

MINUTES
OCTOBER 5, 2015



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

**TENNESSEE
MOTOR VEHICLE COMMISSION
MINUTES**

DATE: October 5, 2015

PLACE: Davy Crockett Tower – Conference Room 1-B
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Commission Members:
Eddie Roberts
Stan McNabb
Jim Galvin
Joe Clayton
Ronnie Fox
Nate Jackson
John Murrey
Farrar Vaughan
Lynn Webb
Steve Tomaso
Reed Trickett

ABSENT: Donnie Hatcher
Stan Norton
Don Parr
Ian Leavy

CALL TO ORDER: Chairman Eddie Roberts called the meeting to order at 9:00am

Paula J. Shaw, Executive Director, called the roll. 11 members were present and a quorum was established.

MEETING NOTICE: Notice advising the Commission of the time, date and location of the meeting being posted on the Tennessee Motor Vehicle Commission website and that it has been included as part of the year's meeting calendar since October 6, 2014, was read into the record by Executive Director, Paula J. Shaw. The notice also advised that the Agenda has been posted on the Tennessee Motor Vehicle Commission website since September 30, 2015.

AGENDA: Commissioner Clayton made a motion to approve the agenda, seconded by Commissioner Fox.

MOTION CARRIED

QUARTERLY MEETING MINUTES: Commissioner Clayton made a motion to approve the minutes from the July 13, 2015 meeting, seconded by Commissioner Fox.

MOTION CARRIED.

LEGAL REVIEW MINUTES : Commissioner Clayton made a motion to approve the minutes of the September 14, 2015 meeting, seconded by Commissioner Fox.

MOTION CARRIED.

SUMMARY SUSPENSION HEARING MINUTES: Commissioner Clayton made a motion to approve the minutes of September 14, 2015, seconded by Commissioner Fox.

MOTION CARRIED.

APPEALS: The following appeals were heard by the Commission.

Michael Ellis Nichols
Bayird Chevrolet, Covington, TN

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

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES

John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

Motion carried, therefore the license is granted.

Dustin Cruse
Carlock Nissan, Jackson, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion Commissioner Clayton moved the application be approved, seconded by Commissioner Webb.

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

Motion carried, therefore the license is granted.

Thaddeus E. Shutes
Carlock Nissan, Jackson, TN

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

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	NO
Joe Clayton	YES

Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

Motion carried, therefore the license is granted.

Regina Edgeman
423 Wholesaler's LLC

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

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

Motion carried, therefore the license is granted.

Tracy Brown
Moss Motor Co, South Pittsburgh, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Webb moved the application be approved, seconded by Commissioner McNabb.

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES

Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

Motion Carried, therefore the license is granted.

Jonathan McAteer
Bob Frensley, Madison TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. After some discussion, Commissioner Jackson moved a new application be submitted and the application be approved, seconded by Commissioner Fox.

ROLL CALL VOTE

Eddie Roberts	NO
Stann McNabb	YES
Jim Galvin	NO
Joe Clayton	NO
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

Motion carried, therefore the license is granted once a new application is submitted.

DIRECTOR’S REPORT – Paula J. Shaw, Executive Director

Executive Director Shaw began by welcoming the newest Commission Member, Mr. Ian Leavy. Further, Director Shaw commended staff for their hard work and dedication. Director Shaw advised the Commission the staff would be revising the dealer application, and would present them with the draft once it was completed.

Executive Director Shaw provided the Commission with the following information which is for informational purposes only:

Since the last Commission meeting in January 12, 2015 the following activity has occurred:

Dealers Opened, or Relocated (Last Quarter).....110

Active Licensees as of April 1, 2015

Dealers.....	3731
Applications in Process.....	41
Distributors/Manufacturers.....	125
Auctions.....	30
Representatives.....	499
Salespeople.....	15975
Dismantlers.....	298
RV Dealers.....	28
RV Manufacturers.....	59

Motor Vehicle Show Permits:

Issued Since April 20, 2015.....	4
Associated Revenue.....	\$800

Complaint Report- July 1, 2015 to August 28, 2015:

Number of Complaints Opened.....	132
Number of Complaints Close.....	20 (8 RBS) (12 CORE)

Annual Sales Reports-(Due Feb 15):

Vehicles Reported Sold in 2014.....	1,030,585
(Excluding Dealers Reporting Late)	
Listing Sent to County Clerks April 14, 2015	

Disciplinary Action Report – (July - September):

Total Collected.....	\$76,600.00
----------------------	-------------

Chairman Roberts called for a motion to approve the Director’s Report. Commissioner McNabb made a motion to approve the Director’s Report, and was seconded by Commissioner Jackson.

VOICE VOTE – UNANIMOUS

The motion carried to approve the Director's Report.

LEGAL REPORT

Chairman Roberts requested the Commission move on to the legal report. Assistant General Counsel, Matthew Reddish, presented the legal report to the Commission.

1. Case No.: 2015009071

Staff received information alleging that Respondent/dealer had created fraudulent lien registrations for vehicles and submitted those to finance companies. An investigation was conducted. The investigation revealed that the Respondent/dealer had created forged lien registrations for 3 vehicles sold to consumers. The lien holders declined to participate in the investigation. Documentation indicates that the liens were eventually properly recorded for each of these vehicles. Respondent admitted that he created those documents and indicates no fraud intended, that his title clerk left and his wife had cancer at the time and he was under pressure to create this documentation. Respondent provided an affidavit admitting to this. During the audit it was also found that Respondent issued more than two temporary tags on 13 occasions.

Recommendation: Authorization for a civil penalty in an amount of Nine Thousand Five Hundred Dollars (\$9,500) (13 temporary tags x \$500 per violation of issuing more than allowed by law), (3 false deceptive acts of false lien registrations x \$2,000 per violation). To be settled by consent order for formal hearing.

2. Case No.: 2015011641

Consumer Complainant alleges that Respondent/dealer failed to provide title to a vehicle purchased 6 months prior. Complainant alleges that the TN title obtained had an incorrect VIN and would not be processed by his county (Complainant is resident of GA). Respondent replied indicating the vehicle had an OH title that had an incorrect "5" instead of an "S" on the title produced which created the error. It appears the error was from the state of OH. Respondent indicated that a new title was created from OH, which was forwarded to the dealer from whom Respondent purchased the vehicle to re-transfer to Respondent and then provide to the complainant.

Recommendation: Close – Respondent is working with complainant to provide corrected title. No evidence of false, fraudulent or deceptive acts.

