

MINUTES

January 23, 2017



**TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
MOTOR VEHICLE COMMISSION
500 JAMES ROBERTSON PARKWAY, 2ND FLOOR
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**TENNESSEE
MOTOR VEHICLE COMMISSION
MINUTES**

DATE: January 23, 2017

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

PRESENT: Commission Members:

Eddie Roberts
Cristopher Lee
Jim Galvin
Joe Clayton
Ronnie Fox
Karl Kramer
Nate Jackson
Debbie Melton
Reed Trickett
Stan Norton
Steve Tomaso
Ian Leavy

Victor Evans

ABSENT: John Murrey
Don Parr
Farrar Vaughan
Kahren White

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

Paula J. Shaw, Executive Director, called the roll. A quorum was established.

SPECIAL NOTICE: Chairman Roberts acknowledged Commissioner Vaughan's absence due to a family medical emergency.

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 July 13, 2016, 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 January 19, 2017.

ROBERT'S RULES OF ORDER: Commissioner Jackson made a motion to adopt Robert's Rules of Order, Seconded by Commissioner Clayton. Chairman Robert's called for a voice vote to approve the motion.

MOTION CARRIED

AGENDA: Chairman Roberts requested the Commission look over the agenda. Commissioner Jackson made a motion to adopt the Agenda, Seconded by Commissioner Clayton. Attorney Matthew Reddish indicated at this time that one edit would need to be made to the Agenda which would be to include a salesperson appeal for Austin Evans. Commissioner Jackson and Commissioner Clayton accepted the amendment to include the appeal. Chairman Robertson called for a voice vote.

MOTION CARRIED.

QUARTERLY MEETING MINUTES: Commissioner Fox made a motion to approve the minutes from the October 24, 2016 meeting, seconded by Commissioner Jackson. Chairman Roberts called for a voice vote.

MOTION CARRIED.

Attorney Matthew Reddish introduced the new staff attorney for the Tennessee Motor Vehicle Commission, Ms. Elizabeth Goldstein.

APPEALS: The following appeals were heard by the Commission.

Jamey Payne
Nissan of Cleveland, Cleveland, 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 Fox moved the license be granted, seconded by Commissioner Melton.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	YES
Ian Leavy	YES
Victor Evans	YES

Motion carried, therefore the license is granted.

Crystal Hill
Robert's Toyota, Columbia, TN

Chairman Roberts recused himself from the following appeal. Commissioner Reed Trickett requested the 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 Norton moved the application be approved, seconded by Commissioner Jackson.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	YES
Ian Leavy	YES
Victor Evans	YES

Motion carried, therefore the license is granted.

Richard Molina
Tennessee Muffler and Auto Service, LLC, 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 Lee made a motion to table the application. Commissioner Evans seconded the motion with the addition of the applicant being accompanied by an individual to represent his character. Commissioner Lee amended his previous motion to include Commissioner Evans request for a character representative to accompany the applicant.

ROLL CALL VOTE

Eddie Roberts	NO
Christopher Lee	YES
Jim Galvin	NO
Joe Clayton	NO
Ronnie Fox	NO
Karl Kramer	YES
Nate Jackson	NO
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	NO
Steve Tomaso	YES
Ian Leavy	NO
Victor Evans	YES

Motion failed, therefore the application is not tabled.

After further discussion, Commissioner Norton made a motion to deny the license. Commissioner Leavy seconded.

ROLL CALL VOTE

Eddie Roberts	NO
Christopher Lee	NO
Jim Galvin	NO
Joe Clayton	NO
Ronnie Fox	NO
Karl Kramer	NO
Nate Jackson	NO
Debbie Melton	NO
Reed Trickett	NO
Stan Norton	YES
Steve Tomaso	NO
Ian Leavy	YES
Victor Evans	NO

Motion failed, therefore the application is not denied.

After further discussion, Commissioner Jackson made a motion to grant the license. Commissioner Fox seconded.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	NO
Jim Galvin	NO
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	NO
Nate Jackson	YES
Debbie Melton	NO
Reed Trickett	NO
Stan Norton	NO
Steve Tomaso	YES
Ian Leavy	NO
Victor Evans	YES

Motion failed, therefore the application is not granted.

Following the third motion, the applicant withdrew his application for consideration.

Michael Parker
Tiger's Auto Gallery, LLC, Clarksville, 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 Fox moved the application be approved, seconded by Commissioner Trickett.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	NO
Steve Tomaso	YES
Ian Leavy	YES

Victor Evans YES

Motion carried, therefore the license is granted.

Dante Oliver
Southern Auto Exchange, LLC, Smyrna, 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 Leavy moved the application be approved, seconded by Commissioner Galvin.

ROLL CALL VOTE

Eddie Roberts YES
Christopher Lee YES
Jim Galvin YES
Joe Clayton YES
Ronnie Fox YES
Karl Kramer YES
Nate Jackson YES
Debbie Melton YES
Reed Trickett YES
Stan Norton YES
Steve Tomaso YES
Ian Leavy YES
Victor Evans YES

Motion Carried, therefore the license is granted.

Kevin Mitchell
It's All Good Auto Sales, Memphis, 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 Norton.

ROLL CALL VOTE

Eddie Roberts YES
Christopher Lee YES
Jim Galvin YES
Joe Clayton YES
Ronnie Fox YES
Karl Kramer YES
Nate Jackson YES

Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	YES
Ian Leavy	YES
Victor Evans	YES

Motion carried, therefore the license is granted.

Ashley McKinnon – No Show
Lowry Street Motors, LLC, Smyrna, TN

Chairman Roberts requested appeals of salesperson 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 denial be upheld, seconded by Commissioner Fox.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	YES
Ian Leavy	YES
Victor Evans	YES

Motion carried, therefore the denial is upheld.

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

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

Since the last Commission meeting in October 2016 the following activity has occurred:

Dealers Opened, or Relocated (Last Quarter).....59

Active Licensees as of January 12, 2017

Dealers.....	3792
Applications in Process.....	34
Distributors/Manufacturers.....	132
Auctions.....	33
Representatives.....	618
Salespeople.....	16800
Dismantlers.....	271
RV Dealers.....	31
RV Manufacturers.....	61

Motor Vehicle Show Permits:

Issued Since October 24, 2016.....	10
Associated Revenue.....	\$2000

Complaint Report- Opened Complaints as of October 10, 2016 – January 12, 2017:

Number of Complaints Opened.....	145
Number of Complaints Closed.....	162

Annual Sales Reports-(Due Feb 15):

Vehicles Reported Sold in 2015.....	
Recreational Vehicles Reported Sold in 2015....	
(Excluding Dealers Reporting Late)	
Late Annual Sales Report Collected.....	

Performance Metrics

Dealer Applications.....	105%
<i>(Metric 22.81 days. Actual 21.55 days .Based on cumulative average.)</i>	
Salesman Applications.....	140%
<i>(Metric 7.45 days. Actual 5.31 days. Based on cumulative average)</i>	
Compliance.....	98%
<i>(Metric 91% action taken within 180 days.)</i>	

Revenue Fees (NMVTIS) Submitted to Revenue Since October 2016

Total Collected.....	\$8,000
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Disciplinary Action Report – October 2016 – December 2016

Total Collected.....	\$63,500
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Number of Users for All Online Transactions

Number of Users.....Approximately 475

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.

The Commission moved to the presentation of the legal report by Matthew E. Reddish, Asst. General Counsel and Sara Page, Asst. General Counsel.

- 1. Case No.: 2016049831
2016063301
2016046671

Complainant alleges Respondent sold them a vehicle with mechanical issues. Respondent provided evidence showing the vehicle was sold “as is.”

Recommendation: Close

- 2. Case No.: 2016049971

Complainant alleges mechanical issues with vehicle subsequent to sale; however it appears Respondent/Manufacturer has made all reasonable efforts to repair the vehicle within the contractual obligations. This appears to be a potential lemon law issue.

Recommendation: Close

- 3. Case No.: 2016050071

Complainant alleges Respondent sold them a vehicle with an accident history without disclosing accident. Respondent provided a Carfax from time of sale showing no accident on vehicle history.

Recommendation: Close

- 4. Case No.: 2016050471

Complainant alleges Respondent engaged in bait and switch advertising; however link to the alleged advertisement no longer works and a copy of advertisement was not provided.

Recommendation: Close

5. Case No.: 2016050491
2016050781
2016051441

Complaint resolved between parties, Complainant no longer wishes to pursue Complaint.

Recommendation: Close

6. Case No.: 2016048031

NOV issued for failure to maintain temporary tag log. Respondent was able to account for all missing temporary tag log entries once given the opportunity by legal.

Recommendation: Close with letter of warning for failure to maintain temporary tag log.

7. Case No.: 2016053751

Complainant fails to allege any violation of the Commission's rules or statutes.

Recommendation: Close

8. Case No.: 2016054961

Complainant alleges Respondent sold them a salvage vehicle without disclosing title brand issue. Respondent provided evidence showing that vehicle in question was rebuilt and that Complainant signed a form clearly disclosing the salvage history of the vehicle in question.

Recommendation: Close

9. Case No.: 2016056601

Complainant alleges Respondent over charged them for title fees. Respondent admits to the miscalculation error and states that it was due to a new employee handling that task. Respondent has refunded the full titling fee to Complainant.

Recommendation: Close with letter of warning for deceptive acts.

10. Case No.: 2016057021

Complainant alleges Respondent failed to timely title/register the vehicle. Respondent has shown through its response that title was acquired within 60 days.

Recommendation: Close

11. Case No.: 2016049351

Complainant alleges Respondent submitted a loan application despite Complainant's request that application be shredded, investigation conducted. Investigation failed to reveal evidence of wrong doing.

