

MINUTES
JULY 13, 2015



**TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
MOTOR VEHICLE COMMISSION
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**TENNESSEE
MOTOR VEHICLE COMMISSION
MINUTES**

DATE: July 13, 2015

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

PRESENT: Commission Members:
Eddie Roberts
Jim Galvin
Ronnie Fox
Donnie Hatcher
Nate Jackson
John Murrey
Reed Trickett
Stan Norton
Lynn Webb
Ian Leavy

ABSENT: Stann McNabb
Joe Clayton
Don Parr
Farrar Vaughan
George Bass

CALL TO ORDER: Chairman Eddie Roberts called the meeting to order at 9:05am

Paula J. Shaw, Executive Director, called the roll. 10 members were present and a quorum was established.

AGENDA: Chairman Roberts requested the elimination of the “Determination of Necessity” for the current meeting and requested Legislative Updates be added to the Director’s Report. Commissioner Jackson made a motion to adopt the amended agenda, seconded by Commissioner Fox.

MOTION CARRIED.

Chairman Roberts took the opportunity to welcome the newest Commission Member, Commissioner Ian Leavy, who represents Volkswagen and the Manufacturer position of the Commission.

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 July 9, 2015.

QUARTERLY MEETING MINUTES: Commissioner Fox made a motion to approve the minutes from the April 20, 2015 meeting, seconded by Commissioner Hatcher.

MOTION CARRIED.

RULES COMMITTEE MINUTES: Commissioner Trickett made a motion to approve the minutes of the April 20, 2015 meeting, seconded by Commissioner Norton.

MOTION CARRIED.

SUMMARY SUSPENSION HEARING MINUTES: Commissioner Jackson made a motion to approve the minutes of June 29, 2015, seconded by Commissioner Webb.

MOTION CARRIED.

APPEALS: The following appeals were heard by the Commission.

Richard Rice
Crowder RV Center, Inc., Johnson City, 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 Hatcher moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts YES
Jim Galvin YES

Ronnie Fox	YES
Donnie Hatcher	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Lynn Webb	NO
Ian Leavy	YES

Motion carried, therefore the license is granted.

Rycine Ellison
Toyota-Scion of Cool Springs, Franklin, 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 Jackson.

ROLL CALL VOTE

Eddie Roberts	YES
Jim Galvin	YES
Ronnie Fox	YES
Donnie Hatcher	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

Todd Nelson
Greenlight Car Sales, Hendersonville, 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 the application be approved, seconded by Commissioner Fox.

ROLL CALL VOTE

Eddie Roberts	YES
Jim Galvin	YES
Ronnie Fox	YES

Donnie Hatcher **YES**
Nate Jackson **YES**
John Murrey **YES**
Reed Trickett **YES**
Stan Norton **YES**
Lynn Webb **YES**
Ian Leavy **YES**

Motion passed, therefore the license is granted.

Bobby Freeman
Peggy's Auto Sales, Hendersonville, 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 the application be deferred back to the staff pending additional information from the applicant, seconded by Commissioner Hatcher.

ROLL CALL VOTE

Eddie Roberts **YES**
Jim Galvin **NO**
Ronnie Fox **YES**
Donnie Hatcher **YES**
Nate Jackson **YES**
John Murrey **NO**
Reed Trickett **YES**
Stan Norton **NO**
Lynn Webb **NO**
Ian Leavy **YES**

Motion carried, therefore the license is deferred for re-appeal.

Terri Manlove
Car Concepts, LLC, Madison, TN

Applicant failed to appear.

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 Galvin moved the application denial be upheld, seconded by Commissioner Jackson.

VOICE VOTE - UNANIMOUS

Motion Carried, therefore the license is denied.

Andy Brelinski
Discount Motors, Inc., Nashville, TN

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

ROLL CALL VOTE

Eddie Roberts	NO
Jim Galvin	NO
Ronnie Fox	YES
Donnie Hatcher	NO
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	NO
Lynn Webb	NO
Ian Leavy	YES

Motion failed, therefore the license is denied.

Patrick Malone
Nissan of Rivergate, Madison, TN

Applicant failed to appear.

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 the application be denied, seconded by Commissioner Fox.

VOICE VOTE - UNANIMOUS

Motion carried, therefore the license is denied.

Kevin Moore
Wholesale Motorsports, Gallatin, 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 the application be approved, seconded by Commissioner Hatcher.

ROLL CALL VOTE

Eddie Roberts	NO
Jim Galvin	NO
Ronnie Fox	YES
Donnie Hatcher	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	NO
Lynn Webb	NO
Ian Leavy	YES

Motion carried, therefore the license is granted.

Michael Bird
Car Biz of Tennessee, Murfreesboro, 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 the application be approved, seconded by Commissioner Fox.

ROLL CALL VOTE

Eddie Roberts	YES
Jim Galvin	YES
Ronnie Fox	YES
Donnie Hatcher	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

Douglas Sudduth
Vehicles Nashville, Nashville, TN

Chairman Roberts requested appeals of salespersons applications which were previously denied by the staff to be heard by the Commission for their review and consideration. Chairman Roberts

indicated that Commissioner Galvin would recuse himself from this appeal. After some discussion, Commissioner Hatcher moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts	YES
Jim Galvin	ABSTAIN
Ronnie Fox	YES
Donnie Hatcher	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Lynn Webb	YES
Ian Leavy	YES

Motion carried, therefore the license is granted.