3. Case No.: 2015009971

Commission received information that Respondent is licensed as a Washington State wholesaler, was purchasing motor vehicles at auction in Tennessee and was selling the vehicles in Tennessee. Investigation was conducted wherein it was determined that

salespersons were given Washington wholesaler licenses and had purchased motor vehicles in Tennessee at various auctions. However, no evidence was found that motor vehicles were then sold in Tennessee. Respondent dealer is now closed.

Recommendation: Close

4. Case No.: 2015018371
2015018372
2015018373

Complainant/news reporter alleged that Respondent dealer was engaging in false, fraudulent and deceptive acts by encouraging consumers to lie to a military credit union as to their relationship with military members in order to gain an account and financing for motorcycles sold by Respondent. A video was obtained showing that two salespersons (one of which was owner/Respondent 2) encouraged consumers to provide a false relationship to the credit union in order to gain an account for financing. Another consumer, whom notified the media, also provided an affidavit that the Respondent encouraged her to also lie about her status in order to obtain an account and financing.

Recommendation:

Respondent 1 – Dealership – Authorization for a civil penalty in the amount of \$5,000 (2 failure to supervise its agents x \$2,500 per act) to be settled by consent order or formal hearing.

Respondent 2 - Salesperson/owner – Authorization for a civil penalty in the amount of \$5,000 (2 false, fraudulent, deceptive acts x \$2,500 per act), to be settled by consent order or formal hearing.

Respondent 3 – Salesperson/FI manager – Authorization for a civil penalty in the amount of \$2,500 for one false, fraudulent, deceptive act), to be settled by consent order or formal hearing.

5. Case No.: 2015009931

Consumer Complainant alleged that Respondent dealer failed to deliver title to vehicle. An investigation was conducted which did not substantiate the title issue. Respondent had provided title to the vehicle. It appears there was a dispute over a mechanical issue with the vehicle. However, the investigation determined that Respondent moved its dealership down the road and had not applied for or obtained a license for that location. This information was forwarded to the Commission office to contact Respondent for obtaining a new license.

Recommendation: Authorization for a civil penalty in the amount of One Thousand Dollars (\$1,000) for failing to notify the commission and obtain a license for a new location. To be settled by consent order or formal hearing.

6. Case No.: 2015012451

Consumer Complainant alleged that Respondent dealer failed to deliver title to vehicle purchased. An investigation was conducted. During the investigation, the complainant indicated that she received her title and wanted to retract her complaint. Complainant would not cooperate with the investigation.

Recommendation: Close – Complainant withdrew complaint and would not cooperate with further investigation.

7. Case No.: 2015013181

Consumer Complainant alleged that Respondent dealer sold her a vehicle that was salvaged prior to obtaining a rebuilt title. An investigation was conducted and found that complainant was sold a vehicle on salvaged title in February 2015. Rebuilt title was not obtained until approximately July 2015. Complainant indicated she was told she had to bring the vehicle to Nashville for an inspection and after contacting the Dept. of Revenue found that the vehicle she was driving was salvaged. Respondent also repossessed the vehicle from complainant during this period for nonpayment. Complainant filed suit against dealer and obtained settlement for approximately \$6,250. It appears the complainant was notified that the vehicle was to receive a rebuilt title at the time of sale. Respondent stated that the salesperson should not have sold that vehicle and it was done so by mistake. Respondent did admit to repossessing the vehicle after Complainant would not return it for inspection. The investigation found that Respondent issued 3 temporary tags for the salvaged vehicle and further that its temporary tag log was not correctly maintained in that it did not indicate how many tags and to whom or what vehicle a temporary tag was issued.

Recommendation: Authorization for a civil penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500) (1 x \$3,000 for false act of selling a vehicle on salvaged title) (1 x \$2,000 for failing to adequately supervise an employee or agent selling salvaged vehicle), (\$1,500 = 3 x \$500 per temporary tag violation of issuing more than allowed by law), (1 x \$2,000 failing to properly maintain a temporary tag log)

8. Case No.: 2015013171

Consumer Complainant alleged that Respondent dealer failed to deliver title to vehicle and provided more temporary tags than allowed by law. An investigation was conducted. The investigation found that Respondent failed to deliver title to vehicle sold in 2014. The title is at the floor planner and has not been paid off. The Respondent did not have proof of ownership of vehicles at the location and indicated the titles were with the floor planner. The investigator, in viewing the temporary tag log, found that Respondent issued 11 more temporary tags to customers than allowed by law (including a total of 6 to complainant). It appears Respondent is working to obtain the title from the floor planner.

Recommendation: Authorization for a civil penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500) (1 x \$2,000 for false, fraudulent and deceptive acts of not providing registration to consumer or having title put in consumer's name), (1 x \$1,000 for failing to have proof of ownership of vehicles on the dealership location), (\$5,500 = \$500 x 11 counts of providing more temporary tags than allowed by law). To be settled by consent order or formal hearing.

9. Case No.: 2015011201

Notice of Violation issued for unlicensed activity, specifically, for employing a salesperson at Respondent dealership while salesperson's license was expired. Investigation conducted to determine the extent of unlicensed activity. During investigation, Respondent dealer was found to have thirty-nine (39) motor vehicle sales made by salesperson in question while salesperson's license was expired. Respondent was cooperative with investigation. Upon being advised that salesperson license had expired, Respondent dealer promptly renewed license at issue.

Recommendation: Civil Penalty in the amount of Nineteen Thousand Five Hundred Dollars (\$19,500) consisting of \$500 x 39 unlicensed sales. To be settled by consent order or formal hearing.

10. Case No.: 2015011211

During an inspection it was found that Respondent was operating as a salesperson on an expired salesperson license. Investigation conducted to determine the extent of Respondent's unlicensed activity. During investigation, Respondent was found to have sold thirty-nine (39) motor vehicles while license was expired. Upon being informed that license expired, Respondent promptly renewed license.

Recommendation: Authorization of a civil penalty in the amount of Nine Thousand Seven Hundred and Fifty Dollars (\$9,750) consisting of \$250 x 39 unlicensed sales.

11. Case No.: 2015009911

Consumer Complainant alleged Respondent failed to deliver title to vehicle. An investigation was conducted, however, during course of investigation, Complainant was uncooperative and stated issue had been resolved. A review of Respondent's temporary tag log revealed 11 violations of issuing more temporary tags than allowed by law. The Respondent also failed to maintain its temporary tag log. Review revealed multiple entries with missing information ranging from a missing VIN number to entries only providing a temporary tag number and nothing else. Additionally, there were 3 separate instances of the same temporary tag being issued to two separate vehicle owners with distinctly different VIN numbers.