Recommendation: Close

**12. Case No.: 2016056121
2016056122**

Complainant alleges Respondent 2 salesperson committed off-site sale and deceptive acts, Investigation conducted. Investigation revealed that Respondent 2 did hold a salesperson license with Respondent 1 dealer. Respondent 1 dealer claims Respondent 2 left its employ 2 years ago, but Respondent 1 failed to take Respondent 2's salesperson license back. Respondent 2 used his still active salesperson license to purchase a vehicle at auction for Complainant, sold the vehicle to Complainant at Complainant's home and accepted Complainant's vehicle and title with a promise to sell for \$12,500. Respondent 2 completed deal work on Respondent 1's forms giving the appearance that the sale was completed through Respondent 1 dealership. Respondent 2 failed to pay Complainant his \$12,500 in promised amount of time which spurred Complainant to file this Complaint. Following the commencement of the investigation, Respondent 2 paid off balance owed to Complainant and Respondent 1 immediately terminated Respondent 2's license upon receipt of this complaint.

Recommendation:

Respondent 1: Close with letter of warning for failure to supervise.

Respondent 2: Close with letter of warning for off-site sales and possible unlicensed activity.

13. Case No.: 2016054801

Complainant alleged Respondent improperly unwound a deal without refunding down payment. Response shows that deal never went through because Complainant had falsified information on his income statements. Respondent agreed to refund the down payment and has provided evidence of said refund.

Recommendation: Close

14. Case No.: 2016044391

Complainant alleged Respondent failed to timely produce title/registration, investigation conducted. Investigation found title delays were due to errors committed by previous dealership who sold the vehicle in question through auction. Title/registration has been obtained for Complainant, surety bond sent.

Recommendation: Close

**15. Case No.: 2016062911
2016062912**

Complaint opened due to concerns of unlicensed activity, investigation conducted. Investigation found that Respondent 1 is a subsidiary of GM and operates a ride sharing company; they are not a dealer. They are acquiring a large number of vehicles in order to grow their business. Respondent 2 is an auction company; however they are not selling these vehicles in question as a dealer or on an auction block. Respondent 2 is only detailing the vehicles and assisting with a smooth titling transition between GM and Respondent 1.

Recommendation: Close

16. Case No.: 2016049951

Complaint opened following Staff's receipt of complaint alleging failure to properly maintain facility and unlicensed D/R activity, investigation conducted. Investigation found evidence of one (1) attempted off site sale and that Respondent had failed to post business hours. Investigation found no evidence of D/R activity or any other violations.

Recommendation: Authorization of a civil penalty in the amount of \$1,000 (1 x \$500 for offsite sale, 1 x \$500 for failure to post business hours). To be settled by consent order or formal hearing.

17. Case No.: 2016047811

Complainant alleges Respondent engaged in deceptive/false/fraudulent acts by selling a motor vehicle to a minor. Complainant was actually the minor's grandparent. Investigation conducted, grandparent could not be located. Investigator spoke with minor's parent who said she was present at the sale and that the complaint was unfounded and she did not feel any violation had occurred.

Recommendation: Close

18. Case No.: 2016061901

Complainant alleged Respondent provided notice of its intent to reduce RMA and requested a declaratory order. Complainant has since withdrawn its complaint and submitted an agreed order of dismissal without prejudice.

Recommendation: Chairman Roberts sign the agreed order of dismissal and staff will close the complaint.

19. Case No.: 2016055221

Notice of Violation issued for attempting to sell a motor vehicle at a car show while unlicensed. Respondent is signing a consent order for \$3,500 for another violation this year when found to be selling more than 5 vehicles. Legal is unable to identify if any of these vehicles may overlap.

Recommendation: Close

20. Case No.: 2016057191

Complainant alleges Respondent did not properly disclose what the monthly payments would be at time of sale. Respondent provided evidence showing that Complainant signed all paperwork and income statements. Complainant admits to not reading the paperwork she signed until after purchase was complete.

Recommendation: Close

**21. Case No.: 2016057301
2016065871
2016061671**

NOV issued for incomplete temporary tag log, however evidence of a violation is inconclusive or shows that entries are arguably sufficiently complete.

Recommendation: Close

22. Case No.: 2016059801

Complainant alleges Respondent failed to timely title/register vehicle, refused to issue more than two temporary tags. Respondent, through its response, showed that the vehicle has been properly titled. No evidence of deceptive acts occurring.

Recommendation: Close

23. Case No.: 2016057101

Complainant alleges Respondent misrepresented the condition of a vehicle and sold them a vehicle with several mechanical issues. Vehicle was sold "as is" and Complainant hired its own inspector prior to purchase. Inspection revealed several of the problems Complainant alleges are now the root of his complaint.

Recommendation: Close

24. Case No.: 2016060891

Complainant alleges Respondent sold them a vehicle with mechanical issues; however the vehicle was sold "as is." Complainant also alleges Respondent verbally misrepresented how much Complainant would be paying for the vehicle. Complainant admits to not reading the

sales documents until a month after purchased vehicle. Appears Complainant has some confusion between the principal balance financed and the total amount Complainant will have to pay over the life of the loan.

Recommendation: Close

25. Case No.: 2016061241

Complainant alleges Respondent dealer attempted to scam her by informing her she had issued an insufficient fund check for an oil change when there was plenty of money in her account to cover the payment. According to Respondent there was an error due to two checks for identical amounts for oil changes. One check bounced but they called the wrong car owner.

Recommendation: Close

26. Case No.: 2016063631

Complainant alleges Respondent committed a deceptive act when they failed to properly diagnose and correct mechanical issues on their vehicle. No evidence indicating the vehicle was ever sold by Respondent or that Respondent was in any way deceptive. Respondent only serviced Complainant's vehicle.

Recommendation: Close

27. Case No.: 2016065341

Complainant alleges Respondent committed a violation by displaying a Complainant's new vehicle while waiting on Complainant to arrive and take possession of the vehicle. When Complainant arrived and raised the issue with Respondent, Respondent unwound the deal and refunded Complainant his deposit.

Recommendation: Close

**28. Case No.: 2016022091
2016053521
2016051161
2016046971**

Respondent dealer closed, surety bond sent.

Recommendation: Close

29. Case No.: 2016030771

Complainant alleges Respondent misrepresented vehicle, however it appears the error was by the manufacturer and Respondent dealer is making reasonable efforts to resolve. No evidence Respondent intentionally committed any deceptive act.

Recommendation: Close

30. Case No.: 2016066571

Complainant alleged Respondent failed to provide correct discounts to a vehicle they purchased, however dispute has been resolved between the parties.

Recommendation: Close

31. Case No.: 2016067781

Complainant alleged Respondent was engaging in offsite sale and/or deceptive acts. Response shows the vehicle in question was not sold by Respondent; instead Respondent sold the vehicle to an individual who then sold to Complainant. Individual just reattached old temporary tag that Respondent originally placed on vehicle. No evidence of more than one sale by this unlicensed individual over past twelve (12) months.

Recommendation: Close

32. Case No.: 2016068211

Complainant alleged Respondent sold him a vehicle previously branded a lemon without disclosing that vehicle was a lemon. Respondent has provided legal with a copy of the CarFax they provided to Complainant at time of sale. CarFax is signed by Complainant. CarFax states "Vehicle reacquired by the manufacturer pursuant to applicable state consumer warranty laws or to promote customer satisfaction."

Recommendation: Close

33. Case No.: 2016060951

Complainant alleges Respondent sold a vehicle without a functioning horn, investigation conducted. Respondent provided sworn statement that repairing the horn was beyond their mechanical capabilities so advised Complainant to take vehicle to local Chevrolet dealership and Respondent would pay for repair. Complainant states in sworn statement that Respondent told them to take to the Chevrolet dealership for repair, but that repair costs would not be covered by Respondent. There is no evidence that Respondent knew of the horn issue (or that the horn issue existed at time of sale) and Complainant only discovered the horn issue when they tried to take driver's license test in the vehicle in question at some point after sale was completed. Complainant ultimately decided to let the vehicle enter voluntary repossession after they purchased a new vehicle.

Recommendation: Close

34. Case No.: 2016055081

NOV issued for operating a D/R facility on expired license and for failure to maintain proper business license, investigation conducted. Investigation found that Respondent no longer operated a D/R facility; only a scrap metal facility and they were properly licensed for scrap metal work. Respondent stated there was insufficient D/R business to justify keeping the license any longer so let it expire.

Recommendation: Close

35. Case No.: 2016052331

Complainant alleges Respondent is engaging in unlicensed sale, investigation conducted. Investigation found that Respondent is selling vehicles without a proper dealer license; however, investigation did not show evidence of more than five (5) vehicles being sold over previous twelve (12) months. County clerk advised they would try to keep a file on Respondent's transactions for future reference.

Recommendation: Close with letter of warning

36. Case No.: 2016050971

Complaint opened following Staff's receipt of information indicating Respondent engaging in unlicensed activity, Investigation conducted. Investigation revealed evidence of Respondent attempting to sell ten (10) vehicles through a website called Offerup.com which is in excess of the five (5) allowed by law over a twelve (12) month period.

Recommendation: Authorization of a civil penalty in the amount of \$2,500 (5 x \$500 for unlicensed activity). To be settled by consent order or formal hearing.

37. Case No.: 2016051181

Complainant alleges Respondent sold them a motor vehicle with a lemon branded title without disclosing, Investigation conducted. Complainant advised investigator he was told the vehicle was a "manufacturer buy-back" but that the term lemon was not used. Complainant also admitted to signing title at time of sale but not noticing that the phrase "Lemon" was present on title. Respondent's answer confirmed all facts disclosed by Complainant. Per Respondent they attempted to settle the issue but Complainant rejected all offers to buy back the vehicle.

Recommendation: Close

38. Case No.: 2016050731

Complainant alleges Respondent failed to timely title vehicle and issued more temporary tags than allowed by law, Investigation conducted. Investigation found that Respondent

issued four (4) temporary tags to Complainant. This is Respondent's third such complaint this year.

Recommendation: Authorization of a civil penalty in the amount of \$2,000 (2 x \$1,000 for issuing more temporary tags than allowed by law). To be settled by consent order or formal hearing.