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).....73

Active Licensees as of April 1, 2015

Dealers.....	3747
Applications in Process.....	57
Distributors/Manufacturers.....	121
Auctions.....	28
Representatives.....	479
Salespeople.....	15991
Dismantlers.....	298
RV Dealers.....	28
RV Manufacturers.....	59

Motor Vehicle Show Permits:

Issued Since April 20, 2015.....0
Associated Revenue.....0

Complaint Report- July 1, 2014 to Present:

Number of Complaints Opened.....645
Number of Complaints Close.....259

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 – (April – June):

Total Collected.....\$97,750.00

Legislative Update

- **Public Chapter No. 344** – Curbstoning - Defines curbstoning and allows law enforcement to seize vehicles used in curbstoning. The act also defines the term “closed title” and clarifies an existing provision that it is a disciplinary offense for a motor vehicle dealer to possess a title that is not closed, unless the dealer has an executed consignment form.

Action:

The Act took effect July 1, 2015.

- **Public Chapter No. 322** – Allows a licensed motor vehicle dealer to operate one (1) additional business at its established place of business if at least sixty-six percent (66%) of the dealer’s established place of business is used for the sale or service or both, of motor vehicles and if the income derived from the additional business is less than thirty-three percent (33%) of the gross income of the dealership.

Action:

The Act took effect April 28, 2015.

- **Public Chapter No. 372** – Allows a motor vehicle producer to sell a vehicle previously leased to an employee to a motor vehicle dealer authorized to sell the same line-make.

Action:

The Act took effect May 4, 2015

- **Public Chapter No. 466** - Establishes various changes to the regulation of motor vehicle dismantlers and recyclers and scrap metal processors. Requires motor vehicle dismantlers and recyclers and scrap metal processors to verify a vehicle is not stolen or subject to any security interest or lien at the time the vehicle is purchased. Establishes criminal sanctions and restitution for losses incurred for any sale of a vehicle based on falsified information. Requires all information necessary to be submitted to the National Motor Vehicle Title Information System. Establishes a Class A misdemeanor for violators with a minimum fine of \$1,000. Specifies that half of the monies generated from penalties for violators shall be deposited in a special fund for use by the department of revenue's vehicle services division, while the other half is to be (1) deposited in the general fund of the municipality or county the suit was brought in, or (2) allocated to the appropriate state agency, if the suit was brought by a state agency. Allows a court to order a defendant seller to make restitution to the lienholder and motor vehicle dismantler, including recyclers and scrap metal processors, for any damage or loss caused. Orders motor vehicles used to transport illegally sold vehicles to be subject to seizure and forfeiture. Requires the department of revenue's vehicle services division to develop a process to allow dismantlers and processors to verify vehicles are not reported stolen, including verification during the transaction and through the internet. Requires dismantlers and processors to not complete transactions of vehicles that are reported stolen and to notify appropriate law enforcement agencies.

Action:

The law is enacted July 1, 2015 and expires July 1, 2017

- **Public Chapter No. 525** - Requires motor vehicle dealers to maintain records of waste tires originating from the dealer for a period of at least two years. Urges the department of environment and conservation to study the number of waste tires originating from sources other than tire dealers. This act creates a new fee on each purchase of a new vehicle to be titled in Tennessee. These fees will be to fund a tire environmental program administered by the Department of Environment and Conservation.

Action:

The Act takes effect October 1, 2015

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

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. Deputy General Counsel, Michael Driver, presented the legal report to the Commission. Deputy General Counsel conveyed that there was one change to the first legal report, which was to defer item #58 to the full Commission.

1. Case No.: 2014024661

Complainant alleges that Respondent has not produced the title or a bill of sale to his vehicle making it impossible to register the vehicle. Respondent is not a licensed dealer, and there is not enough information at this time to determine if unlicensed dealer activity is taking place.

Recommendation: Close and flag.

2. Case No. 2014029571 & 2014029572

Staff received information alleging that Respondent #1 was acting as a “sales manager” for Respondent #2, an unlicensed dealer. During the course of an investigation, Respondent #2 could not be located, and Respondent #1 denied any association with Respondent #2. As such, there appears to be insufficient proof of evidence.

Recommendation: Close

3. Case No. 2014031031

Respondent/Dealer received a Notice of Violation for purchasing temporary tags from the Department of Revenue and transferring them to an unlicensed dealership. Respondent also had a previous complaint that alleged that Respondent was advertising vehicles it did not have the proper licensure to sell as a result of Respondent having applied to add an additional line-make that had not yet been approved. This subsequent complaint, which appears to arise out of substantially the same conduct (operating a dealership and offering a linemake at an unlicensed location), has been settled by Consent Order. As such, this complaint is recommended for closure.

Recommendation: Close – Previously determined.

4. Case No. 2014031061

Complainant alleges that Respondent did not provide a copy of any signed documents at the time of sale, and the terms of the agreement changed without Complainant’s knowledge. Investigation found that Complainant had contacted an attorney and returned the vehicle for a

voluntary repossession. Respondent denies the allegations, and provided the Commission with a copy of the deal file signed by Complainant.

Recommendation: Close

5. Case No. 2014031531

Complainant alleges that Respondent took advantage of her elderly parents and alleges the contractual agreement and costs of the vehicle are not correct. Respondent denies the allegations, and provided the Commission with a copy of the deal file signed by Complainant's parents. Investigation found that the salesperson conducting the sale for Respondent did not have a valid salesperson license.

