

MINUTES

May 29, 2024



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

**TENNESSEE
MOTOR VEHICLE COMMISSION MINUTES**

DATE: May 29, 2024

PLACE: Room 1-A, Davy Crockett Tower

PRESENT: Commission Members:

Nelson Andrews
Tim Copenhaver
Sandra Elam
Jim Galvin
Nate Jackson
Ian Leavy
Debbie Melton
Stan Norton
Eleni Speaker
Farrar Vaughan
Charles West
John Roberts

ABSENT:

John Barker
Victor Evans
Hubert Owens
Clay Watson
Karl Kramer

CALL TO ORDER: Chairman John Roberts called the meeting to order at 9:30am

Executive Director, Denise Lawrence called the roll. A quorum was established.

MEETING NOTICE: Notice advising the Commission of the time, date and location of the meeting being posted on the Tennessee Motor Vehicle Commission website and that it has been included as part of the year's meeting calendar was read into the record by Executive director, Denise Lawrence.

PUBLIC COMMENTS: Chairman Roberts advised all present that public comments would be welcomed at the end of the meeting.

AGENDA: Chairman Roberts requested the Commission review the agenda. Commissioner Jackson made a motion to adopt the Agenda, Seconded by Commissioner Speaker. Chairman Roberts called for a voice vote.

VOICE VOTE

Nelson Andrews	YES
Tim Copenhaver	YES
Sandra Elam	YES
Jim Galvin	YES
Nate Jackson	YES
Ian Leavy	YES
Debbie Melton	YES
Stan Norton	YES
Eleni Speaker	YES
Farrar Vaughan	YES
Charles West	YES
John Roberts	YES

MOTION CARRIED



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER, 12TH FLOOR
NASHVILLE, TENNESSEE 37243
TELEPHONE (615) 741-3072 FACSIMILE (615) 532-4750**

MEMORANDUM

Privileged and Confidential Communication – Attorney Work Product

TO: Tennessee Motor Vehicle Commission

**FROM: Erica Smith, Associate General Counsel
Taylor M. Hilton, Associate General Counsel**

DATE: May 29, 2024

SUBJECT: MVC Legal Report

**1. 2023061711 (TH)
2024002211
2023064361
2023065341
2023065751
Date Complaint Opened: 12/04/2023, 01/11/2024, 12/19/2023, 12/26/2023
First Licensed: 11/30/2016
Expiration: 11/30/2024
License Type: Motor Vehicle Dealer
History (5 yrs.):**

Each of the complaints against Respondent refer to titling issues. Each Complainant alleges extreme delays in obtaining their titles and/or registration documentation. An investigator went to Respondent's location and noted the lot and dealership looked empty. Further, the licensing division received a 60-day termination notice on 1/3/24 from the manufacturer that has a franchise agreement with Respondent. The termination was because Respondent has been without a sufficient floorplan since 5/18/23. This is in violation of the

Respondent's dealer agreement with the manufacturer. The notice mentioned that Respondent informed the manufacturer of ongoing efforts by Respondent to sell the dealership but Respondent never followed up with details of a sale and never cured the floorplan issues. Counsel notes the owner of this dealership is the same owner of the dealership in Complaint 2023065701 in Number 2 below.

Respondent explains their attorney is in constant communication with the Bank. Respondent states they will satisfy the bank at closing and have the remaining titles in the next couple of weeks. Respondent explains they have kept the Complainant's informed and have tried to obtain the titles numerous times. Respondent notes all will be resolved shortly and apologizes for delays stating they have never had these types of issues before. Respondent states they have provided loaner vehicles to some of the Complainants during the delay.

Counsel recommends assessing a \$1,250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). This civil penalty is based on \$250.00 per five (5) violations. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty because the dealership's license is still technically active until 11/30/2024 when it will expire.