39. Case No.: 2016050991

Complainant alleges Respondent deceived them at the time of sale by making false statements regarding financing, investigation conducted. Complainant would not respond to Investigator's attempts at communications. According to Respondent the issue was due to Complainant giving false information on income statements, however Respondent had refunded Complainant \$250 as a showing of good will. Investigator was unable to locate any evidence of intentional deceptive acts.

Recommendation: Close

40. Case No.: 2016056901

Complaint opened due to Staff receiving information indicating unlicensed activity was occurring, investigation conducted. Investigation found that Respondent was a lender who was selling the vehicles it had repossessed. Respondent has multiple branches but stores all repossessions at the same location in order to facilitate the resale of the vehicles. The Respondent is in the process of obtaining a dealer license which is why they had a sign by their lot where repossessed vehicles are kept. No evidence was obtained indicating these vehicles were anything other than those repossessed by Respondent.

Recommendation: Close

41. Case No.: 2016048131

Complainant alleges Respondent failed to timely title/register vehicle due to submitting paperwork with incorrect VIN. Investigation revealed that Respondent attempted to correct this issue, but due to error of county clerk a proper title was not issued. County clerk could not explain why they had made this error. Vehicle was ultimately repossessed. Investigation found that Respondent issued three (3) temporary tags to Complainant.

Recommendation: Authorization of a civil penalty in the amount of \$500 for issuing more temporary tags than allowed by law. To be settled for consent order or formal hearing.

42. Case No.: 2016061881

Staff received notification that Respondent/Dealer's garage liability insurance had canceled. Upon completion of a drive-by request, Respondent/Dealer admitted to not maintaining garage liability insurance and was issued a Notice of Violation. Respondent/Dealer failed to

respond to the Agreed Citation sent by staff and to date, proof of insurance has not been provided.

Recommendation: Authorization of a civil penalty in the amount of One Thousand Dollars (\$2,000) (1 x \$1,000 for failure to maintain garage liability insurance and 1 x \$1,000 for failure to respond to mail from the Commission), to be settled by Consent Order or Formal Hearing.

43. Case No.: 2016075561

Staff received duplicate complaint alleging unlicensed activity.

Recommendation: Close

44. Case No.: 2016047761

Notice of violation issued to Respondent for changing locations and not obtaining a new license, investigation conducted. Investigation found that Respondent was in the process of updating its license and other documents.

Recommendation: Close with letter of warning for failure to have a license for each location where selling vehicles.

**45. Case No.: 2016050101
2016067501
2016067531**

Notice of Violation issued to Respondent for incomplete temporary tag log. When given the opportunity to corrects its temporary tag log, Respondent submitted a complete log.

Recommendation: Close with letter of warning for failure to maintain temp tag log.

46. Case No.: 2016051401

Notice of Violation issued to Respondent Dealer for selling one of its vehicles at another dealership location.

Recommendation: Authorization of a Civil Penalty in the amount of \$500 for offsite sales. To be settled by consent order or formal hearing.

47. Case No.: 2016052951

Complaint alleged Respondent engaged in deceptive acts by altering paperwork and stealing down payments, investigation conducted. Complainant was not responsive to investigator. When Investigator attempted to visit the dealership to obtain statements and business records, dealership was not open even though it was during posted business hours.

Investigator finally got a salesperson to answer a cellphone after business hours; however the salesperson refused to cooperate with investigation and hung up on the investigator.

Recommendation: Authorization for suspension of Respondent's motor vehicle dealer license until Respondent provides all requested records. To be settled by consent order or formal hearing.

**48. Case No.: 2016053981
2016059501**

Complaint opened due to information indicating Respondent engaged in unlicensed activity, investigation conducted. Investigation revealed that Respondent never exceeded five (5) vehicles in a 12 month period.

Recommendation: Close

49. Case No.: 2016054351

Complaint alleges Respondent sold them a flood damaged vehicle without disclosing and that flood damage then caused mechanical issues, investigation conducted. Investigation found no evidence that vehicle had ever been flood damaged. Vehicle sold "as is."

Recommendation: Close

50. Case No.: 2016057151

Complaint alleges Respondent failed to timely title/register a vehicle purchased at Respondent's dealership. Respondent states that they did not sell this vehicle to Complainant, that it must have been a rogue former salesperson but that Respondent had since obtained a title for the vehicle. Investigation was conducted, investigator obtained three statements from individuals all alleging that the sale of the vehicle in question took place at Respondent's dealership and in front of dealership's owner. Investigator was unable to locate the salesperson for this deal.

Recommendation: Authorization of a civil penalty in the amount of \$500 for one deceptive act of failure to timely title/register a vehicle despite being in possession of the title.

51. Case No.: 2016057751

Complainant alleges Respondent failed to timely title/register vehicle, investigation conducted. Complainant refused to cooperate with investigation, no evidence that more than two temporary tags were issued to Complainant.

Recommendation: Close

52. Case No.: 2016060301

Complainant alleges Respondent engaged in deceptive acts by giving her too large of a trade in credit and then increasing the price of the vehicle over MSRP, investigation conducted. Investigation revealed that Complainant was aware at time of sale that Respondent was giving her over value on trade in. Respondent gave a trade in credit equal to \$3,400 over value of trade in and then increased price of vehicle \$2,616. Appears Complainant came out ahead from Respondent's actions.

Recommendation: Close

53. Case No.: 2016067741

Notice of violation issued for attempting to sell 8 motor vehicles off-site.

Recommendation: Authorization of a civil penalty in the amount of \$4,000. To be settled by consent order or formal hearing.

54. Case No.: 2016068591

Complaint alleges Respondent deceived them by promising to pay for all of the mileage overage fees on her previous lease vehicle, but then failed to do so. Respondent has provided evidence that the contract signed by Complainant required Respondent to pay \$3,000 towards mileage overages, not to pay the entire balance.

Recommendation: Close

55. Case No.: 2016068691

Complaint alleges Respondent engaging in unlicensed activity, however there is no indication that Respondent has sold more than five (5) vehicles. Complainant is upset about Respondent charging him more than should have.

Recommendation: Close

56. Case No.: 2016053131

Notice of violation issued to Respondent for operating an unlicensed motor vehicle dealership and D/R facility, investigation conducted. Investigation found the facility to be closed. Respondent through his attorney asserts he was only junking vehicles, never sold any vehicles. Respondent has been charged by Department of Safety with misdemeanors tied to possession of open titles, but there is no evidence that Respondent ever sold any vehicles.

Recommendation: Close

57. Case No.: 2016053821

Complainant alleged Respondent failed to properly title vehicle, investigation conducted. During investigation Complainant stated they are now satisfied and wished to withdraw complaint. Respondent denied any wrong doing; issues were tied to having to obtain a replacement title.

Recommendation: Close

58. Case No.: 2016063721

Notice of Violation issued due to Respondent being unable to locate two dealer tags, using one dealer tag on a salvage vehicle and for employing an unlicensed salesperson, Investigation conducted. Investigation revealed a police report was filed, prior to the NOV, for the two missing dealer tags. The salesperson in question was operating on an expired license at time of inspection and sold one (1) vehicle while expired; salesperson is now renewed and properly licensed. Investigation found one (1) open title at dealership.

Recommendation: Authorization of a civil penalty in the amount of \$1,000 (1 x \$500 for dealer plate on a salvage vehicle, 1 x \$500 for open title).

**59. Case No.: 2016064171
2016062491**

Complaint alleged Respondent did not timely title/register vehicle, investigation conducted. Investigation found that Respondent received title shortly after Complaint filed no evidence of deceptive acts or temporary tag violations by Respondent.

Recommendation: Close

60. Case No.: 2016059291

Complaint alleged Respondent engaged in deceptive advertising by advertising the wrong model/trim of a vehicle which caused the Complainant to over-pay, investigation conducted. Investigation found that Respondent had unwound the deal subsequent to this complaint being opened.

Recommendation: Close with a letter of warning for deceptive advertising.

61. Case No.: 2016066361

Staff received information indicating that Respondent had titled 22 cars into his name, investigation conducted to determine if unlicensed activity had occurred. Investigation was unable to confirm more than 5 vehicles being sold in a 12 month period. VIN numbers for the vehicles in question were never provided and could not be obtained.

Recommendation: Close

62. Case No.: 2016064211

Complaint opened upon receipt of information indicating Respondent engaged in unlicensed sales, investigation conducted. Investigation revealed that Respondent is a mechanic at a car dealership. He often buys salvaged vehicles, fixes them, and sells them back to the dealership. Evidence indicates Respondent has sold a few vehicles private party to friends, however investigation did not yield evidence indicating more than 5 had been sold private party over a 12 month period.

Recommendation: Close

63. Case No.: 2016061811

Complaint alleged Respondent engaged in deceptive/fraudulent act by offering to sell a pre-dated extended warranty with incorrect mileage figures in order to allow Complainant to get his vehicle repaired. Complainant stated he had recordings of the conversation, investigation conducted. Investigator was finally able to obtain copies of the alleged conversation; however the recording is of too poor a quality to understand what is being said or to identify the speakers.

Recommendation: Close

64. Case No.: 2016058791

NOV issued for failure to maintain temporary tag log, failure to provide proof of ownership for vehicles and failure to properly disclose the sale of rebuilt titles, investigation conducted. Investigation revealed that Respondent had created and was maintaining a proper temporary tag log and had proof of ownership for all vehicles on site. Investigation also revealed that subsequent to the NOV being issued, Respondent had begun proper disclosure of rebuilt vehicles on all rebuilt sales.

Recommendation: Close with a letter of warning for temporary tag log maintenance and use of rebuilt disclosure form.

65. Case No.: 2016051491

Complainant alleged Respondent engaged in deceptive act by not offering the lowest interest rate possible at time of purchase despite Complainant's request for a low interest rate. Investigation conducted which revealed that Respondent had provided training to prevent this situation from occurring in the future. Respondent also unwound the deal with Complainant and resold the vehicle at the lower interest rate.

