15. Case No. 2013013411

Complainant/County clerk alleged that Respondent was engaging in unlicensed activity, specifically selling vehicles without a dealer's license. Investigation found that Respondent previously held a Dealer license, but that the dealership has been closed since 2009. Respondent advertises cars for sale on Craigslist, and has purchased at least thirty-one vehicles through auction. Proof of five sales in Tennessee were obtained, as well as sales to individuals in other states via Craigslist.

Recommendation: Authorization for civil penalty in the amount of Five Thousand Dollars (\$5000) for unlicensed activity.

Commission Action: Approved.

#16. Case No.: 2013013701

Complainant/consumer alleged that she put down a \$300 refundable purchase on a vehicle, decided not to purchase but that Respondent/dealer refused to refund the deposit. Respondent/dealer states that the deposit was non-refundable deposit to hold the vehicle and subsequent to payment of the deposit, Complainant chose not to purchase the vehicle.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

#17. Case No.: 2013013881-2013013882

Complainant/anonymous person alleged that Respondents/dealers are misusing motor vehicle dealer tags and conducting off-site sales. An investigation was conducted which did not find evidence to support the allegations. It was determined that the Complainant is a neighbor of Respondent and may have had ancillary issues with Respondent as his neighbor.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

#18. Case No.: 2013014791

Complainant alleged that Respondent had not given him title for a 1999 Cadillac purchased from Respondent three months after completing all payments. Respondent did show that he attempted to get clear title to the vehicle for Complainant, but that process was delayed due to fraud on the part of a former owner of the vehicle. Title has now been provided to Complainant. During the course of the investigation, however, Respondent was unable to provide the temporary tag log, despite his assurance that he would do so.

Recommendation: Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2000 – failure to produce temp tag log) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#19. Case No.: 2013014851, 2013014852

Complainant alleged that Respondent #1, a dealership, was allowing Respondent #2, a licensed salesman, to act as an independent sale group within the dealership, purchasing cars with his own money (or the money of his separately owned business) and using the Respondent #1 as his business office. Specifically, Respondent #1 collected “doc fees” in order to process the sale of vehicles for Respondent #2’s specialty car dealership. Respondents confirmed this partnership but denied knowing it was improper. Respondent #1 indicated they were willing to change whatever they needed to in order to conform with the law.

Recommendation: 2013014581 – Authorization of civil penalty in the amount of Three Thousand Dollars (\$3000) for intentionally allowing an unsupervised non-employee to conduct business within the dealership.

201314582 – Revocation of Motor Vehicle Salesperson license based on application not being truthful (i.e. never intended to be an actual employee of Motor Vehicle Dealer Respondent # 1)

Commission Action: Approved.

#20. Case No.: 2013014861

Complainant alleged that Respondent sold him a vehicle with safety issues; increased the price of the car in the contract without notifying respondent; accepted a \$3500 cash down-payment but then denied having done so; and did

not disclose that the vehicle had a salvage title at the time of sale. The investigation found that Respondent was already under investigation by the Department of Homeland Security for purchasing defective airbags from China and potentially placing them in re-built cars prior to sale. Investigation also found that the car was sold to Complainant nine days prior to the issuance of a new title; and statements from a witness confirmed Complainant's assertion of a cash down-payment and that the status of the salvage title was never mentioned by Respondent during negotiations for the purchase of the car.

Recommendation: Revocation of Motor Vehicle Dealer license due to false and deceptive acts.

Commission Action: Approved.

#21. Case No.: 2013014881

Complainant/finance company alleged that Respondent/dealer assigned three vehicle financing notes to it but failed to perfect the complainant's lien on the note prior to the assignment. An investigation was conducted and found that Respondent has gone out of business and closed its location.

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

Commission Action: Approved.

#22. Case No.: 2013014921, 2013014922

A consumer/complainant alleged unlicensed activity by a person advertising vehicles on Craigslist with the same phone number. An investigation was conducted. The investigator found that the dealership employed two unlicensed salespersons to list vehicles on Craigslist and refer those vehicles to Respondent 1 (dealership). Three vehicles found on Craigslist did not indicate the dealership name or number. Further, during an undercover purchase attempt, Respondent 2 (licensed salesperson) falsely stated the vehicle was not being sold by a dealership.