Recommendation: Assessing a \$1,250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) False, Fraudulent or Deceptive Acts. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$2,500.00 civil penalty based on \$500.00 per Respondent's five (5) violations of T.C.A § 55-17-114(b)(1)(K) False, Fraudulent or Deceptive Acts. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2. 2023065701 (ES)

Date Complaint Opened: 12/28/2023

First Licensed: 09/01/1991

Expiration: 05/31/2024

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Respondent dealership is owned by the same individual who owns the closed dealership mentioned in the Complaints above (Number 1). Complainant alleges Respondent failed to pay off their trade-in vehicle which they traded in back in September of 2023 when they purchased a used vehicle from Respondent. Complainant alleges that Respondent told them that they don't have the money to pay off the trade-in, and further claims Respondent received the payoff from the lender on 10/3/23. Respondent states Complainant was informed they were paying off the trade-in vehicle on 12/15/23. Respondent has provided the receipt showing the vehicle has since been paid off in full. Respondent states they are "under unusual circumstances at this time with the buy/sell agreement they currently have at

the dealership. There were several weeks they were operating without a checking account . . . but the deal should be finishing up soon and operations will likely return to normal.” Counsel notes the closed dealership referenced in Number 1 above is most likely involved in the same ongoing efforts of Respondent to sell their dealerships. Counsel further notes Respondent’s license expires on 5/31/24 and they have not made any efforts to renew their license as of 5/22/24. Additionally, Respondent’s surety bond insurance carrier has notified the Commission that their surety bond will expire on 5/31/24 and Respondent has not provided further proof of coverage.

An investigation was conducted. The investigation revealed Respondent had a different explanation for the delay in paying off the trade-in, which Respondent claimed was due to a clerical error made by their former title clerk. Respondent states the former title clerk failed to process the documents properly by filing them in the “payoffs to be made” folder. Respondent also admitted to failing to pay off another trade-in vehicle within 30 days as required by statute. Respondent states they made the Complainant whole by reimbursing them the amount paid towards the trade-in vehicle loan and according to the bank, they did not report anything to the credit bureau, so no damage has been done to Complainant’s credit. Respondent admitted that they allowed financial decisions to be made by a “rogue CFO” who began mismanaging funds and who is no longer employed by Respondent. Counsel recommends issuing a \$500 civil penalty per violation of Tenn. Code Ann. §55-17-114(b)(3) for failing to pay off a trade-in vehicle within 30 days of funding for the new vehicle purchase, for a total \$1,000 civil penalty. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty considering the issues they have had with their dealership referenced in Number 1 above and their plans to sell the dealerships.

Recommendation: Authorize a \$1,000 civil penalty for two violations of Tenn. Code Ann. §55-17-114(b)(3) – failing to pay off a trade-in vehicle within 30 days of funding for the new vehicle purchase. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Concur.

3. 2023061751 (TH)

2024001431

2024002041

2024005151

2024012211

Date Complaint Opened: 12/04/2023, 01/08/2024, 01/10/2024, 01/30/2024, 02/28/2024.

First Licensed: 02/14/2022

Expiration: 12/31/2024 (CLOSED)

License Type: Motor Vehicle Dealer

History (5 yrs.): 2022 – One complaint closed with \$5,000 civil penalty for unlicensed activity. 2023 – One complaint closed with letter of warning for failure to supervise salespersons.

2023061751: Complainant purchased a used vehicle from Respondent on October 5, 2023, and has not received their tag or registration documentation as of the time of their complaint, December 4, 2023. Complainant states the DMV informed them the vehicle was registered and there was no record of the vehicle. Complainant explains they went to Respondent's dealership but found it to be closed.

Counsel notes that this dealership is owned by the same individual that owns the dealerships referenced in Numbers 4 and 5 below. Respondent and its owner are involved in an ongoing criminal investigation by law enforcement.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2024001431: Complainant states on July 11, 2023, they financed/purchased a used vehicle from Respondent. Complainant explains in November 2023 they received their last temp tag from Respondent which expired on January 6, 2024. Complainant explains at that time, they discovered Respondent had permanently closed. Complainant states they visited the DMV and was informed there was no record of Respondent registering the vehicle.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2024002041: Complainant states they purchased a used vehicle from Respondent on September 6, 2023. Complainant explains after their temporary tag expired, they attempted to contact Respondent and learned Respondent had closed. Complainant states they never received their permanent tag or registration information.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2024005151: Complainant states they purchased a used vehicle from Respondent on September 9, 2023. Complainant notes Respondent never filed for the title or permanent tag. Complainant explains Respondent has since closed.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2024012211: Complainant states they purchased a used vehicle from Respondent on September 29, 2023. Complainant notes Respondent never filed for the title or permanent tag. Complainant explains Respondent has since closed.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

**4. 2023065331 (TH)
2024000821
2024002421
Date Complaint Opened: 12/26/2023 – 01/13/2024
First Licensed: 08/18/2022
Expiration: 08/31/2024 (CLOSED)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.**

2023065331: Complainant states on October 26, 2023, they purchased a used vehicle from Respondent. Complainant explains Respondent went out of business without submitting the title paperwork necessary to transfer ownership.