Recommendation: Close with letter of warning for deceptive acts.

66. Case No.: 2016068161

Complainant opened due to concerns involving Respondent's appearance of selling motor vehicles online, investigation conducted. Investigation revealed that Respondent was a licensed salesperson and his online presences was strictly limited to a blog he maintains chronicling his experiences as a motor vehicle sales person. No evidence obtained that Respondent was selling vehicles individually.

Recommendation: Close

67. Case No.: 2016059401

Complainant alleges he wired a \$5,400 for parts to be added to a classic car that Complainant intended to purchase. Respondent ordered the parts and emailed a bill of sale to Complainant; however no bill of sale or contract of any kind was ever signed. Complainant decided to back out of the purchase. Respondent refused to refund the \$5,400 because he had already purchased the extra parts and was in process of installing them. Respondent's website states a non-refundable 10% deposit must be submitted to hold any vehicle.

Recommendation: Close with a letter of warning for deceptive acts.

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68. Case No.: 2016061141

Complainant alleges Respondent sold a vehicle to Complainant that suffered mechanical issues after driving the vehicle for 21,000 miles. The vehicle was sold as-is, and that information was disclosed to Complainant in the buyer's guide as well as on the bill of sale.

Recommendation: Close

69. Case No.: 2016061331

Complainant alleges Respondent sold a vehicle to Complainant that suffered mechanical issues after purchase. All of the documentation indicates, and Complainant concedes, the vehicle was sold as-is.

Recommendation: Close

70. Case No.: 2016061541

Complainant alleges Respondent sold a vehicle to Complainant that suffered mechanical issues six months after purchase. Respondent provided the bill of sale, buyer's guide, and warranty disclosure agreement for the sale. All documents clearly indicate the sale was as-is.

Recommendation: Close

71. Case No.: 2016065921

During an annual inspection, an investigator discovered two incomplete tag log entries in Respondent's temporary tag log. Respondent submitted proof they corrected the two tag log deficiencies after the inspection. This is the first offense for Respondent.

Recommendation Close complaint upon issuance a letter of warning.

72. Case No.: 2016062441

Complainant alleges Respondent ran credit without his permission. Complainant brought in credit paperwork from a pre-approval into Respondent dealership in order to purchase two ATVs. Respondent states that on pre-approvals, they do not usually resend the customer's credit information, but rather only provide the information for the units sought to be purchased. The finance manager at Respondent was new, and resubmitted the credit information along with the unit information to the financial department. This was the same department the customer submitted his information to in order to gain pre-approval. The financial department rejected the Complainant's application, and limited him to one ATV purchase. The Complainant left the dealership without purchasing either. The Respondent indicated the Complainant was upset he could not purchase both ATVs.

Recommendation: Close.

73. Case No.: 2016047841

An annual inspection revealed that Respondent had an expired city business license displayed. In response to an agreed citation, Respondent provided a copy of a valid city business license. From the dates on the license, it appears the city business license was timely renewed but not yet received from the Clerk's Office. This is Respondent's first time being cited for this type of violation.

Recommendation: Close complaint upon issuance a letter of warning.

74. Case No.: 2016049991

An annual inspection revealed that Respondent had an expired county business license. Respondent responded to the Notice of Violation stating renewals usually came with a reminder, but it never came. Respondent followed up with the county and learned the county had changed to a new online system. Respondent registered for the system, and provided proof the county business license is now up to date. This is Respondent's first time being cited for this type of violation.

Recommendation: Authorize a civil penalty in the amount of \$250 for failure to maintain a valid county business license to be settled by consent order or a formal hearing.

75. Case No.: 2016051301

An annual inspection revealed that Respondent's temporary tag log contained two incomplete entries and four missing tags. Respondent did not respond to the Notice of Violation.

Recommendation: Authorize a civil penalty in the amount of \$600 (\$100 x 6 temporary tag log deficiencies) to be settled by consent order or a formal hearing.

76. Case No.: 2016053781

Complainant alleges Respondent sold Complainant a vehicle with mechanical defects. The bill of sale and the buyer's guide indicated the sale was as-is, but a handwritten note on the bill of sale states, "will warranty within 30 days. Acceptable." It is initialed by presumably the salesperson, and dated thirty days past the sale. No information on the scope of the warranty was recorded. Complainant and Respondent disagree over the scope of the warranty, and the nature of the necessary repairs based on conflicting recommendations for different mechanics. The dispute on warranty compliance is better suited for a civil court.

Recommendation: Close the complaint upon the issuance of a letter of warning indicating Respondent should disclose the terms of any warranty in writing to prevent possible misrepresentations or deception.

77. Case No.: 2016051421

An annual inspection revealed that Respondent's city and county business license had expired. Respondent responded to the Notice of Violation stating Respondent's CPA used to renew Respondent's business licenses, but Respondent recently stopped using the CPA's services. As a result of the annual inspection, Respondent went the next day and filed online to have both licenses renewed. Respondent attached copies of the licenses as proof. This is Respondent's first time being cited for this type of violation.

Recommendation: Authorize a civil penalty in the amount of \$500 for failure to maintain a valid county and city business license to be settled by consent order or a formal hearing

78. Case No.: 2016053931

Complainant alleges Respondent sold her a vehicle with mechanical defects Complainant identified within three days of purchasing the vehicle. Respondent responded stating that pursuant to the law, the dealer had a licensed mechanic review the Complainant's vehicle when she returned to the dealership complaining of a noise. The mechanic stated the cause was a noisy timing chain, and it would not impact the operation of the vehicle. Respondent offered to exchange the vehicle, but stated that Complainant would only accept an exact replacement. Respondent could not locate an exact match that satisfied Complainant. Respondent states that they offered these remedies to comply with Lemon Law, but the vehicle was sold as-is.

Recommendation: Close.

79. Case No.: 2016054191

Complainant alleges Respondent installed accessories on her new truck that were not made by the same brand as her truck, and that the installation damaged the vehicle. Respondent responded with the order form that shows Complainant received what was ordered. Respondent explained that brand does not make the particular accessories Complainant requested, but rather they are produced by other companies and installed by a brand-certified technician and include a warranty. Respondent explained that they installed the accessories as requested, but Complainant did not like them. Respondent explained removing one of the accessories would leave a visible hole where the accessory was attached to the vehicle, so Complainant had the accessory left on. Respondent refunded Complainant's money due to her dissatisfaction. Overall, this is a post-market dispute and no violation of this Commission's rules or laws could be identified.

Recommendation: Close.

80. Case No.: 2016054761

Complainants allege Respondent sold Complainants a vehicle grossly in excess of its market value. Complainants provided a Kelley Blue Book print-out indicating a 2004 Toyota Corolla four-door sedan with 117,000 miles from a dealer has a fair market range of \$4,108 to \$5,367. Complainants purchased the vehicle for \$11,900. Respondent responded with the purchase documents and finance records that all indicate the price was clearly disclosed to Complainants, and Complainants both signed and initialed in multiple locations agreeing to purchase car for the set price. Respondent states the value of the vehicle is determined at the time the vehicle is acquired, and is not determined using third-party company values like Kelley Blue Book.

Recommendation: Close.

81. Case No.: 2016048941

Complainant is a licensed dealership. Complainant stated that Respondent was operating a website in Complainant's name. The website was set up to show a number of high-end vehicles, but in actuality, no vehicles were available for sale. An investigation was conducted. It revealed that the website had been removed, and the media had issued a warning about the website's fraudulent nature. The owner of the website used a fictitious name, and cannot be located or identified.

Recommendation: Close.

82. Case No.: 2016055051

Complainant experienced mechanical issues with a vehicle purchased from Respondent. Respondent attempted to fix the vehicle many times, and utilized a number of outside shops to attempt to resolve the mechanical issues. Complainant filed the complaint because of the length of time the repairs were taking. Respondent responded that following the complaint, Respondent allowed Complainant to swap her vehicle for another one. Both parties appear satisfied.

Recommendation: Close.

83. Case No.: 2016056551

Complainant states that the vehicle purchased from Respondent has had numerous mechanical issues during the two years it has been owned. Respondent has consistently repaired the vehicle and returned it. Complainant is dissatisfied that the vehicle is actually fixed, and is dissatisfied that Respondent requested the vehicle be dropped off in the morning due to Complainant's work schedule; however, Respondent has not violated any of this Commission's laws or rules in its dealings with Complainant.

Recommendation: Close.

84. Case No.: 2016057001

Complainant alleges that Respondent failed to disclose the vehicle she purchased had previously been in an accident. Respondent responded and provided the full deal file, which included four separate documents that indicated Respondent purchases vehicles at auction, and therefore does not guarantee the vehicle has a clean history. Complainant signed in each location where this disclosure was made.

Recommendation: Close.

85. Case No.: 2016057041

Complainants allege Respondent sold Complainants a vehicle without disclosing frame damage. Complainants attempted to trade the vehicle to another dealer over a year after purchase, and a Carfax indicated previous damage. Angered by this discovery, Complainants left the vehicle with Respondent, indicating they were returning it. Complainants stopped making payments after dropping off the vehicle despite Respondent refusing to accept the vehicle as returned. Respondent denied the allegations of hiding frame damage, and hired an expert to review the vehicle for damage. The expert produced a report indicating no frame damage had occurred to the vehicle. Respondent stated that errors occur in Carfax reports sometimes. Respondent initiated repossession processes for the vehicle due to Complainant's non-payment.

Recommendation: Close.

86. Case No.: 2016060381

Respondent took two months to retrieve Complainant's title. Respondent stated that the title was out of state and lost, which accounted for the delay. Complainant now has the title to the vehicle, and it was delivered within two months.

Recommendation: Close.