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

6. Case No. 2015001301
2015002791
2015002931

Three Complainants alleged that Respondent/Dealer failed to deliver title/registration for their vehicle(s) and two Complainants alleged that Respondent/Dealer issued more than two temporary tags. Investigation found that the title/registration issues had been resolved. One automobile was purchased on November 12, 2014 and no title was produced until February 2015. Respondent stated this was delayed because of additional paperwork due to it previously being titled out-of-state. One Complainant stated that they purchased a vehicle on October 11, 2014 and received the registration and tag on March 19, 2015. Respondent stated that this Complainant's file was misplaced and the registration was not processed timely. The other Complainant stated that they had purchased the vehicle on October 6, 2014, but did not receive the title until January 29, 2015. Respondent stated that the title was received in December 2014, but Complainant failed to pick it up until January 2015. The investigation also confirmed that Respondent issued Complainant #2 four (4) temporary tags and Complainant #3 five (5) temporary tags.

Recommendation: Authorization of a civil penalty in the amount of Four Thousand Dollars (\$4,000); Two Thousand Five Hundred Dollars (\$2,500) for issuing more than two temporary tags to two consumers; One Thousand Five Hundred Dollars (\$1,500) for failure to timely deliver title, to be settled by Consent Order or Formal Hearing.

7. Case No. 2015001701

Complainant alleged that Respondent failed to timely provide registration and altered her temporary tag. Respondent did not respond to the complaint. Investigation found that the

title/registration issue had been resolved but could not confirm if Respondent had altered Complainant's temporary tag. However, during the course of the investigation, it was found that Respondent's temporary tag log was incomplete and Respondent had issued more than two (2) temporary tags to at least four (4) consumers. Respondent did not provide the investigator with Complainant's deal file; however, further investigation revealed that Respondent had altered the purchase date when applying for Complainant's registration to reflect a later date.

Recommendation: Authorization for the Revocation of Respondent's Motor Vehicle Dealer License due to fraudulent or deceptive acts; failure to timely provide registration; issuing more than two temporary tags to one consumer; failure to properly maintain a temporary tag log; and failure to respond to Motor Vehicle Commission correspondent in violation of T.C.A. §55-17-114, Rule 0960-01-.11 and Rule 0960-01-.23, to be settled by Consent Order or Formal Hearing.

8. Case No. 2015001741

Complainant alleged that Respondent had charged him for repairs and/or maintenance work that was not performed on his vehicle. Respondent did not respond to the complaint. During an investigation, Respondent denied the allegations, but stated that it had refunded Complainant's money in hopes to make him happy. Further, Respondent stated that they did not receive the original complaint in time to respond in a timely manner. Complainant refused to cooperate with the investigator and would not provide an affidavit. As such, there appears to be insufficient proof of a violation at this time.

Recommendation: Close

9. Case No. 2015002361

Respondent received a Notice of Violation for acting as an unlicensed dealer. Investigation found that Respondent had purchased seven (7) vehicles from an auction, but was only able to confirm that Respondent sold five (5) vehicles. As such, there appears to be insufficient proof of violation at this time.

Recommendation: Close.

10. Case No. 2015002531

Complainant alleged that Respondent/Dealer did not timely produce title or registration for his vehicle. Investigation found that Complainant purchased the vehicle and paid in full in November 2014, and did not receive his title or proper registration until February 2015.

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

11. Case No. 2015002731

Complainant alleged that Respondent/Dealer did not timely produce title or registration for her vehicle. Respondent failed to respond to the complaint. Investigation found that Complainant had received her registration, and was advised by Respondent that the auction company where Complainant's vehicle was purchased was at fault for the delay in getting Complainant's registration. Respondent was able to provide an undated letter from the auction company confirming that there had been a delay on their part in obtaining the title to Complainant's vehicle. Respondent alleged that they had forwarded the complaint to their bonding company to respond and assumed we had received the response. Complainant would not cooperate with the investigation.

Recommendation: Close.

12. Case No. 2015002831

Complaint alleged that Respondent/Dealer was operating at an unlicensed location and conducting off-site sales. Investigation found that Respondent/Dealer has a dual address for the location because the dealership is located on two roads. As such, no information was found substantiating that Respondent was operating a second, unlicensed location.

Recommendation: Close, as both addresses appear to be for an identical piece of property.

13. Case No. 2015002871

Information received by office staff regarding cars being offered for sale in a parking lot in Union City, TN. Investigation found that several vehicles were being offered for sale in the parking lot; however, the vehicles were registered to multiple individuals with different phone numbers on each car. Investigator contacted the property management company, and they are taking proper steps to remove the vehicles from their property. As such, there appears to be insufficient proof of violation at this time.

Recommendation: Close – Insufficient proof of violation.

14. Case No. 2015002891
2015002892
2015002893

Information was provided to staff indicating unlicensed sales taking place in a residential area and linked to Respondent # 1's website, which offers to "bring your dream car to your driveway" and listed Respondent # 3's contact information. Investigation found insufficient evidence of on-going sales activity, and all parties denied the website was active or in use.

Recommendation: Letter of warning regarding unlicensed dealer activity.

15. Case No. 2015003831
2015003832
2015003833

Complainant, a former business partner of Respondent, alleges that Respondent transferred or “rented” his dealer license to another company that then operated the dealership and paid Respondent a flat fee for every car sold. There is an ongoing civil matter between the parties. Investigation revealed that Respondent has a licensed sales manager and one (1) licensed salesperson employed at the location. Insufficient proof of violation.