Counsel notes that this dealership is owned by the same individual that owns the dealerships referenced in Number 3 above and Number 5 below. Respondent and its owner are involved in an ongoing criminal investigation by law enforcement.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license

in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2024000821: Complainant states on September 7, 2023, they purchased a used vehicle from Respondent. Complainant explains they never received their permanent tag or title. Complainant explains they are 76-years old and in need of their permanent tags.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

2024002421: Complainant states they purchased a used vehicle from Respondent in May of 2023. Complainant explains they never received their permanent tag or title.

Counsel recommends assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Assessing a \$250.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Assessing a \$500.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty. Additionally, to refer to the matter to the TN Dept. of Revenue.

5. 2024006161, 2024007681, 2024007811, 2024008091, 2024008111, 2024008151, 2024008211, 2024008231, 2024008821, 2024009941, 2024009991, 2024010131, 2024010171, 2024010191, 2024010901, 2024007231, 2024011701, 2024011721, 2024011821, 2024011891, 2024011971, 2024012151, 2024012651, 2024012661, 2024012691, 2024012701, 2024015631 (TH)

Date Complaint Opened: 02/06/2024 – 02/29/2024

First Licensed: 12/18/2019

Expiration: 09/30/2025

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Counsel notes that this dealership is owned by the same individual that owns the dealerships referenced in Numbers 3 and 4 above. Respondent and its owner are involved in an ongoing criminal investigation by law enforcement.

Each of the complaints against Respondent (except for complaint #**2024010131** and complaint #**2024015631** which are summarized below) refer to titling issues. Each Complainant alleges extreme delays in obtaining their titles and/or registration documentation, as well issues with obtaining their permanent tags.

Counsel recommends assessing a \$6,750.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). This civil penalty is based on \$250.00 per twenty-seven (27) violations. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Recommendation: Counsel recommends assessing a \$6,750.00 civil penalty due to Respondent's violation of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts). This civil penalty is based on \$250.00 per twenty-seven (27) violations. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty.

Commission Decision: Seeking voluntarily surrendering of Respondent's dealer license due to their violations of T.C.A § 55-17-114(b)(1)(K) (False, Fraudulent or Deceptive Acts).

2024010131: Complainant states when they purchased a used vehicle from Respondent, they were told Respondent would repair the catalytic converter. Complainant explains, however, when they brought the vehicle back to Respondent for repair, Respondent refused to complete the necessary work on the vehicle. Complainant states they were informed by Respondent that they had a warranty for three (3) years but did not receive any paperwork pertaining to the warranty or the payment for the warranty. Counsel recommends closure.

Recommendation: Close.

Commission Decision: Concur.

2024015631: Complainant states they purchased a used vehicle from Respondent on August 8, 2023. Complainant states on December 12, 2023, they called the company who financed the vehicle to get information on their warranty. Complainant states that their vehicle had been at Respondent's for over five (5) weeks without repairs being completed. Complainant states on March 12, 2024, they were given a new vehicle by the finance company.

Complainant notes, however, that vehicle had no brakes. Complainant expresses that they still do not have possession of their vehicle but have to continue to make payments on it. Counsel recommends closure.

Recommendation: Close.

Commission Decision: Concur.

6. 2024002581 (ES)

2024005131

2024012001

2024013871

2024015791

Date Complaint Opened: 01/16/2024 – 02/26/2024

First Licensed: 06/23/2017

Expiration: 06/30/2025 (CLOSED)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

2024002581

Complainant purchased a used vehicle from Respondent on 9/26/23 and did not have their registration as of 1/16/24. Respondent claimed Complainant received the registration by 2/7/24 but did not provide any information about the delay so an investigation was conducted. The investigator discovered the dealership offices were bare and the lot had been emptied. The investigator sent internal paperwork to the licensing division and the license has since been cancelled. The Complainant informed the investigator that Respondent had a different dealership in the past and was upset that they were able to open this dealership. Complainant had filed a police report and claims other people had done so and were having similar issues with Respondent. The investigator met with a detective who was very familiar with the owner of the dealership. The detective ultimately concluded the complaints that were made to the police were civil matters so no criminal charges were brought against Respondent at that time. However, as complaints continued to come in, the detective informed Respondent of mounting evidence to support criminal charges. Respondent told the detective that they took out a loan on their home and started paying off debts owed against the vehicles at issue in the complaints. There will be no criminal charges as long as Respondent continues to make efforts to make the victims whole. Respondent spoke to the investigator and stated they were working to clear up any remaining issues with consumers with the loan Respondent has taken out on his home, and claimed to be working to reach a settlement with their floorplan companies. Respondent further explained they went out of business in mid-January of this year due to slow sales and a broken water pipe that spilled 20,000 gallons of water in their office, destroying most of their records. The local county clerk confirmed with the investigator that Respondent had been coming in to make sure all the consumers who had been waiting for a registration would receive their registration. The investigation revealed that Respondent had failed to timely provide registration for at least three vehicles sold to consumers and issued three temporary tags to those vehicles during