87. Case No.: 2016060321

Complainant stated she did not receive the title to a vehicle she purchased from Respondent. Respondent responded stating they attempted to mail the title to Complainant, but Complainant provided an incorrect address, so Respondent had to wait for it to be returned and then resent it. Respondent stated they were able to resend it and Complainant should have received the title. Complainant confirmed she received the title.

Recommendation: Close.

88. Case No.: 2016045311

Complainant purchased a vehicle from Respondent, and alleges the title he received had an error. Respondent responded and stated that the previous owner of the vehicle in question made duplicate titles for the vehicle. Respondent discovered that the week prior to Complainant purchasing the vehicle, the previous owner sold the vehicle to another purchaser and pawned the vehicle to Check into Cash. Therefore, the Complainant, another purchaser, and Check into Cash all believed they owned the vehicle. Respondent resolved this issue through the civil courts, and Respondent was able to furnish the correct title to Complainant two and one half months after purchasing the vehicle. Respondent admits to issuing three temporary tags to Complainant during the pendency of the title issue. Respondent had no other disciplinary history.

Recommendation: Authorize a civil penalty in the amount of \$500 for issuing more than two temporary tags to be settled by consent order or a formal hearing

89. Case No.: 2016045171

Complainant found an advertisement on Respondent's website on the evening of July 29, 2016, listing a new vehicle for an exceptional price. Complainants left a voicemail about the vehicle that evening with Respondent. The next morning, Respondent looked at the advertisement mentioned by Complainant and realized the price was incorrect due to improperly applied pricing promotions. Respondent immediately contacted its third party advertisement manager responsible for the error and had the error corrected, and Respondent contacted Complainants to let them know of the error and correct the information. Complainants wanted the new vehicle at the price they saw, and filed this

complaint. Respondent submitted proof of the error, and of its immediate corrective actions. The listing was posted incorrectly for less than twenty-four hours.

Recommendation: Close.

90. Case No.: 2016048331

Complainant bought a car from Respondent in March of 2016, but did not receive title until September of 2016. Respondent states it mailed a copy of the title to Complainant in April, and Respondent was surprised when Complainant called in May to state he never received the title. Respondent attempted to secure a duplicate title from Florida, and could not. Respondent hired a title service company to assist in getting a duplicate title, which was not obtained until September. During that time, Respondent issued six temporary tags to Complainant.

Recommendation: Authorize a civil penalty in the amount of \$2,000 (\$500 x 4 tags) for issuing more than two temporary tags to be settled by consent order or a formal hearing.

91. Case No.: 2016062641

Complainant alleges that Respondent, a licensed dealer, sold him a car off-site three years ago. Complainant states the vehicle experienced engine problems sometime after the transaction. Complainant failed to provide any proof. Respondent denies the allegations. Due to the length of time and nature of the accusations, it is unlikely evidence bolstering Complainant's allegations can be found.

Recommendation: Close.

92. Case No.: 2016047931

Complaint was opened by staff on the basis of unlicensed vehicle sales. Respondent is a heavy-equipment auction company that does sell some transport vehicles and trucks; however, it appears Respondent is exempt from licensing requirements pursuant to TENN. CODE ANN. § 55-17-120(2)(A). While some of the trucks are not heavy equipment, the statute allows auctions that qualify to sell vehicles that weight less than 10,000 lbs. if owned by an entity that used the vehicles in construction, common carrier activities, or other freight hauling activities. That appears to be the case with vehicles listed for auction by Respondent.

Recommendation: Close.

93. Case No.: 2016059551

Complainant alleges Respondent talked her into unnecessary financing, and that the salesman told her a different price than what was in the contract. Complainant states she did not read the contract because she trusted what she was told. All terms were clearly indicated

in the contract as was the price. Complainant states a witness heard the salesman say a price that was lower than the financed price, but Complainant also states that the witness refuses to cooperate in an investigation or hearing. Respondent denies the allegations and state they believe this is a case of buyer's remorse. They state their financing manager explained the financing in detail.

Recommendation: Close.

94. Case No.: 2016058621

Respondent was issued a Notice of Violation for issuing four temporary tags to the same person over a several month period. A review of the temp logs reveal the temporary tags were for different vehicles. Respondent responded stating she issued tags to allow the individual to test drive the vehicles prior to her purchasing vehicles. Respondent stated she knew individual was a bona fide purchaser since she had purchased four vehicles from Respondent in the past.

Recommendation: Close.

95. Case No.: 2016057171

Complainant purchased a car she believed to be new from Respondent. Complainant later discovered the vehicle was used by Respondent as a service vehicle, and had acquired 1,800 miles on it in the process. Complainant states she discovered these facts after reviewing the purchase documents after she bought the car. Respondent responded stating all the information on mileage and condition were disclosed at the time of purchase, and the vehicle has never been for sale or registered prior to Complainant's purchase, making it a new vehicle. Tennessee Code Annotated § 55-5-106(e)(5) defines a "new passenger car" as "any passenger car that has never been the subject of a sale at retail to the general public."

Recommendation: Close.

96. Case No.: 2016066881

Complainant alleges Respondent told him different numbers than what were actually in his contract for the purchase of a vehicle. Complainant states he did not read the contract because he did not have his reading glasses with him. Respondent responded that they had resolved the dispute with Complainant.

Recommendation: Close.

97. Case No.: 2016050821

Respondent did not pay off trade-in within thirty days of the loan becoming funded. The loan was funded July 11, 2016, and the pay-off was completed on September 1, 2016. Respondent did make payments on the loan during that time. Respondent responded and stated the controller of Respondent's business, the individual Complainant was

communicating with, was under investigation for theft during the relevant time period. One of that employee's responsibilities was payoffs. The employee was ultimately fired, and as a result, Complainant contacted owner directly to inform him of payoff issue. Owner of Respondent business paid off the loan following the conversation, and Complainant expressed to a State investigator Complainant was satisfied with the resolution. Respondent also stated changes were made in the office to ensure more accountability from staff members. Respondent has paid a \$1,000 consent order in 2011 for not delivering title, and recently paid a \$1,000 for an incomplete temporary tag log.

Recommendation: Authorize a civil penalty in the amount of \$500 for failing to pay off trade-in vehicle within thirty days pursuant to TENN. CODE ANN. § 55-17-114(b)(3) to be settled by consent order or a formal hearing.

98. Case No.: 2016049001

Complainant alleged the vehicle was financed for more than Complainant agreed to pay. While Respondent denies the allegations and states this is a case of buyer's remorse, Respondent has agreed to purchase the vehicle back from Complainant. Complainant expressed his satisfaction with this result, and requested the complaint be withdrawn.

Recommendation: Close.

99. Case No.: 2016047591

Complainant alleged Respondent sold her a "lemon" due to brake issues. An investigation was conducted. Respondent responded stating they had repaired the brakes, and two months later, Complainant complained again, but no issue with the brakes was discovered. At the time of the second complaint, Complainant was two months behind on payments, and forfeited the car back to Respondent. Respondent produced documents indicating the car was purchased as is. Complainant informed investigator she had forfeited the vehicle, and she did not wish to participate in any further investigations. Respondent additionally noted that when the car was returned, no brake issues were identified.

Recommendation: Close.

100. Case No.: 2016046801

An annual inspection conducted on August 8, 2016, revealed Respondent's dismantler/recycler license had expired on April 30, 2016. An investigation was conducted. Respondent stated that he had bought the business in April 2016, and did not realize the license was expired. Respondent cooperated and produced all the receipts of sale for sales occurring after the license expired. Respondent states he would renew, but he is waiting on a beautification letter from the city; however, no such letter is required for renewal. As of January 13, 2017, Respondent still had not renewed the license.

Recommendation: Authorize a civil penalty in the amount of \$4,000 (\$500 x 8 months) for operating without a license to be settled by consent order or a formal hearing.

101. Case No.: 2016066461

Complainant alleged Respondent failed to adhere to their warranty agreement. Complainant alleges the engine of the vehicle she purchased would cut off intermittently. The issue began a year after the purchase. Complainant took the vehicle to Respondent multiple times, but Respondent was unable to reproduce the error. Respondent alleges it took the vehicle to numerous shops and drove it for hundreds of miles in an attempt to duplicate Complainant's issue, but the vehicle did not have any issues. When Respondent informed Complainant it could not identify any issues, Complainant states she no longer wanted the vehicle, so Respondent allowed her to trade in the vehicle for another one. Respondent offered to receive the current vehicle back as payment in full for the outstanding loan on the car and squash any deficiency balance. Respondent states that Complainant selected a vehicle that required additional financing so the vehicle was given to Complainant with a conditional delivery agreement. The financing was rejected due to problems with the pay stubs Complainant submitted, so Respondent contacted Complainant and requested she return the vehicle, which sparked a disagreement. Counsel was retained by Complainant, and the issue was resolved by Complainant returning the vehicle and Respondent refunding the down payment. Complainant is going to a new dealer to get a vehicle.

Recommendation: Close.

102. Case No.: 2016066941

Complainant alleges Respondent failed to deliver title. Respondent responded and submitted substantial evidence indicating that Respondent mailed the title to Complainant via certified mail, and it was received by Complainant. Respondent states Complainant contacted them after the title was delivered, and told Respondent that Complainant's wife had thrown the title away while Complainant was in jail. Respondent explained the process for retrieving a duplicate title, and offered to assist Complainant so long as he paid for the costs associated. Complainant demanded Respondent produce a duplicate at no cost. Respondent submitted evidence showing the numerous times Respondent tried to explain the process to Complainant and Complainant's mother. Additionally, arrest records indicate Complainant was in fact in jail during the time Respondent indicated, further substantiating the validity of their response.

Recommendation: Close.

103. Case No.: 2016068351

Complainant alleged Respondent stopped processing his title. Complainant later reached back out to Staff to indicate it was a misunderstanding, and he wished to withdraw his complaint. Complainant stated he has title, and there were no issues.

Recommendation: Close.