Recommendation: Close – Insufficient proof of violation.

16. Case No. 2015004151

Complainant alleged that Respondent was acting as an unlicensed dealer. Investigation found that the Respondent owned and operated an auto repair shop, and was fixing up and selling vehicles. Respondent admitted to selling 9 vehicles in a calendar year, and stated he did not know he needed a license to do so.

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

17. Case No. 2015004161
2015004162

Complainant alleged that Respondent #1, a licensed salesperson for Respondent #2, was “bird-dogging” on a Facebook community page of approximately 5,000 people. Evidence confirmed that Respondent #1 was offering \$250.00 for assistance in selling vehicles.

Recommendation Respondent 1: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for unlicensed activity, to be settled by Consent Order or Formal Hearing.

Recommendation Respondent 2: Authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) for failure to supervise employees per TCA §55-14-114, to be settled by Consent Order or Formal Hearing.

18. Case No. 2015004861

Complainant supplied photos of vehicles displayed for sale at an unlicensed location. Investigation found that vehicles were placed there by Respondent, whose licensed location is immediately adjacent to the unlicensed property.

Recommendation: Letter of Warning regarding sale of vehicles only from a licensed location.

19. Case No. 2015004921

Complainant alleged that Respondent failed to deliver title. An investigation was attempted but Complainant refused to respond to investigator's repeated attempts to speak with her. Investigator obtained a copy of Respondent's temporary tag log as part of his investigation and found that Respondent's temporary tag log was incomplete and missing several entries.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for failure to properly maintain a temporary tag log, to be settled by Consent Order or Formal Hearing.

20. Case No. 2015005441

Respondent/Dealer received an Agreed Citation for possessing one (1) open title. Respondent has not paid the citation nor disputed the facts therein.

Recommendation: Authorization of civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) one (1) open title violation and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

21. Case No. 2015005921

Complainant purchased vehicle eight years ago, and alleges that Respondent did not notify her that vehicle had a "branded title". Respondent is now under new ownership, and they do not have records that would be needed to investigate the complaint. Additionally, the title is not "branded" but does have a warning on the Carfax report that it might be a "lemon".

Recommendation: Close – Insufficient proof of violation.

22. Case No. 2015006031

Complainant alleged that Respondent misrepresented the condition of her vehicle. Respondent denies the allegations and offered to purchase the vehicle from Complainant for the current market value or to replace the vehicle with a similar vehicle; however, Complainant declined both offers. Insufficient proof of violation.

Recommendation: Close – Insufficient proof of violation.

23. Case No. 2015006261

Complainant alleged that she purchased the vehicle from Respondent and did not timely receive a title. At one time Respondent was a licensed dealer; however, Respondent closed the dealership and now operates an auto repair shop. Investigation found that Respondent's son sold the vehicle to complainant as an individual, and the title issue has been resolved. Insufficient proof of violation.

Recommendation: Close – Insufficient proof of violation.

24. Case No. 2015006271
2015006272
2015006273

Complainant alleged that Respondent 3 was still operating Respondent 2 and was not maintaining a proper temporary tag log; conducting off-site sales; and employing unlicensed salespeople. Respondent 1 was the owner of Respondent 3, a dealership that recently closed and left many consumers without titles and/or registrations. Respondent 1 and Respondent 2 are closed and Respondent 3 would not cooperate with the investigation. Insufficient evidence of violation.

Recommendation: Close – Insufficient evidence at this time.

25. Case No. 2015006281

Complainant alleges that vehicle was repossessed illegally. Respondent's business has been closed and license surrendered since complaint was filed. Complainant was encouraged to seek civil remedies.

Recommendation: Close and flag.

26. Case No. 2015006291
2015006292

Anonymous complaint alleged that Respondent 2 was selling vehicles for Respondent 1 at his home. Investigation found that Respondent 2 is a licensed salesperson for Respondent 1 and acts as a wholesaler. Insufficient proof of violation.

Recommendation: Close – Insufficient proof of violation.

27. Case No. 2015006561

Complainant alleged that respondent misrepresented the terms of his purchase agreement. Documents provided by both Complainant and Respondent show this to be a “monthly rental agreement” and the terms, while unusual, are clear.

Recommendation: Close – Insufficient proof of violation.

28. Case No. 2015006581
2015006582

Complainant alleged that Respondent/Dealer #1 sold a vehicle which failed emissions testing three (3) times and registered the vehicle in another county to avoid the emissions testing requirement. Respondent/Dealer #1 denied the allegations, provided proof that the vehicle was sold “As-Is” and stated that the vehicle was registered in another county because that is where Respondent/Dealer #2 is located. Insufficient proof of violation.

Recommendation: Close – Insufficient proof of violation.

29. Case No. 2015006811
2015006812

Complainant alleged off-site sales by Respondent #2. Investigation confirmed that Respondent #2, a licensed dealer, allowed Respondent #1, a relative and formerly licensed salesperson of Respondent #2, to sell vehicles on his behalf at Respondent #1’s auto repair shop. Investigator was able to document three incidents of off-site sales, and both Respondents were warned against engaging in future unlicensed activity.

Recommendation Respondent #1: Close with a letter of warning regarding unlicensed dealer activity.