Recommendation: 2013014921 – Respondent 1 dealership authorization for a civil penalty in the amount of \$3,250 (3 x \$250 = \$750 advertisements without dealer name or number), (3 x \$500 = \$1,500 for employing an unlicensed salespersons for the above advertisements), (1 x \$500 for failing to reasonably supervise its agents), (1 x \$500 for employing second person not licensed as a salesperson to meet with the investigator to show/sell the vehicle.) To be settled by Consent Order or Formal Hearing.

2013014922 – Respondent 2 (salesperson and secretary of corporation) \$1,000 civil penalty for engaging in fraudulent acts by indicating vehicles were not being sold by a dealership. To be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#23. Case No.: 2013015871

Respondent/Dealer was issued an agreed citation for employing an unlicensed salesperson; failing to maintain a temporary tag log; failing to place a buyer's guide in the vehicle; and selling a vehicle without disclosing it had a salvage title only at the time of the sale. Respondent has failed to respond or to pay the citation.

Recommendation: Authorization for a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3500) (\$500 for unlicensed sales person; \$1000x3 for failure to maintain temp tag log violation; failure to provide buyer's guide; and deceptive act of failure to disclose salvage title) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#24. Case No.: 2013015901

Respondent/Dealer was issued an agreed citation for unlicensed sale of three (3) RVs without a license. Respondent is contesting the citation, alleging that 1) the RVs were on a vacant lot, not technically her property 2) when told of the violation she contacted the owners and told them to put their own "for sale" signs on the RVs or remove them and 3) she made arrangements to secure a dealer's license after notification of the violations.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1500) (\$500 x 3 unlicensed sales) to be settled by Consent Order or Formal Charges.

Commission Action: Approved.

#25. Case No. 2013016111

Complainant/Dealer alleged that Respondent/Salesman was conducting unlicensed activity; specifically, advertising a dealer's vehicle for sale as an individual when in fact it is through the dealership. Investigation found that Respondent #1 did advertise vehicles for sale as if on his own behalf. Furthermore, Respondent #2 allowed Respondent #1 to conduct off-site sales, and claimed to "not know" that it was not allowed to do that. Respondent # 1 stated that he had sold six cars this year in this manner. During the investigation it was also found that Respondent # 2 could not account for two of its seventeen dealer plates. Respondent # 2 alleged that the plates had been stolen, but admitted that the alleged thefts had never been reported. Additionally, Respondent # 2 was found to have allowed the daughter of an employee to drive on a dealer plate.

Recommendation: Respondent #1: Authorization of civil penalty in the amount of Three Thousand Dollars (\$3,000) (\$500 X 6 incidents of unlicensed activity) to be settled by Consent Order or Formal Hearing.

Respondent # 2: Authorization of civil penalty in the amount of Six Thousand Dollars (\$6,000) (\$500 X 6 incidents of off-site sales; \$1,000 X 3 incidents of misuse of dealer plates) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#26. Case No.: 2013016231

Respondent/dealer was issued an agreed citation for employing an unlicensed salesperson (expired license) and failure to maintain a temporary tag log. Respondent has failed to pay the citation.

Recommendation: Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2000) (\$1000 for temp tag violation, \$1000 for unlicensed activity) to be settled by Consent Order or Formal Charges.

Commission Action: Approved.

#27. Case No.: 2013016391

Complainant alleged that she financed and purchased a vehicle from Respondent in March 2013, and that the Respondent was unable to produce proper title for the vehicle. As a result Complainant was unable to register the car in a timely manner. When she complained to the Respondent about the delay, they gave her a third temporary tag before she was finally able to register the car. Respondent confirmed the issuance of the third tag. Additionally, Respondent was unable to provide a temporary tag log at all for the time period of November 2012 to May 2013, and the tag log provided from May 2013 to October 2013 does not provide information for several tags. Altogether, Respondent cannot account for 178 temporary tags.

Recommendation: Authorization for a civil penalty in the amount of Four Thousand Dollars (\$4,000) (\$2,000 for failure to provide temporary tag log; \$2,000 for failure to properly maintain temporary tag log) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#28. Case No.: 2013016401

Complainant alleged that Respondent/dealer sold him a vehicle that had an outstanding lien, and eight months later still had not discharged the lien. Respondent/Dealer responded that Complainant never followed up with Respondent regarding properly registering the car or signing the back of the title showing that Respondent/Dealer had a lien on the vehicle, but did admit that vehicle was sold to Complainant with an outstanding lien on the vehicle that was not discharged in a timely manner. During the investigation, it was also found that Respondent/Dealer did not properly maintain his temporary tag log.