104. Case No.: 20160689891

Complainant alleges Respondent sold Complainant a vehicle with an open recall that had not been corrected. Respondent submitted evidence that all open recall repairs were done, and the recall Complainant is referencing opened after Complainant purchased the vehicle.

Recommendation: Close.

105. Case No.: 2016057231

Complainant alleges Respondent lists deceptive advertisements on their website because they list rebates for which not all customers qualify. Respondent responds stating Complainant was given a 20% off rebate on a truck, but that he did not qualify for a loyalty rebate since he did not previously lease a vehicle. Respondent states the qualifications for the rebates on Complainant's vehicle are set out on the website and are established by Chrysler. Additionally, Respondent indicated Respondent gave Complainant money off the price of the vehicle anyway after Complainant was angered over not qualifying for the loyalty rebate.

Recommendation: Close.

106. Case No.: 2016049201

Complainant alleged Respondent told her she had financing when she did not, resulting in Respondent wrongfully taking the vehicle back. An investigation revealed that Complainant received pre-approval which was notated for Complainant on the document. Respondent states that when it attempted to secure financing for Complainant based on pre-approval, financing company found discrepancies on numerous data points Complainant submitted. Respondent attempted to contact Complainant to remedy the errors, but Complainant did not cooperate. Respondent drove to Louisiana to retake possession of the vehicle after financing was rejected. Respondent admits he failed to execute a conditional delivery agreement. Respondent had no ill intent in this deal, and Respondent does not have a previous violation for failing to provide a conditional delivery agreement.

Recommendation: Authorization of a civil penalty in the amount of \$250 for failing to execute a conditional delivery agreement to be settled by consent order or formal hearing.

107. Case No.: 2016059381

During an investigation into another matter, Respondent was found to be in possession of six open titles. This is Respondent's first violation for possession of open titles.

Recommendation: Authorization of a civil penalty in the amount of \$3,000 for possession of six open titles to be settled by consent order or formal hearing.

108. Case No.: 2016062811

An annual inspection revealed Respondent had one temporary tag missing from its temporary tag log. A follow-up investigation revealed the deficiency had not been remedied.

Recommendation: Close complaint upon the issuance of a Letter of Warning.

109. Case No.: 2016069451

Complainant alleged Respondent failed to provide the title to a recently purchased vehicle. Respondent and Complainant agree that the floor planner used by Respondent lost the title. Respondent is actively working to get a duplicate for Complainant, and it is expected to arrive by the end of December. Complainant filed the complaint in order to get assistance in receiving a third temporary tag since Respondent had already issued the maximum of two temporary tags while attempting to get the duplicate title.

Recommendation: Close.

110. Case No.: 2016066751

A county clerk sent in a list of 49 vehicles the Respondent had registered, indicating possible unlicensed activity. An investigation was conducted. The investigation revealed that Respondent is a mechanic and disabled veteran that lives on the property of an auction that auctions among other items, motor vehicles. Respondent purchases vehicles from the auction, registers them, repairs them, and sells them through the auction. Evidence indicates Respondent sold only three vehicles to friends, with all other sales going to the auction.

Recommendation: Close.

111. Case No.: 2016067851

Complainant alleged Respondent wrongfully repossessed his vehicle when he was not late on the payments. Complainant claimed when the vehicle was repossessed, he was not allowed to get his personal belongings out of it. An investigation was conducted which revealed the vehicle was sold with a conditional delivery agreement based on financing approval. Complainant's financing was rejected because Complainant overstated his employment length and income. Respondent attempted to contact Complainant to have him return the vehicle, but Complainant did not respond. Respondent documented all of the attempts as well as the reasoning for the financing being rejected and the ultimate repossession. Complainant did not respond to the investigator's calls.

Recommendation: Close.

112. Case No.: 2016063361

Complainant is another licensed dealer. Complainant alleged Respondent has not paid off a trade-in Respondent accepted on which Complainant held a lien. The vehicle was traded in to Complainant on August 10, 2016. As of December 16, 2016, the lien was still not paid off by Respondent. An investigation was conducted. Respondent alleged that after accepting the trade-in, Respondent received two calls from two title loan companies stating they each had liens on the title with payment due. Respondent was not sure how to handle the situation, and attempted to call Commission staff. Staff directed Respondent to contact its legal counsel. Respondent stated it was told to pay off Complainant then go to civil court over the two outstanding title loan liens. Respondent claimed it informed Complainant of the issue. As of January 5, 2017, Respondent still has not paid off Complainant's trade-in.

Recommendation: Authorization of a civil penalty in the amount of \$2,500 (\$500 x 5 months) for failing to pay off a trade-in lien within thirty days, pursuant to TENN. CODE ANN. § 55-17-114(b)(3) to be settled by consent order or formal hearing. Penalty amount will be reduced to \$1,000 if proof is submitted that Complainant's lien is paid off by Respondent.

113. Case No.: 2016052111

Complainant alleged Respondent charged his daughter more for a down payment than was agreed upon. An investigation revealed that the down payment amount was increased by the financier, and Complainant's adult daughter agreed to pay the additional amount and signed numerous disclosure documents. However, during the investigation, it was revealed that Respondent has a practice of issuing more than two temporary tags to customers. Respondent issued a total of seventy-two tags over the two-tag per vehicle limit. Respondent stated the excess tags were due to delays in processing sales and MARTA inspections. This is the first complaint against Respondent.

Recommendation: Authorization of a civil penalty in the amount of \$36,000 (\$500 x 72 temporary tags) to be settled by consent order or formal hearing. Additionally, authorization to waive the attorney work product privilege to the investigation and provide the investigation and other records to the Tennessee Department of Revenue.

114. Case No.: 2016054551

An annual inspection revealed that the Respondent corporation that holds a dismantler/recycler license was sold to new owners who had not notified the Commission of the ownership change. After receiving the Notice of Violation and speaking with legal counsel, the new owners submitted an updated corporate ownership form.

Recommendation: Close upon issuance of a letter of warning.

115. Case No.: 2016046761

An annual inspection revealed that Respondent was operating with four unlicensed salespersons. All four salespersons submitted affidavits to the investigator admitting to selling a collective fifty-four vehicles. Since the NOV was issued, two of the four individuals have become licensed, and the other two have moved to administrative/financing positions within the dealership.

Recommendation: Authorization of a civil penalty in the amount of \$27,000 (\$500 x 54) for unlicensed activity to be settled by consent order or formal hearing.

116. Case No.: 2016054841

A complaint was filed with staff indicating Respondent sold the complainant a vehicle, but complainant did not receive the title. Respondent is not licensed as a salesperson or as a dealer. Despite Respondent insisting her estranged husband sold the vehicle, the investigation revealed through circumstantial evidence that Respondent was likely the individual that sold the vehicle to complainant after purchasing the vehicle at an out-of-state auction. Respondent did not sign any of the documentation, but Respondent's initials are next to a correction she likely made on the bill of sale. Also, after mediation in civil court, Respondent did ultimately get the title for complainant, but complainant is now rejecting the title due to the vehicle experiencing mechanical problems. Complainant is attempting again taking action against Respondent for the vehicle repairs in civil court. In the end, evidence of only one vehicle sale was found.

Recommendation: Close upon issuance of a letter of warning

**117. Case No.: 2016060931
2016060932
2016060933**

A complaint was received from Complainant alleging Respondent 2, through failed to deliver title to a vehicle Complainant purchased from Respondent 2. An investigation was conducted that revealed Respondent 1 dealership and owners Respondents 2 and 3 are Respondents from a number of complaints that were closed due to the inability to locate Respondents. An investigation was conducted in which Complainant stopped participating. However, as a result of the investigation, it was discovered that three additional individuals received judgments against Respondents. One of those individuals had previously been identified in a past complaint against Respondents. All three were sold salvaged vehicles, with Respondent either not disclosing the salvage status or by promising the purchasers he would help get a rebuilt title so the vehicle could be legally titled and operated. However, Respondent 2 never followed through to get the required inspection and paperwork, and would avoid contact with the purchasers. The only obvious disclosure of the salvaged nature of the vehicles located was a sign on the wall of the Respondent 1 business stating all vehicles were salvaged.

In addition to the three customers with judgments and the complainant, another individual stopped the State investigators to explain he also could not receive a title for the vehicle he purchased from Respondents.

The former complaints closed against Respondents were closed with a caveat that if these individuals were located again, the complaints could be reopened. It is legal's intent to reopen the closed complaints and combine this new complaint and new customers with the complaints from the past into one large action.

Recommendation: Authorization of a civil penalty in the amount of \$4,000 (\$1,000 for 4 unlicensed sales [two previously unidentified customers with judgments against Respondents, the Complainant, and the customer that stopped the investigators) for unlicensed activity to be settled by consent order or formal hearing.

118. Case No.: 2016052851

A complaint alleged Respondent wrongfully repossessed a vehicle he had purchased three months prior from Respondent. Respondent stated that part of the agreement was that Complainant is to maintain insurance on the vehicle and Complainant had failed to do so even after being given ample time to do so. An investigation confirmed the Respondent's reasoning and documentation was obtained showing Complainant agreed to those terms. Complainant confirmed he did not purchase the required insurance.

Recommendation: Close.

119. Case No.: 2016057731

A notice of violation was issued against Respondent due to an incomplete temp tag log (3 entries) and failure to produce titles when asked. On investigation, the owner explained that he understood the issue with the temp tag log, and they had corrected it and changed policies to ensure compliance. A review of temp tag log showed it was greatly improved, and that Respondent was making copies of completed or voided tags as well to have back up information. In regard to the titles, the owner explained he was out of the office on the day of the inspection, and the staff member that assisted the inspector did not know how to access the titles through the floor planner's online portal. The investigator looked at the titles, and noted they were all present and closed in. The notice of violation notes that the owner/manager of Respondent dealership was out of town, which corroborates the owner's explanation. This is the first complaint opened against Respondent for any reason.

Recommendation: Close upon issuance of a letter of warning.