Recommendation: Authorization for a civil penalty in the amount of Nine Thousand Dollars (\$9,000) (1 x \$2,000 for failure to properly maintain temporary tag log), (\$7,000 = \$500 x 14 counts of improper temporary tag issuance).

12. Case No.: 2015011631

Consumer Complainant alleged that Respondent dealer failed to deliver title to vehicle and provided more temporary tags than allowed by law. An investigation was conducted. The investigation found that the title had since been obtained and the issue resolved. The Respondent, by its own admission, issued 3 temporary tags to Complainant.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for one violation of providing more temporary tags than allowed by law. To be settled by consent order or formal hearing.

13. Case No.: 2015011601

Consumer Complaint alleged Respondent failed to deliver title to vehicle. Investigation was conducted and found the title had been obtained and sent to Complainant. Complainant stated issue was resolved to their satisfaction.

Recommendation: Close

14. Case No.: 2015011491

Consumer Complainant alleged Respondent deceived them as to condition and model of the motor vehicle they purchased. Investigation was conducted wherein it was found that motor vehicle was purchased for \$125,000. Consumer's purchased the motor vehicle "as is." During the course of the investigation, it was also found that Complainant did list the incorrect model number on the bill of sale as well as listed the incorrect balance due.

Recommendation: Authorization of a civil penalty in the amount of Four Thousand Dollars (\$4,000) (2 x \$2,000 for each deceptive/fraudulent act). To be settled by consent order or formal hearing.

15. Case No.: 2015012771

Consumer Complainant alleged Respondent failed to deliver title to motor vehicle and continues to send her incorrectly dated temporary tags. Investigation was conducted wherein it was found that Respondent Dealer is now closed.

Recommendation: Close and Flag

16. Case No.: 2015017701

Complaint alleged that Respondent Dealer was employing an unlicensed salesperson. Investigation conducted wherein it was determined that Respondent had employed unlicensed salesperson, no salesperson application had been submitted and salesperson had sold five automobiles on behalf of Respondent dealer. Respondent immediately fired salesperson in question.

Recommendation: Authorization of a civil penalty in the amount of Seven Thousand Dollars (\$7,000) (5 x \$1,000 for each motor vehicle sold by unlicensed salesperson) (\$2,000 for employing an unlicensed sales person). To be settled by consent order or formal hearing.

17. Case No.: 2015011271

Notice of Violation issued to Respondent dealer for offsite sales and investigation recommended for unlicensed activity. Investigation conducted wherein it was determined that Respondent sold 14 cars while his license was suspended. Respondent has since obtained a new dealership license.

Recommendation: Authorization a civil penalty in the amount of Fourteen Thousand Dollars (\$14,000) (14 x \$1,000 for each motor vehicle sold while license suspended.) To be settled by consent order or formal hearing.

18. Case No.: 2015011681

Consumer Complaint alleged Respondent tow company refused to help them with repairs of used tow truck Complainant had purchased. It also appeared there was potential unlicensed activity at Respondent's place of business. Investigation was conducted wherein it was found that Complainant purchased the motor vehicle "as is." Further, no evidence of additional unlicensed sales by Respondent was obtained.

Recommendation: Close

19. Case No.: 2015011501

Notice of Violation issued to Respondent for engaging in sale of motor vehicles on expired license. Dealer license has been renewed, however investigation conducted to determine whether any motor vehicles were sold while Respondent's dealer license was expired. During investigation it was found that only one vehicle was sold while license was expired. The only person employed at dealership while license expired was a security guard. Security guard only wrote down information of interested buyers and passed information to owner.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for one occurrence of unlicensed motor vehicle sales. To be settled by consent order or formal hearing.

20. Case No.: 2015012471

Consumer complaint alleged Respondent dealer engaged in deceptive/fraudulent activity and advertising violations by intentionally misrepresenting material facts about the motor vehicle it advertised and sold to Complainant. Respondent has offered to provide a full refund, however, Complainant wants Respondent dealer to pay to have the motor vehicles restored to condition they believe the motor vehicle was advertised to be in. Complainant refused to provide a signed affidavit and would only direct us to his blog entries. Advertisement and documents in question were reviewed, no evidence of fraudulent or deceptive acts was found. Investigator looked at several current advertisements by Respondent and compared the advertisements to actual motor vehicles for sale, however no evidence of fraudulent or deceptive acts or advertising violations could be found by Investigator.

Recommendation: Close

21. Case No.: 2015010041

Staff received complaint alleging Respondent dealer was engaging in unlicensed activity, fraudulent/deceptive acts, altering temporary tags and misusing dealer tags. Investigation was sent wherein it was found that dealer is closed and has been seized by Department of Revenue. All business records were allegedly lost in a burglary. Owner of dealership is a CPA.

Recommendation: Close and Flag – Refer to accountancy board to review

**22. Case No.: 2015018931
2015018841
2015019691
2015016201
2015012221**

Consumer Complainant alleged Respondents failed to issue title. Dealership closed, surety bond sent.

Recommendation: Close and flag

23. Case No.: 2015018341

Consumer Complainant alleged Respondent came to his home and pressured him to make a vehicle trade and purchase that he did not want to go through with. Response stated, and provided evidence, that motor vehicle sale happened at the dealership, salesperson came by the house to deliver the new motor vehicle and pick up the trade in (as had been requested by Complainant).

Recommendation: Close

24. Case No.: 2015018631

Consumer Complaint alleged Respondent did not timely pay off their trade in. Response included evidence that trade in has since been paid off.

Recommendation: Close

25. Case No.: 2015019151

Consumer Complainant alleged they purchased a vehicle in November of 2008 and did not receive title. Respondent dealer has been closed since January of 2009.

Recommendation: Close and Flag

- 26. Case No.: 2015017171
2015017172
2015017173
2015017174
2015017175
2015017176
2015017177
2015017178
2015017179
20150171710
20150171711**

Notice of Violation issued for unlicensed sales activity and employment of unlicensed salespeople by Respondent 1 dealer. Investigation was conducted to determine the extent of the unlicensed activity. During course of investigation, it was determined that 79 motor vehicles had been sold by 10 salespeople who had not applied for a salesperson license through the Commission at the time of sale.

During the investigation, it was found that Respondent 2 sold 13 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 3 sold 5 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 4 sold 2 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 5 sold 3 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 6 sold 1 motor vehicle for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 7 sold 1 motor vehicle for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 8 sold 8 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 9 sold 9 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 10 sold 17 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

During the investigation, it was found that Respondent 11 sold 20 motor vehicles for Respondent 1 prior to obtaining a salesperson license.