Recommendation: Authorization for a civil penalty in the amount of Two Thousand Dollars (\$2000) (\$1000 for failing to properly maintain temp tag log; \$1000 for failing to properly discharge lien) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#29. Case No.: 2013016681

Complainant/Consumer alleged that the Respondent/dealer repossessed the vehicle and did not allow the complainant/consumer to repurchase the vehicle. Respondent/dealer provided documentation that the vehicle was repossessed for non-payment.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

#30. Case No.: 2013016751

Complainant/consumer alleged Respondent/dealer sold his trade-in vehicle prior to paying the lien on that vehicle and failed to timely pay off the lien. An investigation was conducted. The investigation found that the Respondent held the trade-in until it was paid off. Further, the trade-in was paid off on same date the new purchase was finalized. The new purchase was finalized after 20 days of taking possession on conditional delivery agreement due to a need to change terms in order to obtain financing. Complainant agreed to these terms. Complainant failed to participate in the investigation.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

#31. Case No.: 2013017091

Commission received information from a police officer who issued a citation for misuse of temporary tag to Respondent/Dealer. Respondent admitted to such violation.

Recommendation: Authorization for a civil penalty in an amount of Five Hundred Dollars (\$500) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#32. Case No.: 2013017101

Complainant alleged that due to Respondent's failure to obtain proper title in a timely manner Complainant was unable to register their vehicle until almost 4

months after purchase. Respondent admitted that four temporary tags had been issued to the Complainant as a result of the delay, and took responsibility for errors on their part that caused the delay. During the investigation it was also noted that the temporary tag log maintained by the respondent did not contain the date of issuance as required.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1500) (\$500 x two temp tags improperly issued; \$500 for improperly maintaining temp tag log) to be settled by Consent Order or Formal Hearing..

Commission Action: Approved.

#33. Case No.: 2013017111

Complainant/Out of State Dealer purchased trailer from on-line auction. Sale was made "As-Is", with no water damage indicated by Respondent/Dealer. Complainant alleged that when he took possession of trailer there was significant water damage. Respondent disputes Complainant's version of events, and indicates that Complainant was told repeatedly prior to sale that there were no promises as to condition of trailer; and that Complainant knew trailer was being sold on the "Red Light".

Recommendation: Close – "As-Is" sale, no violation found.

Commission Action: Approved, with amendment of phrase "Red Line" to "Red Light".

#34. Case No.: 2013017131

Respondent/Dealer was issued an agreed citation for failure to maintain city or county business licenses. Respondent has not paid the citation and has asked for the citation to be "waived" because they are now in compliance.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) (\$250 X 2 for failure to maintain business license) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#35. Case No.: 2013017441

Complaint internally generated as result of referral from Department of Revenue. Investigation located an unregistered car, advertised as "for sale" with Respondent's personal cell number on the sign, and displaying a temporary tag issued by an auction company. The vehicle was removed a day later, and located at a nearby dealership. Respondent is newly-employed as a salesman for that dealership, and the target vehicle title was in the process of being transferred to the new dealership. During that time, Respondent said he "parked the car" on

family owned property. Both the new and prior employers denied any knowledge of the Respondent's actions.

Recommendation: Authorization for civil penalty in the amount of Five Hundred Dollars (\$500) for off-site sale; to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#36. Case No.: 2013017451

Complainant, a Florida resident, alleged that he purchased a vehicle from Respondent online (via Ebay) and that the vehicle was not in the condition that Respondent represented. Vehicle was purchased "as is" and Complainant purchased the vehicle without obtaining any of the available third party inspections.

Recommendation: Close – no violation found

Commission Action: Approved.

#37. Case No.: 2013017761

Complainant/finance company who purchased an assignment of retail installment contract alleges that Respondent/dealer failed to obtain lien on the vehicle. Respondent responded indicating that a temporary lien was placed on the vehicle and failure to obtain original lien in 20 days was an oversight. There is no evidence of fraud on part of Respondent.

Recommendation: Close – No Violation Found.

Commission Action: Approved.