the delay. The investigation further revealed that all consumers who had complained to this Department and/or the local police have received registration for their vehicles.

Counsel recommends assessing a \$500 civil penalty per excessive temporary tag issued, for a total \$1,500 civil penalty. Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty considering the dealership is no longer open, but the license is not yet expired. This civil penalty incorporates the four complaints against this Respondent as summarized below.

2024005131

Complainant purchased a used vehicle from Respondent on 10/28/23 and did not have their title and registration as of 1/30/24. Respondent has failed to respond to this complaint. An investigation was conducted. Respondent is closed and out of business, and has resolved this issue.

2024012001

Complainant purchased a used vehicle on 11/10/23 and did not have their title and registration as of 2/12/24. An investigation was conducted. Respondent is closed and out of business, and has resolved this issue.

2024013871

Complainant purchased a used vehicle on 10/13/23 and did not have their title and registration as of 2/26/24. An investigation was conducted. Respondent is closed and out of business, and has resolved this issue.

2024015791

Complainant purchased a used vehicle on 11/15/23 and did not have their title and registration as of 3/14/24. An investigation was conducted. Respondent is closed and out of business, and has resolved this issue.

Recommendation: Counsel recommends assessing a \$1,500 civil penalty for issuing one more temporary tag than allowed to three separate vehicles in violation of Tenn. Code Ann. §55-17-114(b)(1)(N). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty because the dealership is no longer open, but the license is not yet expired.

Commission Decision: Concur.

7. 2024003681 (ES)

2024007461

2024012431

Date Complaint Opened: 01/19/2024, 02/26/2024, 02/29/2024

First Licensed: 01/30/2023
Expiration: 01/31/2025 (CLOSED)
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

2024003681

Complainant purchased a used vehicle from Respondent on 9/23/23 and alleges Respondent failed to deliver title/registration as of 1/11/24. Respondent claims the vehicle purchased by Complainant was on consignment and Complainant was made aware of this at the time of purchase. Complainant denies being informed this was a consignment sale and there is no indication of such in the sales documents. Complainant states they were informed Respondent took the vehicle in on a trade from their employee. Respondent states they are working on obtaining the title from the original owner considering this was a consignment sale. An investigation was conducted which revealed the dealership has closed and is no longer in business. On 2/27/24, the investigator went to the dealership's location and there was a new sign with a new dealership name. Counsel confirmed this new dealership is licensed and the investigation confirmed Respondent has no ties to this new dealership or its owners. The investigator states Respondent is actively avoiding them after the investigator has attempted to meet with them at their residence and has called and emailed the Respondent many times. The investigator met with the local county clerk who provided an affidavit. The affidavit states the clerk had to call Respondent often because Respondent would submit paperwork with missing documents or incorrect documents for the registration of vehicles they sold to consumers. The clerk also alleges Respondent may have failed to collect sales tax according to past bills of sales submitted with registration paperwork. The clerk further noted it appeared Respondent may have been forging signatures on sales paperwork. The affidavit further stated consumers had complained about not receiving title and registration. Respondent has visited the clerk's office as recently as mid-March attempting to register vehicles with incorrect paperwork.

2024007461

Complainant purchased a used vehicle from Respondent on 11/22/23 and alleges Respondent failed to deliver title/registration as of 2/12/24. Respondent has failed to respond to this complaint. An investigation was conducted which confirmed the dealership has closed and a new dealership has been licensed and occupies the property with no ties to Respondent. Complainant claims they have to make payments on the vehicle by meeting the owner of the closed dealership at the owner's residence. The investigator states Respondent is actively avoiding them after the investigator has attempted to meet with them at their residence and has called and emailed the Respondent many times.