120. Case No.: 2016053411

Complainant alleged Respondent failed to deliver title and registration, refused to honor a warranty agreement, and sold a vehicle with more miles than on a car fax report Complainant generated. An investigation was conducted. The investigator contacted the Complainant who now lives in Florida with the vehicle. Complainant was to provide evidence and documentation of his allegations, but failed to do so. Respondent provided proof the title and registration were timely mailed via FedEx to the Complainant. Respondent produced car fax reports that showed the mileage in line with the odometer

disclosure sheets and other documents indicating the mileage. Respondent also stated that they had offered to look at the mechanical issues or trade in the vehicle, but that the vehicle has to be returned to their location. Respondent indicated it cannot do anything if Complainant will not bring the vehicle to them from Florida, but that if he did, they would happily remedy the issue to the best of their ability.

Recommendation: Close.

121. Case No.: 2016068741

Respondent was issued a Notice of Violation for operating on an expired license. A follow-up investigation revealed the Respondent had sold seven vehicles while operating on an expired license. Respondent indicated he is attempting to renew his license, but he owes back taxes which is preventing him from getting proper business documentation. Respondent's CPA confirmed the number of sales during the unlicensed period, and confirmed the hold on renewal is back taxes. As of January 13, 2017, Respondent's license is still expired.

Recommendation: Authorization of a civil penalty in the amount of \$3,500 (\$500 x 7 unlicensed sales) for unlicensed activity to be settled by consent order or formal hearing.

122. Case No.: 2016062961

A county clerk's office notified staff that Respondent had registered eight vehicles close in time with its office. Respondent is not licensed with this Commission. Respondent also applied to transfer tags between some of the vehicles stating in an affidavit he had sold the previous vehicle. All the vehicles had been purchased from a transport company in Illinois that sells off their used inventory of trucks from time to time. An inquiry into the registration history of the registered vehicles revealed Respondent had sold three of the eight vehicles he registered in one month's time indicating Respondent might be only beginning to sell vehicles while unlicensed. All the other vehicles remain in the Respondent's name. No evidence that the additional vehicles were sold in the State of Tennessee was located. While the evidence does not indicate Respondent has violated the law yet, the facts do indicate Respondent could likely continue to sell vehicles.

Recommendation: Close upon issuance of a letter of caution.

123. Case No.: 2016059241

Complainant alleged Respondent did not disclose that the vehicle was previously salvaged, would not provide registration or a title, and as a result, gave her four temporary tags. An investigation was conducted. Complainant was contacted, but ultimately did not cooperate in the investigation. Respondent produced the deal file which indicated the vehicle title and registration and been sent to Complainant in September, a little over a month after Complainant purchased the vehicle. Additionally, a disclosure form signed by the Complainant was in the file. The document clearly indicated the vehicle was previously

under a salvage title, but had been rebuilt, inspected, and titled. Respondent also produced a temporary tag log which showed Complainant received only two temporary tags. All tags were fully documented and accounted for.

Recommendation: Close.

124. Case No.: 2016064151

This complaint was opened as a result of a county clerk contacting staff to report a number of vehicles Respondent had registered over the years. The clerk suspected unlicensed sales due to the volume and frequency of Respondent registering vehicles. An investigation was conducted. When the investigator met with Respondent, Respondent admitted to selling vehicles. Respondent stated he had a county business license, and that he was unaware he needed a license with this Commission. Respondent stated he would seek to get licensed and work for a dealership. Respondent admitted to selling twenty-five cars in 2015 in excess of five sales per calendar year and eleven cars in 2016 in excess of five sales per year, for a total of thirty-three unlicensed vehicle sales. After the investigation, Respondent attempted to get duly licensed, but had a disagreement with the dealership owner he was trying to work for, so the application was not processed. No new application has been submitted.

Recommendation: Authorization of a civil penalty in the amount of \$16,500 (\$500 x 33 unlicensed sales) for unlicensed activity to be settled by consent order or formal hearing. Authorization for civil penalty amount to be reduced to \$8,250 if Respondent becomes licensed within thirty days of receiving the consent order.

**125. Case No.: 2016067031
2016066981**

Complaint #1: The Complainant and his mother allege Respondent committed odometer fraud. Complainant and his mother purchased a truck from Respondent for \$23,500.00. The odometer reflected the mileage as 65,242. The advertisement for the truck reflected the same 65,242 mileage. Complainant states Respondent even looked up the truck's value at the low mileage as being \$28,000, to emphasis the deal Complainant was receiving on the truck. Halfway through completing the purchase paperwork, Complainant alleges Respondent produced a title listing the mileage on the truck as \$249,496. Complainant states Respondent said the title had a typo, in that the "2" should not be there. Complainant states that Respondent said that is why Complainant had to sign an odometer disclosure sheet, to account for the typo on the title.

A few months after the purchase, Complainant discovered through a car fax that the actual mileage of the vehicle was approximately 249,000 miles with service records supporting the higher mileage. Complainants contacted Respondent who stated he had informed the Complainant the mileage was unknown through the odometer disclosure form, but offered to buy the vehicle back for \$16,000. An investigation was conducted. The paperwork Respondent submitted to Complainant's financing center listed the mileage as 65,826 as did the "As-Is" warranty documentation. Complainant's mother states that Respondent stated to her that he did not think the dealer he purchased the truck from would roll back the miles.

However, in a letter in response to the complaint, Respondent states the odometer was not operable, so he replaced the dash cluster. Respondent claims he explained that to the Complainant, and Respondent indicates he had Complainant sign a bill of sale which states "Not Actual Mileage," and the odometer disclosure form which indicates a discrepancy regarding the mileage.

The Tennessee Highway Patrol also investigated this matter. As a result of their investigation. The THP's investigation has resulted in a hearing before the Grand Jury for possible criminal charges. The hearing is scheduled for today, January 23, 2017. The THP is willing to share additional information after the conclusion of the Grand Jury hearing.

Complaint #2: In this complaint, Complainant alleges Respondent used temporary bonding materials to cover up frame damage and a major leak. Two days after Complainant purchased the vehicle, Complainant noticed major leaking and took the vehicle to her mechanic. The mechanic explained the frame was bent and the truck is not safe to drive. Complainant alleges multiple other consumers have made similar allegations via Facebook. Respondent claims Complainant must have wrecked the truck, and denies any knowledge of the mechanical error. Due to an ongoing criminal investigation into Respondent, investigation from this Department was light in an effort to not interfere.

Recommendation: Authorization for a "litigation monitoring" consent order in order to allow criminal charges to process. If at the conclusion of the criminal action Respondent is convicted, authorization for revocation of Respondent's dealer license to be settled by consent order or formal hearing. If Respondent is not convicted, represent with information gained from criminal investigation, if any violations of Commission's laws were violated.

126. Case No.: 2016060131

Complainant alleges Respondent ran Complainant's credit numerous times and would not stop after Complainant purchased a vehicle with another dealership. An investigation was conducted. The investigation revealed that Complainant had submitted multiple credit applications adding different co-signers in an attempt to get financing through Respondent dealership. Respondent resubmitted the information with new co-signers to multiple possible finance companies in an attempt to get Complainant financing, but she was ultimately rejected. This process was explained to the Complainant. Respondent states Complainant did not limit the number of places they attempted to get financing, and Respondent was not resubmitting the application after Complainant found a vehicle elsewhere. Complainant did not rebut those facts, but did state Respondent's customer service agent was rude to her.

Recommendation: Close.

127. Case No.: 2016053711

Complainant alleged Respondent intentionally misled Complainant regarding the accident history of a vehicle. Respondent produced a Car Fax report on the date of sale that indicates a clean history. A few months later, Complainant acquired a report from a different company that listed one accident. An investigation indicates that Respondent ran the Car Fax that day, and nothing indicated Respondent knew of any previous accident. Rather, the Car Fax report had an error.

Recommendation: Close.

128. Case No.: 2016052271

Complainant alleged Respondent sold him a vehicle of Craigslist with mechanical errors. An investigation was conducted. Respondent sold only the one vehicle on Craigslist; however, Respondent did list a number of parts he had acquired while working on the vehicle he sold. Respondent does not have a recycler/dismantler license. Legal is unsure if Respondent broke down the vehicles from which he acquired the parts due to the inability to contact or locate Respondent.

Recommendation: Close upon issuance of a letter of warning.

129. Case No.: 2016065321

Complainant traded in a vehicle to Respondent when purchasing back a car he had traded in previously. Complainant alleged the trade-in vehicle value was not ultimately credited to the purchase. A review of the bill of sale does not reflect the trade-in value. Respondent disputes that no value was given despite it not being accurately reflected in the bill of sale.

Recommendation: Authorization for a civil penalty in the amount of \$500 for one occurrence of a deceptive act to be settled by consent order or formal hearing.

130. Case No.: 2016068821

Complainant purchased a vehicle under a conditional delivery agreement. The agreement gave Respondent ten days to secure financing for Complainant, or Complainant needed to return the vehicle. Ten days passed and Complainant did not hear back from Respondent. Complainant took the vehicle back to Respondent to drop it off, and to go try to get a vehicle and financing elsewhere. The Respondent tried to force Complainant to keep the vehicle, stating they were working on financing, but Complainant left the vehicle. Respondent ultimately kept the vehicle. While Respondent was not happy they could not secure financing and lost the deal, it is legal counsel's opinion no legal violation occurred.

Recommendation: Close.

131. Case No.: 2016071741

Complainant purchased a used engine from Respondent. Respondent is duly licensed as a dismantler/recycler. Complainant alleged the engine was defective, and that Respondent did not abide by his 30-day warranty on engine sales. Respondent submitted evidence that he has offered a number of solutions, but Complainant was not satisfied with the options, and both parties are disputing charges through the bank. This is likely a civil matter if anything, but no actions violated the Commission's laws.

Recommendation: Close.