#38. Case No.: 2013017841

Complainant alleged that he had not received a title or registration for his vehicle over a month after paying in full, in cash, for the vehicle. Complainant finally received title approximately 60 days after purchasing the vehicle, the delay caused by the fact that there was an outstanding lien on the vehicle that Respondent had been unaware of and needed to clear before obtaining title. Investigation also revealed that Respondent could not locate paperwork regarding the sale to Complainant, and that the temporary tag log had no record of a tag ever being issued to Complainant. Additionally, the temp tag log was incomplete especially for the months of June, July and August 2013.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2000) (\$1000 for failure to properly maintain temp tag log;

\$1000 for failure to obtain required documentation), to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#39. Case No.: 2013017851

Complainant alleged that Respondent/dealer applied for vehicle financing on his behalf as a co-signor on a vehicle to be purchased by his daughter. The Complainant stated that he was not present and spoke to a dealership representative but insists he did not authorize the dealership to run a credit report. Six reports were run by six different financial institutions. The Respondent replied stating that the Complainant verbally authorized this and points to the fact that the Complainant gave it his personal information necessary to run the reports over the phone.

Due to this it appears the Complainant did provide his personal information which indicates that he knew that his credit report was going to be run.

Recommendation: Close – No violation found.

Commission Action: Approved.

#40. Case No. 2013018041

Complainant/Investigator alleged that cars were apparently for sale at an unlicensed location, and were delivered to that location via car hauler. Investigation revealed that Respondent/Owner of the property also owned his own car hauler business, and stored his truck at that lot. Only car he had placed at that location for sale at time of investigation was one titled to him. Two other cars placed there by friends with his permission allegedly did not sell. Respondent stated he would not sell any cars not titled to him and understands he can only sell five per year. Investigator passes this location on daily basis, and has seen no activity since speaking with the Respondent.

Recommendation: Close with letter of warning

Commission Action: Approved.

#41. Case No. 2013018131

Complainant alleged that Respondent issued him three temporary tags. Respondent confirmed that he issued three tags but explained that 1) it took longer than he thought it would to get a corrected title 2) he offered to take the vehicle back from complainant but complainant refused 3) when Respondent asked county clerk for assistance in getting the situation resolved for the complainant, the county clerk told him to just go ahead and issue a third tag while waiting on the corrected title. The county clerk confirmed that she instructed Respondent to issue a third tag.

Recommendation: Close with letter of warning.

Commission Action: Approved.

#42. Case No. 2013018341, 2013018342

Complainant alleged possible unlicensed activity by Respondent #1 and #2, who share an address. Investigation revealed that Respondents co-owned a paint and body shop. Respondents confirmed that several times a year they would buy a car at auction, have their employees fix it up, and then sell it as a way to have work for their employees during slow times at the shop. Respondent had sold a total of ten cars from that location this year. Respondents claimed to be unaware of the five vehicle per year limit, and stated they would cease the unlicensed activity. Drive-bys done since the investigation have confirmed that there is no sales activity on-going.

Recommendation: Authorization for a civil penalty of Five Hundred Dollars (\$500) (5 x \$100 for five acts of unlicensed sales activity) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#43. Case No.: 2013018471

Complainant alleged that Respondent/Dealer, which closed on July 31, 2012, was again selling vehicles at its previously licensed location. Investigation revealed that the location did have a locked gate but also cars on the lot that indicated they were for sale. Respondent stated that he was trying to get rid of the inventory he had left after closing; was going to sell his inventory to another dealer; and had not made any sales to individuals since the lot closed in July 2012. Investigation revealed, however, that two sales were made on June 30, 2013. No activity since then.

Recommendation: Authorization for civil penalty in the amount of One Thousand Dollars (\$1000) (\$500 x 2 for unlicensed activity), to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#44. Case No.: 2013018551

Complainant/Consumer alleged that Respondent/dealer had possession of her UTV for over 90 days for repairs under warranty and still had not completed the repairs.

Recommendation: Close, no violation alleged. Refer to Consumer Affairs.

Commission Action: Approved.

#45. Case No.: 2013018831

Complainant/Consumer alleged that Respondent/Dealer forced her to finance the purchase of a new vehicle through their private financing company. When Consumer refused to do so, Respondent refused to sell her the new vehicle. Respondent/dealer disputed the alleged facts, and furthermore stated that they believed that Complainant/Consumer was purchasing the vehicle as a “straw party” with the intent to export the vehicle to a third party due to suspicious actions on the part of the Consumer. As a result, Respondent/dealer refused to complete the transaction.

Recommendation: Close, no proof of violation.

Commission Action: Approved.