2024012431

This complaint was opened administratively on 2/29/24 after receiving information from the local county clerk regarding suspicious activity regarding the Respondent and alleged unlicensed activity. An investigation was conducted which confirmed the dealership has closed and a new dealership has been licensed and occupies the property with no ties to

Respondent. Respondent's license was administratively closed but Respondent may be attempting to continue holding themselves out to be a dealer and conducting business activity. The investigator states Respondent is actively avoiding them after the investigator has attempted to meet with them at their residence and has called and emailed the Respondent many times.

Regarding the three complaints summarized above, Counsel recommends issuing a \$500 civil penalty for each of the following violations: failure to produce business records for investigation (Tenn. Code Ann. §55-17-114(a)(1)(H)), practicing fraud in the conduct of business (Tenn. Code Ann. §55-17-114(a)(1)(F)), two instances of failing to produce title to vehicle sold to consumer (Tenn. Code Ann. §55-17-114(b)(1)(K)), no longer having an established place of business (Tenn. Code Ann. §55-17-114(b)(1)(D)), and failure to provide proof of consignment agreement for vehicle at issue in Complaint 2024003681 (Tenn. R. & Reg. 0960-01-.11(2)), for a total \$3,000 civil penalty.

Recommendation: Counsel recommends assessing a \$3,000 civil penalty for failure to produce business records for investigation (Tenn. Code Ann. §55-17-114(a)(1)(H)), practicing fraud in the conduct of business (Tenn. Code Ann. §55-17-114(a)(1)(F)), two instances of failing to produce title to vehicle sold to consumer (Tenn. Code Ann. §55-17-114(b)(1)(K)), no longer having an established place of business (Tenn. Code Ann. §55-17-114(b)(1)(D)), and failure to provide proof of consignment agreement for vehicle at issue (Tenn. R. & Reg. 0960-01-.11(2)). Counsel also recommends offering Respondent the alternative to voluntarily surrender their license in substitution to paying the civil penalty because the dealership is no longer open, but the license is not yet expired.

Commission Decision: Concur.

8. 2024011231 (ES)

Date Complaints Opened: 02/23/2024

First Licensed: 09/01/1991

Expiration: 10/31/2024 (Closed)

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

Complainant is a resident of South Carolina who purchased a used vehicle from Respondent on 10/20/20 and alleges Respondent failed to deliver title/registration as of 2/22/24. Complainant filed a claim with Respondent's surety bond, but the claim was denied. Respondent has failed to respond to this complaint and mail was returned undeliverable. An investigation was conducted which confirmed the dealership closed in April of 2023 following the death of the owner. The investigator went to the dealership's location and confirmed it was no longer in operation, however, there is a travel trailer next to the building with a sign with the dealership's name. There are also other dealership signs around the travel trailer. There were no vehicles marked for sale but there were quite a few vehicles around the property. The investigator was not able to make contact with the owner's son who is allegedly continuing to sell vehicles through the dealership. A complaint has been opened against the son and is presented below as a result of the possible

unlicensed activity. However, Counsel recommends closing and flagging this complaint and referring it to the Department of Revenue so they can assist the Complainant in obtaining a title to the vehicle.

Recommendation: Close and flag; refer to the Department of Revenue to assist Complainant with obtaining the title

Commission Decision: Concur.

**9. 2024013611 (ES)
2024013761
Date Complaint Opened: 02/23/2024
First Licensed: Unlicensed
Expiration: Unlicensed
History (5 yrs.): None.**

2024013611

This complaint was opened administratively on 3/5/24 after receiving information from the local county clerk alleging the son of the owner of the above-referenced dealership was still attempting to register vehicles after their father had passed away. Additionally, Respondent admitted to engaging in unlicensed activity by signing an Agreed Citation and paying a \$500 civil penalty on 2/22/24. This Agreed Citation was the result of a Notice of Violation issued to Respondent on 1/23/24. The dealership closed after the death of the owner, yet it appears the son is continuing to engage in unlicensed activity by using the dealership's license. An investigation was conducted which confirmed the dealership closed in April of 2023 following the death of the owner. The investigator went to the dealership's location and confirmed it was no longer in operation, however, there is a travel trailer next to the building with a sign with the dealership's name. There are also other dealership signs around the travel trailer. There were no vehicles marked for sale but there were quite a few vehicles around the property. The investigator was not able to make contact with the owner's son who is allegedly continuing to sell vehicles through the dealership. The investigator obtained information from the county clerk which established evidence that the Respondent has been actively dealing in vehicles after the dealership was closed.