Recommendation: Authorization of a civil penalty in the following amounts:

Respondent 1 – Forty Nine Thousand Five Hundred (\$49,500) consisting of \$500 x 79 unlicensed sales (\$39,500) and \$1,000 x 10 for employment of unlicensed sales people (\$10,000).

Respondent 2 – Six Thousand Five Hundred Dollars (\$6,500) consisting of \$500 x 13 unlicensed sales.

Respondent 3 – Two Thousand Five Hundred Dollars (\$2,500) consisting of \$500 x 5 unlicensed sales.

Respondent 4 – One Thousand Dollars (\$1,000) consisting of \$500 x 2 unlicensed sales.

Respondent 5 – One Thousand Five Hundred Dollars (\$1,500) consisting of \$500 x 3 unlicensed sales.

Respondent 6 –Five Hundred Dollars (\$500) consisting of \$500 x 1 unlicensed sale.

Respondent 7 –Five Hundred Dollars (\$500) consisting of \$500 x 1 unlicensed sale.

Respondent 8 – Four Thousand Dollars (\$4,000) consisting of \$500 x 8 unlicensed sales.

Respondent 9 – Four Thousand Five Hundred Dollars (\$4,500) consisting of \$500 x 9 unlicensed sales.

Respondent 10 – Eight Thousand Five Hundred Dollars (\$8,500) consisting of \$500 x 17 unlicensed sales.

Respondent 11 – Ten Thousand Dollars (\$10,000) consisting of \$500 x 20 unlicensed sales.

To be settled by consent order or formal hearing.

27. Case No.: 2015020821

Complaint opened following receipt of information indicating that Respondent was registering motor vehicles in the incorrect county in order to avoid emissions testing. Investigation was sent. During investigation it was found that all motor vehicles were being titled in the county where dealership headquarters is located and where all paperwork is completed, regardless of where customers reside. All paperwork was filled out with correct customer name and addresses, but filed with incorrect county clerk. During investigation, it was found that county clerk who was improperly accepting registrations from Respondent, had incorrectly advised Respondent dealership that all motor vehicles could be registered in that county. Respondent stated they had relied on this statement from the county clerk, but would change their process to make proper.

Recommendation: Letter of Warning advising Respondent that all motor vehicles must be registered in the county where customer resides. Refer to Department of Revenue for investigation into county clerk.

28. Case No.: 2015019671

Consumer Complainant alleged Respondent did not replace his windshield to his satisfaction and as was required under a warranty they purchased. Response shows that Respondent again replaced Complainant's windshield with the windshield Complainant was demanding be used.

Recommendation: Close

29. Case No.: 2015019701

Consumer Complainant alleged Respondent dealer's service department did not repair her car properly and caused damage to coolant reservoir and hoses. Complainant failed to allege a violation under our Commission's rules or statutes.

Recommendation: Close

30. Case No.: 2015014031

Respondent received a Notice of Violation for engaged in unlicensed activity by having two motor vehicles for sale at what appeared to be a small motor vehicle lot. Both vehicles were being sold on open titles. Investigation conducted to determine the extent of the unlicensed activity. During investigation, it was found that Respondent had three additional motor vehicles for sale but would not produce the titles and became uncooperative.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) consisting of \$2,500 for unlicensed sales (5 attempted sales x \$500) and \$1,000 for selling on open titles (2 x \$500). To be settled by consent order or formal hearing.

31. Case No.: 2015017351

Consumer Complainant stated Respondent dealer called wrong finance company and obtained wrong payoff amount for her trade in. Per Respondent, deal has been undone and everyone has been made whole. It has been confirmed with Complainant that issue was resolved to their satisfaction.

Recommendation: Close

32. Case No.: 2015009961

Consumer Complainant stated they purchased a motor vehicle in February of 2012 and never received a title. Respondent states the title was sent in 2012 and they are no longer in possession of said title. Surety bond sent.

Recommendation: Close

33. Case No.: 2015009941

Consumer Complainant alleges Respondent dealer sold her a car with a lot of mechanical issues. Review of the documents reveals the motor vehicle was sold “as is.” Complainant also alleges Respondent washed the title, but there is no evidence of title washing.

Recommendation: Close

34. Case No.: 2015010641

Consumer Complainant alleged Respondent dealer mislead her regarding additional accessories on her motor vehicle. Complainant has since withdrawn complaint and states issue resolved to her liking.

Recommendation: Close

**35. Case No.: 2015010611
2015010612
2015016141
2015016142**

Consumer complainant alleged Respondent 1 dealer and Respondent 2 salesperson sold them a warranty which they did not honor. Neither Respondent is licensed and both are repeat offenders. Investigation conducted, wherein one unlicensed sale is shown.

Consumer Complainant 2 alleged Respondent 3 dealer and Respondent 2 salesperson sold them a motor vehicle but never produced a title. Neither Respondent 2 nor 3 is licensed with the Commission. Investigation conducted wherein it was determined that the motor vehicle in question was never titled to either the Respondent 2 individually or to Respondent 3 as a dealership. Respondent 2 is a multiple repeat offender for unlicensed sales.

Recommendation:

Respondent 1: Authorization of a civil penalty in the amount of Five Thousand Dollars (\$5,000) consisting of \$5,000 x 1 unlicensed sales.

Respondent 2: Authorization of a civil penalty in the amount of Ten Thousand Dollars (\$10,000) consisting of \$5,000 x 2 unlicensed sales (\$10,000).

Respondent 3: Authorization of a civil penalty in the amount of Ten Thousand Dollars (\$10,000) consisting of \$5,000 x 2 unlicensed sales (\$10,000).

To be settled by consent order or formal hearing.

36. Case No.: 2015013491

Consumer complainant alleged Respondent dealer committed deceptive acts by adding a hidden doc fee to price of motor vehicle. Complainant alleged doc fee was never advertised or mentioned. Investigation was conducted wherein it was found that all advertisements investigator could access had necessary doc fee language included. No evidence of any deceptive acts was found.

Recommendation: Close

**37. Case No.: 2015009901
2015012791**

Consumer Complaints allege Respondent dealers failed to timely provide title/registration. Investigation conducted to determine whether any violation had occurred. During investigation Complainants stated the issue had been resolved and they wanted to withdraw their complaints.

Recommendation: Close

38. Case No.: 20150012991

Complainant alleges a motor vehicle of theirs was stolen and later recovered with a temporary tag belonging to Respondent dealer. Investigation was conducted to determine Respondent dealer's role, if any, in the theft of the motor vehicle and how their temporary tag came to be on the stolen motor vehicle. Investigation revealed that the individual that stole Complainant's motor vehicle worked at Respondent dealer. Per Respondent dealer, individual stole the temporary tag and has since been fired. Complainant states issue resolved to their satisfaction.