#46. Case No.: 2013018841

Complainant/consumer alleged that Respondent/dealer would not complete the sale of a new motorcycle to her without financing the vehicle through the dealership. The Respondent replied stating that they attempted to obtain financing through the Complainant’s financial institution, however, the financing was not finished or approved by the financial institution and the dealership refused to give conditional delivery of the motorcycle to the Complainant pending financing. Eventually, the dealership rescinded the deal. Complainant feels the dealership is required to sell her the motorcycle.

Recommendation: Close – No evidence of false or deceptive act by Respondent.

Commission Action: Approved.

#47. Case No.: 2013019321

Complainant/Consumer alleges that Respondent/Dealer accepted \$2000 in cash as a down-payment of a vehicle but now refuses to acknowledge receipt of the cash. Respondent denies monies were ever received, and that they have attempted to resolve matter with consumer to no avail. Review of submitted documentation indicates this is a contractual dispute.

Recommendation: Close. No violation found.

Commission Action: Approved.

#48. Case No.: 2013019601

Respondent/Dealer was issued an agreed citation due to issuing three (3) temporary tags to three different consumers. Respondent has not paid the citation, and in his response stated he was not aware of the rules, but promised to do better in the future and asked for leniency.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1500) (\$500 X 3 for issuing more than two temporary tags) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#49. Case No.: 2013019631

Respondent/Dealer was issued an agreed citation for allowing an employee to live in a camper moved onto the property for that purpose. Respondent has not paid the citation, and is contesting the violation. Respondent stated that the employee was otherwise homeless, and that he is not living on the property in any “business related way, he simply resides in the trailer”.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for violation of Motor Vehicle Commission Rule 0960-01-.21 regarding Motor Vehicle Dealer Facilities activity to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#50. Case No.: 2013019721

Respondent/Dealer was issued an agreed citation for failure to maintain current city and county business licenses, and for issuing more than two temporary tags on seven occasions. Respondent does not dispute the citation but has failed to pay the citation.

Recommendation: Authorization of a civil penalty in the amount of Four Thousand Dollars (\$4000) (\$500 for failure to maintain business licenses; \$500 X 7 for violation of issuing more than two temporary tags) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#51. Case No.: 2013019801

Consumer/Complainant alleged that more than three months after paying off vehicle in full, Respondent/Dealer refused to produce title to the vehicle. Respondent/Dealer provided documentation of the Complainant’s transaction showing it was a “Lease/Purchase”, and that at the end of the lease term she was not able to exercise the purchase option.

Recommendation: Close – No violation found.

Commission Action: Approved.

#52. Case No.: 2013020111

Complainant/Concerned Citizen alleged that Respondent/Unlicensed dealer was selling vehicles on Craigslist and from an unlicensed lot in Lewisburg. Investigation revealed that Respondent did have nine (9) vehicles listed “for sale” at a location in Lewisburg, but the investigation did not provide proof of an actual sale. Respondent stated that he did sell cars on Craigslist and did not need a dealer license to do so. Respondent did not have titles to any of the vehicles he was attempting to sell. Respondent has previously had his dealer licensed revoked.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1000) for engaging in unlicensed activity to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#53. Case No.: 2013020131

Respondent/Dealer was issued an agreed citation for failing to produce Bills of Sales on six vehicles; and the sale of seven vehicles on a salvage title and issuing temporary titles on those vehicles and allowing them to be driven off the lot with those temporary tags. Respondent/dealer disputes the citation. In his response, Respondent stated that the Bills of Sale were never specifically asked for, and he provided Bills of Sale on the six vehicles indicated in the citation. As to the salvage title and temporary tags, however, he argues that it is permissible for him to issue temporary tags to a salvage vehicle as long as the rebuilt title “has been applied for”. The Tennessee Department of Revenue disagrees with Respondent’s argument.

Recommendation: Authorization in the amount of Seven Thousand Dollars (\$7000) (\$1000 X 7 for misuse of temporary tag) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#54. Case No.: 2013020471

Respondent/Dealer was found to be displaying and attempting to sell thirty-three (33) vehicles at an off-site location. Respondent admitted to off-site sales.

Recommendation: Authorization in the amount of Sixteen Thousand Five Hundred Dollars (\$16,500) (\$500 X 33 for thirty three incidents of off-site sales) to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#55. Case No.: 2013020601

Complainant/Consumer alleged that Respondent/Dealer sold her a motor vehicle which subsequent to purchase had mechanical failures. Complainant

purchased vehicle with a limited warranty, but mechanical issues experienced by Complainant are not covered under that warranty, which she acknowledges.