Recommendation Respondent #2: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1500) for three incidents of off-site sales, to be settled by Consent Order or Formal Hearing.

30. Case No. 2015007021

Complainant alleged that respondent failed to deliver to title to out of state clerk’s office so that new title could be recorded and tags properly issued to Complainant, who had moved since purchasing the car from Respondent. Review of documentation provided by Respondent reveals that there is an on-going dispute regarding past due payments and that Respondent has been attempting to locate and re-possess the vehicle prior to complaint being filed. Insufficient proof of violation.

Recommendation: Close – Insufficient proof of violation.

31. Case No. 2015007041

Complainant alleged that she paid for vehicle in full, per the terms of financing agreement, and that Respondent is now demanding more money before releasing the title. Respondent replied by providing financing agreement, signed by Complainant, and that at the time of complaint Complainant did still owe on the vehicle. Complainant did not provide rebuttal to Respondent's information.

Recommendation: Close, insufficient proof of violation

32. Case No. 2015007941

Complainant alleged Respondent failed to timely provide registration. Respondent denies the allegations and Complainant received registration on or before March 12, 2015, within reasonable length of time. Insufficient proof of violation.

Recommendation: Close, insufficient proof of violation

33. Case No. 2015007961

Complainant alleged that Respondent, a Mississippi Motor Vehicle Dealer was conducting unlicensed activity in the State of Tennessee. While the investigation found multiple vehicles listed for sale on craigslist, the vehicles have been removed and there is no proof that Respondent sold the vehicles. Respondent refused to cooperate with the investigation.

Recommendation: Close and Flag – insufficient evidence at this time.

34. Case No. 2015008131

Respondent/Dealer received an Agreed Citation for two (2) open title violations. Respondent is contesting the citation.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) for two (2) open title violations, to be settled by Consent Order or Formal Hearing.

35. Case No. 2015008451

Respondent/Dealer received a Notice of Violation for incomplete temporary tag log and forty-eight (48) missing temporary tags. Respondent did not receive an Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of Twenty-Five Thousand Dollars (\$25,000); One Thousand Dollars (\$1,000) for failure to properly maintain a temporary tag log and Twenty-Four Thousand Dollars (\$24,000) for forty-eight (48) missing temporary tags (\$500 x 48 temporary tags), to be settled by Consent Order or Formal Hearing.

36. Case No. 2015008461

Respondent/Dealer received a Notice of Violation for incomplete temporary tag log and eight (8) missing temporary tags. Respondent did not receive an Agreed Citation.

Recommendation: Authorization of a civil penalty in the amount of Five Thousand Dollars (\$5,000); One Thousand Dollars (\$1,000) for failure to properly maintain a temporary tag log and Four Thousand Dollars (\$4,000) for eight (8) missing temporary tags (\$500 x 8 temporary tags), to be settled by Consent Order or Formal Hearing.

37. Case No. 2015009151

Complainant alleged that Respondent improperly repossessed his vehicle. By Complainant's own statement, however, he waited at least two months after the repossession to talk with Respondent about the alleged dispute, and documents provided by the Complainant provide insufficient evidence of a violation.

Recommendation: Close

38. Case No. 2015009161

Complainant alleged that the vehicle she purchased from Respondent had multiple mechanical issues. Complainant acknowledged in her complaint, however, that sale was "As-Is". Documents provided by Respondent also show "As-Is" sale.

Recommendation: Close

39. Case No. 2015009251

Complainant alleged that the vehicle she purchased from Respondent had multiple mechanical issues. Sale of vehicle was "As-Is", and at least some of the prior mechanical issues with vehicle were disclosed to Complainant prior to sale.

Recommendation: Close

40. Case No. 2015011091

Respondent/Dealer received an Agreed Citation for failure to maintain a temporary tag log. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Dollars (\$3,000) for failure to maintain a temporary tag log and for failure to respond to

communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

41. Case No. 2015011111

Respondent/Dealer received an Agreed Citation for failure to properly maintain a temporary tag log and three (3) missing temporary tags. During an inspection, three temp tag entries were found to be blank in Respondent's temp tag log. The owner of the dealer responded to the Notice of Violation and stated that during the period of the error, they were out of the office having hip replacement surgery. Respondent owner stated that, during that time, the computer that prints the tags malfunctioned and misprinted three (3) tags. Respondent owner stated that Respondent's only salesperson did not know to keep the temp tags. Respondent's employee provided a letter further stating that the tags in questions were ruined by computer malfunction and not recorded.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred (\$1,500) for failure to maintain a temporary tag log regarding three (3) temporary tags.

42. Case No. 2015011131

Respondent/Dealer received an Agreed Citation for failure to maintain a temporary tag log. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of a civil penalty in the amount of Three Thousand Dollars (\$3,000) for failure to maintain a temporary tag log and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

43. Case No. 2015011141

Respondent/Dealer received an Agreed Citation for failure to properly maintain a temporary tag log and seven (7) missing temporary tags. Respondent is contesting the citation. Respondent, in its response, stated that it was not made aware of the error on the day of the inspection, and produced a subsequently-created log of the temporary tags in question.

Recommendation: Authorization of a civil penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500); One Thousand Dollars (\$1,000) for failure to properly maintain a temporary tag log and Three Thousand Five Hundred Dollars (\$3,500) for seven (7) missing temporary tags (\$500 x 7 temporary tags), to be settled by Consent Order or Formal Hearing.