Recommendation: Close

39. Case No.: 2015011651

Consumer complainant alleged Respondent Dealer sold him a car with a rebuilt title without disclosing prior salvage history. Investigation conducted to determine if any violation occurred. During investigation, Respondent stated they purchased vehicle at online auction for Complainant, did not realize vehicle had salvaged title, and immediately forwarded the title to Complainant. Respondent stated he has fully refunded Complainant for the car. Complainant confirmed full refund received.

Recommendation: Close

**40. Case No.: 2015016191
2015017481**

Consumer complainants allege Respondent dealerships failed to timely issue title. Commission was unable to obtain additional necessary information in order to conduct investigation.

Recommendation: Close

**41 Case No.: 2015012241
2015012331**

Consumer Complainants allege Respondent Dealers improperly repossessed their vehicles. Complainants failed to allege a violation of Commission rules or any statute. Contractual issues involved.

Recommendation: Close

42. Case No.: 2015013671

Consumer Complainant alleged Respondent dealer sold them a motor vehicle with a rebuilt title. Investigation was conducted to determine the truth of the allegations. Investigation failed to provide any evidence showing that title is rebuilt, or that Respondent had any knowledge of a rebuilt/salvage title history.

Recommendation: Close

**43. Case No.: 2015014871
2015015211
2015016091
2015016181**

Consumer Complainants allege Respondents sold them a motor vehicle with several mechanical issues. No evidence of any warranty found, vehicles sold "as is/no warranty." Consumers have failed to allege a violation of Commission rules or any statute.

Recommendation: Close

44. Case No.: 2015016851

Consumer Complainant alleged Respondent sold vehicle with rebuilt title without disclosing salvage/rebuilt title history. Received a signed notarized statement from Complainant stating she wished to withdraw complaint.

Recommendation: Close

45. Case No.: 2015017041

Consumer Complainant alleged Respondent failed to issue title due to a dispute over sales taxes being paid. Documentation shows issue has been resolved.

Recommendation: Close

46. Case No.: 2015017071

Consumer Complainant alleged Respondent Dealer took a \$500 down payment for a car, but did not refund the \$500 when she decided to purchase a motor vehicle from another dealer. Review of documents and receipts show no indication that the funds were considered refundable. Complainant has failed to allege any violation of Commission rules or any statute.

Recommendation: Close

47. Case No.: 2015017421

Finance company filed complaint alleging Respondent violated contracts it had with Complainant by allowing consumers to pay Dealer directly for motor vehicles purchased at Respondent dealer. Complainant failed to allege any violation of Commission's rule or any statute.

Recommendation: Close

48. Case No.: 2015006021

Commission received complaint alleging Respondent was engaged in unlicensed sales. Investigation was conducted into Respondent to determine the extent of unlicensed sales that may have taken place. Investigation yielded evidence of forty-nine (49) unlicensed sales of motor vehicles as well as potential fraudulent information being submitted to the Department of Revenue.

Recommendation: Authorization of a civil penalty in the amount of Twenty Four Thousand Five Hundred Dollars (\$24,500) consisting of \$500 x 49 unlicensed sales. Refer to Department of Revenue. To be settled by consent order or formal hearing.

**49. Case No.: 2015011761
2015015221**

Consumer Complainants alleged Respondent Dealer fraudulently filled out paperwork, received sale proceeds, and never titled the motor vehicles. Investigation conducted to determine whether any fraudulent acts took place. During investigation, Respondent stated they had a salesperson who "went rogue" stealing motor vehicles. Salesperson has disappeared, Respondent Dealer has filed police report and warrant is out on salesperson.

Recommendation: Authorization of a civil penalty in the amount of Eight Thousand Dollars consisting of 2 x \$2,000 for failure to supervise employees and 2 x \$2,000 for deceptive/fraudulent acts. To be settled by consent order or formal hearing.

50. Case No.: 2015012481
2015012482
2015012483

Consumer Complainant alleged Respondent 1 took her trade in and sold motor vehicle on open title. The Motor Vehicle was subsequently in an accident and insurance company is now pursuing Complainant. Complaint included a bill of sale between Respondent 1 and Complainant. Investigation conducted to look into Respondent 1 business practices; however Respondent 1 was very uncooperative. During investigation, it was found that Respondent 2, who is the son of owner of Respondent 1 dealer, took the trade in and sold on an open title. Respondent 2 was also uncooperative. Investigation revealed that Respondent 2 works at Respondent 3 dealership, however no evidence of any knowledge on part of Respondent 3 dealer was found.

Recommendation:

Respondent 1: Authorization of civil penalty in the amount of \$2,000 for one count of deceptive acts.

Respondent 2: Authorization of civil penalty in the amount of \$1,000 for sale of vehicle motor not titled in seller's name.

Respondent 3: Close

Civil Penalties to be settled by consent order or formal hearing.

51. Case No.: 2015013461

Consumer Complainant alleged Respondent Dealer failed to produce a title in a timely fashion. Investigation conducted to determine the reason for delay in issuing title. During investigation, it was determined that complaint was not filed by Complainant. Further, investigation revealed that issues arose due to Respondent selling this motor vehicle on consignment for an unlicensed individual. Unlicensed individual filed the complaint in question and individual is currently under investigation for unlicensed sales.

Recommendation: Authorization of a civil penalty in the amount of \$1,000 for one count of deceptive acts. To be settled by consent order or formal hearing.

52. Case No.: 201501353

Consumer complainant alleged Respondent sold them a vehicle that was previously in an accident without disclosing history of wreck. Investigation was conducted to determine whether any deceptive or fraudulent acts had transpired. Investigation revealed no evidence that the motor vehicle had previously been in an accident or that Respondent Dealer knew of any accident in the motor vehicle's history. Further, it was shown that Complainant received a full refund for the motor vehicle in question. Complainant expressed belief that the issue had been completely resolved.

Recommendation: Close

53. Case No.: 2015015041

Commission received a complaint alleging Respondent was engaging in unlicensed sales from his personal property. Investigation conducted to determine whether any unlicensed sales had transpired. Investigation revealed no evidence of any sales by Respondent. Respondent is a car collector who displays his motor vehicles on the property. No evidence of any motor vehicle sales was found with the county clerk.

Recommendation: Close

**54. Case No.: 2015016131
2015016132**

Commission received information alleging Respondents were consigning vehicles to a third dealership. Investigation conducted to determine if any off site sales transpired. Investigation yielded no evidence of any consignments taking place. All vehicles at third dealership's lot were there for servicing.