MATT RE-PRESENTATIONS

132. Case No.: 2016034951

Civil penalty authorized due to Respondent's refusal to refund a \$4,000 down payment on a deal that Complainant was unable to obtain credit on. Commission authorized a civil penalty in the amount of \$6,000 to be reduced to \$2,000 if Respondent refunded \$4,000 to Complainant. Following discussions between Respondent and Legal, Respondent has agreed to refund the \$4,000 and pay a \$500 civil penalty.

Recommendation: Authorization of a civil penalty in the amount of \$4,500 for deceptive acts, to be reduced to \$500 following receipt of evidence indicating Respondent refunded \$4,000 to Complainant. To be settled by consent order or formal hearing.

**133. Case No.: 2016032421
2016040521**

Commission originally authorized civil penalties for failure to maintain city and county business license and failure to respond to Commission. Following discussions with Respondent, Legal was provided with evidence indicating Respondent had business licenses at time of inspection but did not have displayed when inspector came through.

Recommendation: Close

134. Case No.: 2014002931

Commission originally authorized a civil penalty in the amount of \$2,000 for failure to maintain temporary tag log. Through review of additional evidence and discussions with Respondent dealer's attorney, it was found that only 10 tags were missing. Respondent was able to account for eight (8) of the ten (10) tags.

Recommendation: Authorization of a reduction of civil penalty to \$200 for failure to maintain temporary tag log (2 violations x \$100 per violation). To be settled by consent order or formal hearing.

135. Case No.: 2016041261

Commission authorized a \$600 civil penalty due to 6 missing temporary tag log entries. Respondent was able to account for these 6 tags and put their temporary tag log in proper order.

Recommendation: Close with Letter of Warning

136. Case No.: 2016031091

Commission originally authorized a civil penalty for not disclosing that vehicle was salvaged, only wrote "rebuilt" on paperwork. Respondent has provided evidence showing that when the vehicle was traded in to him it came with a rebuilt title, the individual who traded in the vehicle did not provide the most recent title to Respondent. Additionally, Respondent has paid Complainant a cash settlement for her trouble and Complainant wishes to withdraw complaint.

Recommendation: Close

137. Case No.: 2016038791

Commission authorized a civil penalty for deceptive acts for not disclosing what was covered under bill of sale \$125 line item "Preferred Warranty." Respondent has provided additional evidence to legal showing that they did in fact sell customer a service contract from a company named Preferred Warranties and did in fact purchase the service contract in question for Complainant.

Recommendation: Close

138. Case No.: 2016032232

Respondent owns an Alabama dealership; Commission authorized a civil penalty for two unlicensed sales in the state of Tennessee. Complainant provided legal with evidence indicating that he sold the vehicles in the state of Alabama and not directly to the Tennessee Complainant. Individual who purchased the vehicles in Alabama sold both vehicles to the Tennessee Complainant, but legal unable to obtain evidence showing this individual has sold more than five (5) vehicles in last twelve (12) months. Respondent denies that this individual works for him. Not enough evidence to proceed against Respondent.

Recommendation: Close upon the issuance of a Letter of Warning

**139. Case No.: 2016028161
2016028161**

Commission issued a civil penalty for lapse of insurance. Respondent has since provided proof that its insurance never lapsed.

Recommendation: Close

140. Case No.: 2016044171

Respondent penalized due to a NOV for unlicensed sales people. Review of additional evidence shows those sales people were properly licensed at time of inspection.

Recommendation: Close

141. Case No.: 2016037461

Complainant originally penalized following a NOV for failure to produce temporary tag log and for selling vehicle not licensed to dealership. Additional investigation revealed that the vehicles in question were not being sold by the dealership but by a landowner who sells a few vehicles a year. Investigation was unable to find evidence linking landowner to selling more than 5 vehicles a year. Respondent provided a copy of her temporary tag log which shows all tags accounted for.

Recommendation: Close

142. Case No.: 2016024991

Complainant penalized for failing to maintain temporary tag log and for altering one temporary tag. Respondent provided evidence to litigator showing temporary tag log was stolen during a break in at dealership.

Recommendation: Authorization of a civil penalty of \$500 for altering one temporary tag. To be settled by consent order or formal hearing.

143. 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.

UPDATE: This matter was set for litigation and in preparation, it was determined that vehicles was repossessed 61 days after sale was complete. Therefore, this matter was dismissed and it is recommended that a letter of warning be sent to remind Respondent that cars must be titled in a timely manner.

Recommendation: Close with a letter of warning

144. Case No.: 2016037171

Respondent was penalized \$2,000 for employing an unlicensed sales person. Respondent elected to close dealership and surrender license in lieu of paying civil penalties. License has been received by staff.

Recommendation: Accept voluntary surrender of dealership license in lieu of pursuing civil penalties.

145. Case No.: 2015011211

Respondent originally penalized by Commission for operating on an expired salesperson license. Respondent's dealer has paid \$9,250 civil penalty tied to its employing of Respondent. Respondent immediately obtained a new salesperson license upon dealership discovering Respondent was working on an expired license. There are no injured consumers, complaint opened off a notice of violation.

Recommendation: Close with letter of warning

146. Case No.: 2015013461

Respondent originally penalized for selling vehicles on consignment with open titles. Additional review of evidence and discussions with parties reveals these vehicles were never sold with open titles, individual selling vehicles on consignment kept title in his possession until after vehicle sold. All consignment agreements were verbal in nature. This complaint was filed under false pretenses, individual who was consigning the vehicles posed as a previous customer of Respondent after a dispute arose between Respondent and consignor. Consignor was penalized for, and has paid, \$1,000 for unlicensed sales due to his role in this complaint.

Recommendation: Close with Letter of Warning for failure to maintain proof of ownership or consignment agreements for all vehicles on site

147. Case No.: 2015018611

Respondent penalized for failure to maintain temporary tag log due to two deficient entries. Spoke with Respondent and Respondent has since corrected his log and provided evidence to legal.

Recommendation: Close with Letter of Warning for failure to maintain temporary tag log.

148. Case No.: 2016026451

Respondent dealer closed, surety bond sent.

Recommendation: Close and flag

SARA REPRESENTS

149. Case No.: 2014004171

Respondent held a dealership license, and was operated by one person, the owner/salesperson. However, the owner/salesperson did not have a salesperson license. Respondent's owner sold 44 vehicles while unlicensed. The original civil penalty assessed was \$22,000. Through negotiation between legal counsel and Respondent, the Respondent has agreed to pay \$15,000. Additionally Respondent agreed that any failure to pay the penalty will result in the revocation of Respondent's dealership license.

Recommendation: Authorize the reduction of the previously assessed civil penalty to \$15,000 for unlicensed sales to be settled by consent order or formal hearing.

150. Case No.: 2016019711

Respondent was accused by an employee of painting damaged vehicles and selling those vehicles. During attempts to investigate the allegations, Respondent did not turn over any requested records to the investigator, citing the need for Respondent's legal counsel to approve release of the records. As a result, a civil penalty of \$10,000, \$5,000 for deceptive acts and \$5,000 for failure to produce records, was approved against Respondent.

In an attempt to substantiate the complaint for hearing, it was revealed that all of the vehicles allegedly painted were sold, and no evidence of wrongdoing was discovered. Additionally, Respondent represented that the complaining employee had a poor relationship with Respondent for some time prior to the complaint, and Respondent ultimately terminated the employee. Respondent also produced the repair orders related to the mechanical and aesthetic repairs to the vehicles, which did not list any additional repairs or expenses related to the vehicles other than basic initial inspections, tune-ups, and cleanings. Respondent does admit it failed to produce requested records in a timely manner.

Recommendation: Authorize the reduction of the previously assessed penalty to \$5,000 for failure to produce business records to be settled by consent order or formal hearing.

151. Case No.: 2015018373

Respondent was accused of suggesting consumers obtain financing through fraudulent means by going along with managers at the dealership in telling customers to say they have relatives in the military when they did not. Respondent is a salesperson, and works for a licensed dealership under the owner/manager. The dealership and owner have accepted responsibility for the scheme in question, and both entities are paying a civil penalty. Additionally, the credit union subject to the attempted fraud reported no known

incidents of consumers taking the dealership's advice and receiving financing. The dealership and its owner have paid a penalty of \$1,500 for the alleged actions.

Recommendation: Close.

Chairman Jackson made a motion to adopt the legal report as presented, seconded by Commissioner Galvin.

VOICE VOTE-UNANIMOUS

Motion passed to adopt the legal report.

Executive Director Shaw updated the Commission on House Bill 0019, which involves motorcycle dealers, and authorizes temporary off-site sales.

Attorney Matthew Reddish informed the Commission there were two rules being proposed before the full Commission, after passing the Rule Committee. The Dealership Application Rule and the Temporary Tag Rule. After discussion, Commissioner Clayton made a motion to adopt the rule, seconded by Commissioner Lee.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	ABSTAIN
Ian Leavy	YES
Victor Evans	YES

Attorney Matthew Reddish then presented the regulatory flex addendum. After reading this into the record, Commissioner Clayton made a motion to approve, seconded by Commissioner Norton.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES

Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	YES
Ian Leavy	YES
Victor Evans	YES

NEW BUSINESS

Executive Director Shaw requested Attorney Matthew Reddish provide the Commission with an overview of the revised Recreational Vehicle Surety Bond form. Chairman Roberts indicated that the form should be amended to change “vehicle dealer” to “recreational vehicle dealer” After some discussion, Commissioner Leavy made a motion to adopt the form as amended, seconded by Commissioner Galvin.

ROLL CALL VOTE

Eddie Roberts	YES
Christopher Lee	YES
Jim Galvin	YES
Joe Clayton	YES
Ronnie Fox	YES
Karl Kramer	YES
Nate Jackson	YES
Debbie Melton	YES
Reed Trickett	YES
Stan Norton	YES
Steve Tomaso	YES
Ian Leavy	YES
Victor Evans	YES

OLD BUSINESS

Chairman Roberts called for a motion to adjourn.

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

Meeting Adjourned

Eddie Roberts, Chairman