Recommendation: Close – no violation found.

#56. Case No. 2013020831

Complainant/Dismantler-Recycler alleged that Respondent/Scrap Metal dealer was acting as a dismantler-recycler without a license. Respondent admitted to “occasionally” selling parts and trading in weight, but maintained they were a scrap recycling business and unaware they needed a license to be a dismantler-recycler. Respondent stated they would cease selling car parts until proper license was obtained.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1000) for unlicensed activity to be settled by Consent Order or Formal Hearing.

Commission Action: Approved.

#57: Case No.: 2013020841

Complainant/Consumer alleged that Respondent/Dealer sold him a salvaged/rebuilt vehicle in 2012 without disclosing status of title. Respondent/Dealer provided documentation of title and explained that Complainant was a prior employee of Respondent, and actually participated in compiling documentation and arranging the sale of the vehicle in 2012, and had knowledge of the rebuilt title.

Recommendation: Close – no violation found.

Commission Action: Approved.

#58. Case No. 2013021801

Complainant/Consumer alleged that Respondent/Dealer made promises to repair the vehicle and that the vehicle was under a warranty for thirty days. Respondent/Dealer states the sale was “As-Is” and no promises were made.

Recommendation: Close, insufficient proof of violation.

Commission Action: Approved.

#59. Case No.: 2013021811

Complainant/Consumer alleged that Respondent/Dealer sold her a vehicle without disclosing it had a salvage title. Respondent/Dealer provided documentation of title, which does not indicate a salvage title, and a “Disclosure

of Vehicle Condition” document signed by Complainant, showing proof of knowledge of possible prior damage or repairs, and As-Is nature of transaction.

Recommendation: Close, no violation found.

Commission Action: Approved.

#60. Case No. 2013021821

Complainant/Consumer alleges that Respondent/Dealer sold a vehicle to him that had an improperly repaired tire, and that the Respondent/Dealer was aware of the faulty repair. Respondent/Dealer states they were unaware the tire had been repaired at all, that the type of patch used in the repair is one they discontinued two years ago, and that the vehicle was in their rental fleet and could have been repaired without their knowledge. Additionally, Respondent/Dealer notes that Complainant put close to 11,000 miles on the vehicle, including driving the vehicle home to Washington State, before making any complaints regarding the vehicle’s tires. Respondent has offered to pay for a new tire for Complainant.

Recommendation: Close. Impossible to determine if Dealer at fault for faulty repair of tire. Insufficient evidence to prove violation.

Commission Action: Approved.

#61. Case No. 2013022361

Complainant/Consumer alleges that Respondent/Dealer sold him a vehicle in August 2010 without disclosing that the vehicle had been “wrecked”, and that he (Complainant) recently obtained a CarFax report showing that the vehicle was “wrecked”. Respondent/Dealer provided dealer file, with documentation of flood damage to vehicle, “As-Is” transaction, and Complainant/Consumer signed acknowledgement of flood damage to vehicle. CarFax report provided by Complainant/Consumer also documents flood damage and total loss on vehicle, but no mention of “wreck”, airbag deployment, structural damage, etc.

Recommendation: Close, insufficient proof of violation.

Commission Action: Approved.

#62. Case No. 2013022471

Respondent/Dealer was issued an agreed citation for failure to maintain a temporary tag log. Respondent initially would not pay the citation, but has recently paid in full.

Recommendation: Close, civil penalty paid in full

#63. Case.: 2013018851

2013022851

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

Recommendation: Close – Withdrawn.

Commission Action: Approved.

RE-PRESENTATIONS

#64. Case No.: 2013001352, 2013001351

At the July 2013 meeting, the Commission authorized a \$1,000 civil penalty against Respondents for deceptive acts in the selling of a motor vehicle to a consumer regarding a down payment made on a vehicle. The Respondent is now out of business and closed.

Recommendation: Amend the previous authorization to: Close and Flag. Respondent is closed and out of business.

Commission Action: Approved.

#65. Case No.: 2010025601

The Commission previously authorized a civil penalty of \$2,000 for selling a rebuilt motor vehicle to a consumer without proper disclosure of such. The Complainant in this case has been contacted and will likely not be available to prosecute this case.

Recommendation: Close with a letter of warning.

Commission Action: Approved.

Eddie Roberts, Chairman

Leon Stribling, Executive Director