Recommendation: Close

55. Case No.: 2015013651

Consumer Complainant alleged Respondent dealer sold her a motor vehicle that had a salvaged title, but never disclosed that title was salvaged. Car has since had severe mechanical issues. Complainant also alleges Respondent dealer falsified sale documents. Investigation conducted to determine whether false, deceptive or fraudulent acts had transpired. During investigation, it was found that Respondent dealer sold salvaged vehicle to a salesperson who then sold the salvaged vehicle from Respondent's lot. Respondent Dealer stated he was told the vehicle was not sold from his lot. Salesperson has since had employment and salesperson license terminated by Respondent. Review of temporary tag log revealed Respondent issued four temporary tags on salvaged vehicles.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) consisting of \$500 x 4 temporary tag violations. To be settled by consent order or formal hearing.

56. Case No.: 201501452

Consumer Complaint alleged Respondent dealer sold her a vehicle and included taxes in the financed amount. Bill of Sale produced showing her claims were accurate. Complainant alleges Respondent dealer then refused to issue her title or second temp tag until she paid taxes a second time. Investigation conducted to determine if any deceptive acts had taken place. During course of investigation, it was found that Respondent dealer had issued four temp tags to Complainant, but only recorded three temp tags in its log. Respondent dealer stated they did demand Complainant pay the taxes again and could not provide an explanation as to why they were making Complainant pay the taxes again when Bill of Sale clearly included taxes in the financed amount. Motor vehicle in question was repossessed by Respondent dealer for nonpayment of monthly amounts due.

Recommendation: Authorization of a civil penalty in the amount Four Thousand Dollars (\$4,000) consisting of \$2,000 for deceptive acts (\$2,000 x 1 deceptive act), \$1,000 for issuing more temporary tags than allowed (\$500 x 2 surplus temporary tags) and \$1,000 for failure to maintain temporary tag log (\$1,000 x 1 failure to maintain). To be settled by consent order or formal hearing.

57. Case No.: 2015014481

Consumer Complainant alleged Respondent dealer was deceptive in their paperwork and refused to provide them copies of all documents signed. Investigation was conducted to determine whether any deceptive acts had occurred. During investigation it was determined that one borrower (the primary operator) of the car was happy with the purchase and that Complainant was a second borrower who no longer wished to have a contractual obligation on the motor vehicle and was in a personal dispute with the first borrower. No evidence of any deceptive acts on the part of Respondent dealer was found.

Recommendation: Close

58. Case No.: 201501451

Respondent dealer surety bond expired. Investigation conducted to see if any unlicensed sales took place. Investigation found no evidence of any sales while surety bond was expired.

Recommendation: Close

59. Case No.: 2014031691

Consumer Complainant alleged Respondent dealer sold them a motor vehicle with severe mechanical issues that were not disclosed. Investigation conducted to determine if any deceptive or fraudulent acts had occurred. No evidence of deceptive or fraudulent acts found, however, Respondent dealer was found to have one open title at dealership.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for possession of one open title. To be settled by consent order of formal hearing.

60. Case No.: 201501212

Consumer Complaint stated Respondent failed to issue title in a timely manner. Investigation conducted wherein it was found Complainant has received a refund for the motor vehicle in question.

Recommendation: Close

61. Case No.: 2015014441

Consumer Complaint stated Respondent failed to issue title in timely manner. Investigation conducted wherein it was found Complainant has not issued title as of September 30, 2015 because they believe Complainant still owed taxes despite drive out tag already being issued. Review of documents shows bill of sale is deceptive in that two different prices for motor vehicle in question are listed.

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

62. Case No.: 2015011991

Consumer Complaint alleged Respondent failed to issue title in timely manner. Investigation conducted to determine if any deceptive acts had transpired. No evidence of deceptive acts found, surety bond sent.

Recommendation: Close

**63. Case No.: 2015014271
2015016791
2015011981
2015014191
2015014491
2015012131
2015016761**

Consumer Complainant alleged Respondent failed to issue title. Investigation conducted to determine if any deceptive acts had taken place. During investigation, it was found that the vehicle had been registered to Complainant.

Recommendation: Close

64. Case No.: 2015016541

Notice of Violation issued for possession of 17 open titles; failure to display Buyers Guides in 14 vehicles; Phone # posted is not the business #; and failure to produce business records (Respondent could only produce 5 titles and/or bills of sale for the 15 vehicles advertised at its location.)

Recommendation: Authorization of a civil penalty in the amount of Twelve Thousand Seven Hundred and Fifty Dollars (\$12,750) for possession of 17 open titles (\$500 x 17 = \$8,500); failure to display Buyers Guides in 14 vehicles (\$250 x 14 = \$3,500); failure to display telephone number for business (\$250); and failure to produce business records (\$500), to be settled by consent order or formal hearing.

65. Case No.: 2015014071

Notice of Violation issued for incomplete temporary tag log and expired county business license. Respondent is contesting the citation.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Seven Hundred Fifty Dollars (\$1,750) for 3 missing temporary tags (3 x \$500 for each missing temporary tag) and failure to post business license(s) (1 x \$250), to be settled by consent order or formal hearing.

66. Case No.: 2015014091

Notice of Violation issued for failing to maintain county business tax license. Respondent is contesting the citation.

Recommendation: Authorization of a civil penalty in the amount of Two Hundred Fifty Dollars (\$250) for failing to maintain county business tax license, to be settled by consent order or formal hearing.

67. Case No.: 2015014111

Notice of Violation issued for failing to properly maintain a temporary tag log and for possession of 1 open title. Respondent has not paid the Agreed Citation or disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) for failing to properly maintain a

temporary tag log (\$1,000) and possession of 1 open title (\$500), to be settled by consent order or formal hearing.

68. Case No.: 2015014851

Notice of Violation issued for missing information on temporary tag log. Respondent admitted to giving the tags to a non-dealer friend. Respondent has not paid the Agreed Citation or disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for failing to properly maintain a temporary tag log, to be settled by consent order or formal hearing.

69. Case No.: 2015016151

Notice of Violation issued for failure to maintain city and county business license, incomplete temporary tag log, and 93 missing temporary tags.

Recommendation: Authorization of a civil penalty in the amount of Forty Eight Thousand Dollars (\$48,000) for failing to maintain a city or county business license (\$500); failing to properly maintain a temporary tag log (\$1,000); and 93 missing temporary tags ($\$500 \times 93 = \$46,500$), to be settled by consent order or formal hearing.

70. Case No.: 2015016521

Notice of Violation issued for failure to properly maintain temporary tag log and 34 missing temporary tags.