44. Case No. 2015011171

Respondent/Dealer received an Agreed Citation for failure to properly maintain a temporary tag log and four (4) missing temporary tags. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of a civil penalty in the amount of Four Thousand Dollars (\$4,000): One Thousand Dollars (\$1,000) for failure to properly maintain a temporary tag log, Two Thousand Dollars (\$2,000) for four (4) missing temporary tags (\$500 x 4 temporary tags), and One Thousand Dollars (\$1,000) for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

45. Case No. 2015011191

Respondent/Dealer received an Agreed Citation for failure to properly maintain a temporary tag log. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) for failure to properly maintain a temporary tag log and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

46. Case No. 2015001241

Respondent/Dealer received an Agreed Citation for two incidents of off-site sales. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) for off-site sales and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

47. Case No. 2015011261

Respondent/Dealer received an Agreed Citation for one incident of off-site sales. Respondent is contesting the citation.

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

48. Case No. 2015011281

Respondent/Dealer received an Agreed Citation for possessing one (1) open title. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) one (1) open title violation and for failure to respond to

communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

49. Case No. 2015011291

Respondent/Dealer received an Agreed Citation for possessing one (1) open title. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) one (1) open title violation and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

50. Case No. 2015011131

Respondent/Dealer received an Agreed Citation for possessing one (1) open title. Respondent has not paid the citation nor disputed the facts herein.

Recommendation: Authorization of civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) one (1) open title violation and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

51. Case No. 2015011321

Respondent/Dealer received an Agreed Citation for failure to post regular business hours and for failure to post a telephone number. Respondent did not pay the citation nor disputed the facts herein.

Recommendation: Authorization of civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) one for failure to post regular business hours in violation of Tenn. Comp. R. & Regs. § 0960-1-.25; failure to post a telephone number in violation of Tenn. Comp. R. & Regs. § 0960-1-.21(3); and for failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

52. Case No. 2015011331

Respondent/Dealer received an Agreed Citation for failure to maintain a city or county business license. Respondent did not pay the citation nor disputed the facts herein.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) for failure to maintain a city or county business license and for

failure to respond to communication from the Tennessee Motor Vehicle Commission, to be settled by Consent Order or Formal Hearing.

53. Case No. 2015016111

Complainant alleged that Respondent misrepresented the vehicle and refused to repair the vehicle when it started experiencing mechanical problems. Vehicle was sold “As-Is” and Respondent is now out of business.

Recommendation: Close

54. Case No.
2015006141
2015006551
2015006591
2015007911
2015007931
2015008081
2015008851
2015009261
2015009531
2015009921
2015010621
2015010631
2015010721
2015012811
2015012251
2015016081
2015006041
2015010731
2015012001
2015013201
2015013451
2015013471
2015014201
2015014261
2015014501
2015014691

The above complaints were received stating that the Respondents/Dealers failed to provide titles/registrations for the purchased vehicles. These dealers appear to have abandoned these businesses and are no longer operating. Surety Bond information, if available, has been sent to Complainants.

Recommendation: Close and flag

55.	Case No.	2014022611
		2015003801
		2015003951
		2015006131
		2015007011
		2015007941
		2015008481
		2015008831
		2015004231

The above complaints were withdrawn or settled between the parties after submitting to the commission.

Recommendation: Close – Withdrawn.

Re-Presentations

56. Case Nos.: **2013000521** **2014000921**
 2013011691 **2014002071**
 2013015811 **2014018171**
 2013018352 **2014018301**
 2013018481

Respondent was previously authorized for revocation of their dealer’s license for false, fraudulent or deceptive acts per TCA 55-17-114. Respondent contested the revocation, and was awaiting a formal hearing. Respondent’s license has since expired and cannot be renewed, and has closed the business.

Recommendation: Close and flag; Recommend that any future motor vehicle dealer or salesperson applications filed by Respondent or Respondent’s business manager come before the Commission for review and consideration prior to approval.

57. Case No. 2011011731

Respondent was previously authorized a civil penalty for one hundred thirty nine temporary tag violations, and was set to go before the Commission for a contested hearing on the matter. 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: Authorization of a civil penalty in the amount of Thirteen Thousand Nine Hundred Dollars (\$13,900) for one hundred and thirty nine missing temporary tags. Further, Respondent must make his dealership available for no less than three inspections during 2016 and 2017. Should the respondent deny an investigator or inspector acting on behalf of the Commission access to his dealership or prevent inspection of the records, Respondent’s license shall be automatically revoked.

58. Case No. 2014005001

Respondent was previously assessed a \$3,000 civil penalty for selling a vehicle to Complainant at more than the advertised price and not responding to the complaint, resulting in an advertising violation, fraudulent act and penalty for failure to respond to the Motor Vehicle Commission. Respondent now asks for reconsideration of the penalty on the following grounds: Respondent disputes that the advertised price was available at the time of the Complainant’s purchase; that when Complainant approached them

about the price advertised after the sale that they allowed Complainant to unwind the deal and paid to the Complainant the difference in the advertised price versus what Complainant paid; and that they did not respond to the complaint because they did not see it due to “mail issues at the main office”. It should be noted that Respondent also did not respond to the initial Consent Order, but did finally respond in writing when notified that the matter was being referred for litigation.

Recommendation: Defer to Commission.