Recommendation: Authorization of a civil penalty in the amount of Eighteen Thousand Dollars (\$18,000) for failing to properly maintain a temporary tag log (\$1,000) and 34 missing temporary tags ($\$500 \times 34$ missing tags = \$17,000), to be settled by consent order or formal hearing.

71. Case No.: 2015016621

Notice of Violation issued for issuing more temporary tags than allowed by law. In response to the Agreed Citation, Respondent has requested a payment plan.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) for issuing more than 2 temporary tags to consumers, to be settled by a payment plan consent order (\$875 per month for 4 months) or formal hearing.

72. Case No.: 2015016641

Notice of Violation issued for failing to properly maintain a temporary tag log and 5 missing temporary tags. Respondent is contesting the Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) for failing to properly maintain a temporary tag log (\$1,000) and 5 missing temporary tags (\$500 x 5 missing tags = \$2,500), to be settled by consent order or formal hearing.

73. Case No.: 2015016841

Notice of Violation issued for failing to maintain city or county business licenses. Upon receiving an Agreed Citation, Respondent provided proof that it had submitted and paid for the city and county business license at least 6 weeks prior to the annual inspection.

Recommendation: Close

74. Case No.: 2015017131

Notice of Violation issued for employing a salesperson with an expired license. Respondent is contesting the Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for employing a salesperson with an expired license, to be settled by consent order or formal hearing.

75. Case No.: 201501261

Notice of Violation issued for failure to possess and or display a city tax ID number. Respondent did not pay or contest the agreed citation.

Recommendation: Authorization of a civil penalty in the amount of Two Hundred Fifty Dollars (\$250). To be settled by consent order or formal hearing.

76. Case No.: 2015018541

Notice of Violation was issued for failing to maintain a county business license. Respondent is contesting the Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of Two Hundred Fifty Dollars (\$250) for failing to maintain a county business license in violation of Rule 0960-01-.25, to be settled by consent order or formal hearing.

77. Case No.: 2015016511

Notice of Violation was issued for failing to maintain a city business license. Respondent has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Two Hundred Fifty Dollars (\$250) for failing to maintain a city business license in violation of Rule 0960-01-.25, to be settled by consent order or formal hearing.

78. Case No.: 2015018091

Notice of Violation issued for issuing more than 2 temporary tags to 1 consumer and for failing to maintain a current city or county business license. Respondent has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) for issuing more than 2 temporary tags to 1 consumer in violation of TCA § 55-17-114(b)(1)(O) and for failing to maintain a current city or county business license in violation of Rule 0960-01-.25, to be settled by consent order or formal hearing.

79. Case No.: 015016631

Notice of Violation issued for failing to properly maintain a temporary tag log. Respondent has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for failing to properly maintain a temporary tag log in violation of TCA § 55-17-114(b)(1)(O), to be settled by consent order or formal hearing.

80. Case No.: 2015018601

Notice of Violation issued for failing to maintain a current city and/or county business license. Respondent has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for failing to maintain a current city and/or county business license in violation of Rule 0960-01-.25, to be settled by consent order or formal hearing.

81. Case No.: 2015018551

Notice of Violation issued for failing to maintain a current county business license. Respondent has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of Two Hundred Fifty Dollars (\$250) for failing to maintain a city business license in violation of Rule 0960-01-.25, to be settled by consent order or formal hearing.

82. Case No.: 2015018611

Notice of Violation issued for failing to properly maintain a temporary tag log. Respondent has not paid the Agreed Citation nor disputed the facts therein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for failing to properly maintain a temporary tag log in violation of TCA § 55-17-114(b)(1)(O), to be settled by consent order or formal hearing.

**83. Case No.: 2015012081
2015012082**

Consumer Complainant alleged Respondent dealer failed to have her trade in titled into new purchaser's name. Investigation conducted to determine if any false, fraudulent or deceptive acts had occurred. During investigation it was found that Respondent 1 dealer had sold the motor vehicle in question to Respondent 2 dealer. Respondent 2 dealer then sold the motor vehicle to a consumer but has not titled the vehicle in consumer's name.

Recommendation:

Respondent 1: Close

Respondent 2: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for deceptive acts. To be settled by consent order or formal hearing.

RE-PRESENTATIONS

84. Case No.: 2015011131

Respondent/dealer was issued an agreed citation in May 2015 in an amount of \$2,000 for issuing more temporary tags than allowed by law or failing to maintain a temporary tag log. At the time of the July 2015 meeting, Respondent had not paid or answered to the agreed citation. The Commission authorized a consent order for \$3,000, adding an additional \$1,000 for failing to respond. The Respondent issued a check on July 27th for \$2,000 for the agreed citation. The MVC legal office issued the consent order for \$3,000 on August 4th. Further, in review of the file, the agreed citation was sent via regular mail. MVC's rule regarding "failure to respond" is listed in Rule 0960-01-

.23, which only allows the Commission to issue a civil penalty against a Respondent when they fail to respond to mail that was sent “registered or certified mail.” In this instance, the agreed citation was sent via regular mail. As such, the additional \$1,000 civil penalty assessed in July 2015 was not warranted.

Recommendation: Amend the previous authorization of a \$3,000 civil penalty to \$2,000 civil penalty removing the violation of failure to respond as set out in Rule 0960-01-.23.

A motion was made by Commissioner Jackson to approve the October 5, 2015, Legal Report, seconded by Commissioner Galvin.

MOTION CARRIED

BEGIN SUPPLEMENTAL LEGAL REPORT OCTOBER 5, 2015.

1. Case No.: 2015013651

Consumer Complainant alleged Respondent salesperson sold her a motor vehicle that had a salvaged title, but never disclosed that title was salvaged. Car has since had severe mechanical issues. Complainant also alleges Respondent falsified sale documents. Investigation conducted to determine whether false, deceptive or fraudulent acts had transpired. During investigation, it was found that Respondent has sold seven (7) motor vehicles as a private party. Respondent had a salesperson license at the time of the sale in question, and mislead consumer to believe he was selling the motor vehicle as a salesperson for the dealer.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Dollars (\$3,000) consisting of \$1,000 x 2 unlicensed sales and \$1,000 x 1 deceptive act. To be settled by consent order or formal hearing.

2. Case No.: 2015016101

Consumer Complainant alleged respondent sold them a motor vehicle and failed to produce title. Investigation conducted to determine if unlicensed sales occurred. Complainant was uncooperative with investigation and no evidence of unlicensed sale was uncovered.

Recommendation: Close

3. Case No.: 201501323

Consumer Complainant alleged Respondent dealer was deceptive with the paperwork they had them sign. Investigation conducted to determine whether any deceptive act had occurred. Investigation did not produce any evidence of deceptive, false or fraudulent acts.