59. Case No. 2014002081

Respondent was previously authorized for Revocation of its Tennessee Motor Vehicle Dealer License. Respondent eventually provided documentation of proof of surety bond coverage and no consumers were actually harmed.

Recommendation: Authorization of a civil penalty in the amount of Five Thousand Dollars (\$5,000) for failure to provide proof of surety bond coverage in violation of T.C.A. §55-17-111(d), to be settled by Consent Order or Formal Hearing.

60. Case No. 2014023221

Respondent was previously authorized a civil penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500) for failure to maintain a temporary tag log and missing temporary tags; for failure to display a buyer’s guide in vehicles; and for failure to respond to correspondence from the Tennessee Motor Vehicle Commission. Although not timely, counsel for Respondent did file a response, and explained that the delay had been caused by his office misplacing Respondent’s file. Respondent does not admit to all parts of the complaint, but in an effort to avoid expensive and protracted litigation, has made a settlement offer in the amount of Two Thousand Dollars (\$2,000).

Recommendation: Authorization of a civil penalty in the amount of Two Thousand Dollars (\$2,000) for failure to maintain a temporary tag log and missing temporary tags and for failure to display a buyer’s guide in vehicles, to be settled by Consent Order or Formal Hearing.

61. Case No. 2014026671

Respondent was previously authorized for a civil penalty in the amount of Two Thousand Dollars for failure to maintain a city or county business license and for failure to respond to correspondent from the Tennessee Motor Vehicle Commission. Respondent is now out of business and its Tennessee Motor Vehicle Dealer License has been closed.

Recommendation: Close and flag.

62. Case Nos. 2014008351
2014009861

2014008351: Respondent was previously authorized for a civil penalty in the amount of Forty-Six Thousand Five Hundred Dollars (\$46,500) for ninety days of unlicensed activity and for employing 3 salespeople. Counsel for Respondent argued that 55-17-111(e) requires a licensed dealership to notify the Commission within thirty (30) days of changing address, and since Respondent failed to do so, should only be penalized for that and not for ninety (90) days of unlicensed activity.

2014009861: Respondent was previously authorized for a civil penalty in the amount of Two Hundred Thousand Dollars (\$200,000) for thirteen (13) days of unlicensed activity, selling nineteen (19) vehicles, and employing eight (8) unlicensed salespeople after receiving a Cease and Desist Notice.

Recommendation:

2014008351: Authorization of a civil penalty in the amount of Ten Thousand Dollars (\$10,000) for unlicensed activity in violation of T.C.A. §55-17-109(a)(1), to be settled by Consent Order or Formal Hearing.

2014009861: Authorization of a civil penalty in the amount of Ten Thousand Dollars (\$10,000) for failure to comply with the Cease and Desist Notice and correspondence from the Tennessee Motor Vehicle Commission in violation of R. and Regs. 0960-01-.23, to be settled by Consent Order or Formal Hearing.

63. Case No. 2015001171

Respondent was previously authorized for a civil penalty in the amount of Two Thousand Dollars (\$2,000) for failure to properly maintain a temporary tag log and for failure to respond to correspondence from the Tennessee Motor Vehicle Commission. Upon receiving a Consent Order, Respondent provided proof of a completed temporary tag log that had been kept electronically and proof of communication with the Tennessee Motor Vehicle Commission staff.

Recommendation: Close

A motion was made by Commissioner Jackson to approve the legal report as presented by General Counsel, Kim Cooper, and seconded by Commissioner Hatcher. Motion was approved unanimously by voice vote.

MOTION CARRIED.

SPECIAL LEGAL REPORT:

64. Case Nos.:

2015004841	2015015511	2015015851
2015004871	2015015521	2015015861
2015010711	2015015531	2015015871
2015011481	2015015541	2015015881
2015015241	2015015551	2015015891
2015015251	2015015561	2015015901
2015015261	2015015571	2015015911
2015015271	2015015631	2015015951
2015015281	2015015721	2015015961
2015015311	2015015731	2015016211
2015015431	2015015761	2015016231
2015015481	2015015821	2015016241
2015015491	2015015831	
2015015501	2015015841	

The above-referenced complaints were received alleging that Respondent had failed to produce titles or registrations, failed to pay off trade-ins, issued multiple temporary tags to at least one consumer, and/or disposed of consigned vehicles without paying Complainants. Respondent's licenses were summarily suspended at a special meeting held on June 29, 2015. There is an ongoing criminal investigation in the matter, and Respondent has allegedly agreed to surrender his licenses.

Deputy General Counsel presented the Special Matter Legal Report, along with the recommendation of the Legal Review Committee of a \$210,000.00 Civil Penalty and the original recommendation of Legal, regarding authorization for revocation. Mr. Driver conveyed that the original recommendation of the Legal Staff was for the authorization of revocation of both licenses of the respondent, due to fraudulent acts as listed in the statement of facts. Mr. Driver also advised that the licenses for both dealerships were summarily suspended on June 29, 2015, and that the reason for Legal's recommendation of revocation with no civil penalty was based off the thought that the respondent should be required to concentrate on paying off any civil judgments or criminal restitutions, rather than a civil penalty issued by the Commission. Mr. Driver went on to state that any future license by any of the respondents would be conditioned provided sufficient proof that any such judgments or restitutions had been satisfied, and that any future complaints regarding the respondent be referred to law enforcement and the complainant be notified to seek private counsel for further action, if they so wish.

Chairman Roberts stated the respondent has been fined \$210,000.00, with a possible agreement of waiving the civil penalties if the respondent makes restitution to the

consumers. Also, it was ascertained that the civil penalties would be offset on a dollar-for-dollar basis, up to the full \$210,000.00 civil penalty, upon receipt of proof of payment on any and all civil judgments or orders of restitution. After further consideration and discussion, Chairman Roberts asked the Commission if anyone wanted to make a motion to accept the consent order as proposed. A motion to accept the consent order as amended was made by Commissioner Webb, and seconded by Commissioner Jackson.

ROLL CALL VOTE:

Eddie Roberts	YES
Jim Galvin	YES
Ronnie Fox	YES
Donnie Hatcher	YES
Nate Jackson	YES
John Murrey	YES
Reed Trickett	YES
Stan Norton	YES
Lynn Webb	YES
Ian Leavy	YES

Motion Carried

NEW BUSINESS

Meeting dates for the calendar year of 2016 were discussed by the Commission. The Commission approved the dates as follows:

Quarterly Meetings

JANUARY 11-12, 2016
APRIL 25-26, 2016
JULY 25-26, 2016
OCTOBER 24-25, 2016

Special Dates

FEBRUARY 10, 2016
MARCH 16, 2016
MAY 18, 2016
JUNE 15, 2016
SEPTEMBER 14, 2016
DECEMBER 14, 2016

Committee Meeting Dates (Possible Telephonic)

AUGUST 3, 2016
AUGUST 17, 2016
NOVEMBER 2, 2016
NOVEMBER 16, 2016

Chairman Roberts asked for the proposed calendar to be amended to reflect the dates listed above. Commissioner Hatcher made a motion to accept the amended proposed calendar, Commissioner Jackson seconded.

VOICE VOTE – UNANIMOUS

Motion Carried

Deputy General Counsel, Michael Driver, explained the proposed rules process regarding the proposed rules which were approved by the Committee at the previous meeting. Commissioner Hatcher made a motion to adopt the rules, and seconded by Commissioner Galvin.

ROLL CALL VOTE

Eddie Roberts	AYE
Jim Galvin	AYE
Ronnie Fox	AYE
Donnie Hatcher	AYE
Nate Jackson	AYE
John Murrey	AYE
Reed Trickett	AYE
Stan Norton	AYE
Lynn Webb	AYE
Ian Leavy	ABSTAIN

Motion Carried

Deputy General Counsel, Michael Driver, explained to the Commission that they must adopt a Regulatory Flexibility Analysis.

Chairman Roberts called for a motion to approve the Regulatory Flexibility Analysis. Commissioner Norton made a motion to approve, and was seconded by Commissioner Jackson.

ROLL CALL VOTE

Eddie Roberts	AYE
Jim Galvin	AYE
Ronnie Fox	AYE

Donnie Hatcher	AYE
Nate Jackson	AYE
John Murrey	AYE
Reed Trickett	AYE
Stan Norton	AYE
Lynn Webb	AYE
Ian Leavy	ABSTAIN

Motion Carried

Deputy General Counsel, Michael Driver, explained that the Commission must next adopt a simple declarative sentence without any additional comments on the merits of the policy or rule or regulation.

Chairman Roberts called for questions or motions. Commissioner Fox made a motion to adopt the sentence, seconded by Commissioner Jackson.

ROLL CALL VOTE

Eddie Roberts	AYE
Jim Galvin	AYE
Ronnie Fox	AYE
Donnie Hatcher	AYE
Nate Jackson	AYE
John Murrey	AYE
Reed Trickett	AYE
Stan Norton	AYE
Lynn Webb	AYE
Ian Leavy	ABSTAIN

Motion Carried

Deputy General Counsel, Michael Driver, conveyed that the Commission must adopt an Economic Impact Statement.

Chairman Roberts called for a motion to approve the Economic Impact Statement. Commissioner Jackson made the motion to approve, seconded by Commissioner Fox.

ROLL CALL VOTE

Eddie Roberts	AYE
Jim Galvin	AYE
Ronnie Fox	AYE
Donnie Hatcher	AYE
Nate Jackson	AYE
John Murrey	AYE

Reed Trickett	AYE
Stan Norton	AYE
Lynn Webb	AYE
Ian Leavy	ABSTAIN

Motion Carried

Deputy General Counsel, Michael Driver, then requested the Commission make a final motion for approval of the complete proposed rules.

Chairman Roberts called for a motion to approve. Commissioner Jackson made the motion to approve the rules as proposed, seconded by Commissioner Galvin.

ROLL CALL VOTE

Eddie Roberts	AYE
Jim Galvin	AYE
Ronnie Fox	AYE
Donnie Hatcher	AYE
Nate Jackson	AYE
John Murrey	AYE
Reed Trickett	AYE
Stan Norton	AYE
Lynn Webb	AYE
Ian Leavy	ABSTAIN

OLD BUSINESS

Attorney Jim Cameron spoke to the Commission regarding the Commission's power to assign cases to an Administrative Law Judge, however, Mr. Cameron wanted to encourage the Commission to take up protests before the full Commission and not allow it to be heard by an Administrative Law Judge, alone. Deputy General Counsel, Michael Driver, addressed Mr. Cameron's concerns and clarified that the participation of the Administrative Law Judge was strictly for disciplinary matters, and not for protest matters.

Chairman Roberts called for a motion to adjourn.

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

Meeting Adjourned

Eddie Roberts, Chairman