Recommendation: Close

4. Case No.: 2015008111

Commission received complaint alleging respondent was slow in producing titles to vehicles they were selling. Investigation conducted to determine if any violations were occurring. Investigation failed to produce evidence of any violations.

Recommendation: Close

RE-PRESENTATIONS

5. Case No.: 2013007761
2013011501
2013012831
2013012371

Respondent was previously authorized for revocation of its license, and was set to go before the Commission for a contested hearing on the matter October 6, 2015. Since the case was referred for litigation and after discussions between Respondent's attorney and Litigation Counsel for the Commission, however, Respondent requests a settlement on the matter pursuant to the following terms:

Recommendation: Acceptance of Respondent's voluntary revocation. Further, should Respondent desire to obtain additional licensure in the future, Respondent must appear before the Commission at a regularly scheduled Commission meeting before any such licenses shall be issued to Respondent.

6. Case No.: 2014007541

Respondent was previously authorized for revocation of its license for deceptive, false and fraudulent acts. Since the case was referred for litigation and after discussions between Respondent's attorney and Litigation Counsel for the Commission, as well as a review of additional evidence that has come to light, revocation of Respondent's dealer license is no longer warranted. Evidence now shows that repossession of Consumer Complainant's motor vehicle was proper; however, Respondent did fail to properly title vehicle.

Recommendation: Amend the previous authorization of revocation to a civil penalty of One Thousand Dollars (\$1,000) for one deceptive act.

7. Case No.: 201402121

Respondent was previously authorized for revocation of its license for an expired surety bond. Since the case was referred for litigation and after discussions between Respondent and Litigation Counsel for the Commission, as well as a review of additional evidence that has come to light, revocation of Respondent's dealer license is no longer warranted. Surety bond terminated due to clerical error during dealership relocation. Evidence shows Respondent sold 58 motor vehicles while surety bond was expired.

Recommendation: Amend the previous authorization of revocation to a civil penalty of Fifteen Thousand Five Hundred Dollars (\$15,500) for 58 instances of unlicensed sales and one instance of failure to maintain surety bond.

8. Case No.: 2014018392

Respondent was previously authorized for revocation of its license for deceptive, false and fraudulent acts. Since the case was referred for litigation and after discussions between Respondent's attorney and Litigation Counsel for the Commission, as well as a review of additional evidence that has come to light, revocation of Respondent's dealer license is no longer warranted.

Recommendation: Amend the previous authorization of revocation to a civil penalty of One Thousand Dollars (\$1,000) for one deceptive act.

A motion was made by Commission Clayton to approve the supplemental October Legal Report, seconded by Commissioner Jackson.

MOTION CARRIED

OLD BUSINESS

Chairman Roberts discussed the desire of the Commission that staff revise the forms and applications being used for licensure. The new, revised forms were presented to the full Commission for approval. After some discussion, Commissioner Vaughan made a motion to adopt the forms and applications, seconded by Commissioner Jackson.

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

MOTION CARRIED

Chairman Roberts indicated the next item on the agenda was the proposed rule for salvaged disclosure. Chairman Roberts called on Assistant General Counsel Matthew E. Reddish to read the proposed rule into the record.

New Rule 0960-01-.28 (Disclosure of Rebuilt Motor Vehicles)

(1) The motor vehicle dealer or salesperson who knows that a motor vehicle has a salvage history, or whose title was previously branded as rebuilt or salvage shall disclose acknowledged in writing by the purchaser, prior to the consummation of the sale, that the motor vehicle has a rebuilt title, salvage title or salvage history.

(2) The disclosure in writing as required by subsection (a) shall be completed on a form prescribed by the Commission which states the following:

(3) For purposes of this rule, "salvage history" means:

(a) Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values, or

(b) Without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in subparagraph (a), any passenger motor vehicle whose owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. This designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities;

(4) Compliance with subparagraphs (1)-(3), may not be waived by the purchaser.

Chairman Roberts added that the rule proposal came into being due to public interest. Chairman Roberts called for a motion to move the rule forward. Commission Jackson made a motion to move the rule forward, Commissioner Trickett, seconded.

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES

Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

MOTION CARRIED

Executive Director Paula J. Shaw requested the Commission also look at the associated form with the proposed rule, which was directly related to the rule. A motion was made by Commissioner Jackson to approve the form associated with the rule, seconded by Commissioner Vaughan.

NOTICE DISCLOSURE OF REBUILT OR SALVAGE VEHICLE

Pursuant to Tenn. Comp. R. & Regs. 0960-01-.28, the following disclosure is required prior to the sale of any vehicle with a rebuilt title, salvage title or salvage history along with the signature of the purchaser acknowledging such disclosure.

The motor vehicle you are purchasing has a salvage title, rebuilt title, or salvage history. The value of this vehicle may be significantly less than a similar vehicle that is not branded with a rebuilt or salvage title.

(Purchaser's Printed Name) _____			
(Purchaser's Signature) _____		(Date) _____	
(Dealer or Authorized Representative Printed Name) _____			
(Dealer or Authorized Representative Signature) _____			
(Dealer Business Name and License Number) _____			
Year	Make	Model	VIN
_____	_____	_____	_____

“**Rebuilt title**” means the passenger motor vehicle ownership document issued by the state to the owner of a rebuilt vehicle. Ownership of the passenger motor vehicle may be transferred on a rebuilt title, and a passenger motor vehicle for which a rebuilt title has been issued may be registered for use on the roads and highways. A rebuilt title shall be conspicuously labeled with the words “Rebuilt Vehicle--Anti-theft Inspections Passed” across the front; (T.C.A. § 55-3-211(6))

“**Salvage title**” means a passenger motor vehicle ownership document issued by the state to the owner of a salvage vehicle. Ownership of the passenger motor vehicle may be transferred on a salvage title; however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt title. A salvage title shall be conspicuously labeled with the word “Salvage” across the front; (T.C.A. § 55-3-211(8))

“**Salvage history**” means:

(a) Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values, or

(b) Without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in subparagraph (a), any passenger motor vehicle whose owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. This designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities; (Pursuant to Tenn. Comp. R. & Regs. 0960-01-.28)

ROLL CALL VOTE

Eddie Roberts	YES
Stann McNabb	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Farrar Vaughan	YES
Lynn Webb	YES
Steve Tomaso	YES

MOTION CARRIED

Chairman Roberts called for a motion to adjourn.

Commissioner Vaughan made a motion to adjourn the meeting, seconded by Commissioner Jackson.

Meeting Adjourned

Eddie Roberts, Chairman