2024013761

Complainant purchased a used vehicle from Respondent in October of 2023 and was not told of numerous issues the vehicle allegedly has. This purchase was made from Respondent after the dealership had closed and after their father had passed away. Complainant claims the dealership has worked with them but has fallen short considering the thousands of dollars in problems the vehicle had. Complainant also claims to have paid taxes on the vehicle and was not provide with all the sales paperwork. Complainant alleges the vehicle has had many issues and is in constant need of repair. Complainant was able to provide a copy of the title to the vehicle. Respondent has failed to respond to this complaint and mail was returned undeliverable. An investigation was conducted which confirmed the dealership closed in April of 2023 following the death of the owner. The investigator went

to the dealership's location and confirmed it was no longer in operation, however, there is a travel trailer next to the building with a sign with the dealership's name. There are also other dealership signs around the travel trailer. There were no vehicles marked for sale but there were quite a few vehicles around the property. The investigator was not able to make contact with Respondent.

This evidence shows Respondent has bought and/or sold at least seven vehicles in the name of the closed dealership since their father passed away and they have not applied for a new dealer license. Further, Respondent has continued to go to the local clerk's office attempting to register vehicles that they have sold. Counsel recommends issuing a \$500 civil penalty per vehicle, for a total \$3,500 civil penalty for unlicensed activity.

Recommendation: Authorize a \$3,500 civil penalty for unlicensed activity.

Commission Decision: Authorize a \$7,000 civil penalty for unlicensed activity and appear before the Commission at the next scheduled Board meeting. Respondent will have 7 days to agree to the Consent Order before a formal hearing will be set.

10.2023042631 (ES)

Date Complaint Opened: 09/01/2023

First Licensed: N/A (Unlicensed)

Expiration: N/A

License Type: Motor Vehicle Dealer

History (5 yrs.): None.

This complaint was administratively opened by the Director due to information provided by a county clerk after they noticed how many vehicles were being processed through Respondent. The clerk alleges numerous title transactions have been processed since January 2022. An investigation was conducted to determine if evidence could be obtained to prove Respondent is engaging in unlicensed activity. Respondent met with the investigator and admitted to selling vehicles but stated they did not know they needed a license. Respondent is from another country and is unfamiliar with the laws of Tennessee. Respondent states they were selling vehicles from their residence to friends and family to supplement their income from their full-time job working for TSU. Respondent states they had obtained vehicles to sell from auctions, specifically Copart and IAA. Respondent has not sold any vehicles since 10/26/23 when they were advised by the clerk that they needed a motor vehicle dealer license. Counsel recommends issuing a \$500 civil penalty for unlicensed activity considering Respondent's cooperation and agreement to cease selling vehicles prior to the investigation.

Recommendation: Authorize a \$500 civil penalty for unlicensed activity

Commission Decision: Concur.

RE-PRESENTATIONS

11.2024000681 (ES)
Date Complaint Opened: 01/03/2024
First Licensed: 01/13/2010
Expiration: 12/31/2025
License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant alleges Respondent registered their vehicle in the wrong county after a long delay in waiting for their registration and tag and poor communication regarding the delay. Complainant further alleges Respondent may be operating with an expired license. An investigation was conducted. Respondent admitted that the delay in registration was due to a clerical error and listing the wrong VIN on the paperwork. After remedying the error, the registration was provided and only two temporary tags were issued. Respondent explained the vehicle was registered in the county where their dealership is located, which they state is common practice of "buy here-pay here" dealerships. Respondent admitted to selling three vehicles after their license expired on 12/31/23 and prior to renewing their license. Counsel recommends issuing a \$500 civil penalty for each vehicle sold during the time the dealership was operating with an expired license, for a total \$1,500 civil penalty.

Recommendation: Authorize a \$1,500 civil penalty for unlicensed activity

Commission Decision: Concur.

New Information: Respondent contacted Counsel regarding the fact their license was expired between 12/31/23 and 2/4/24 because they were not aware their license was not renewed until it was brought to their attention after the investigation was completed. When the investigator came to their dealership, their license had been active for some time. Counsel spoke with the licensing division regarding Respondent's license and was informed that Respondent had provided all required documentation for renewal and paid the renewal fee by 12/29/23. The only issue that held up the renewal of the dealer license was the fact that the surety bond was listed effective from 12/31/23-12/31/24 instead of for a two-year increment as required. The surety bond was re-submitted on 2/4/24 when the license was officially renewed in our system. The Director and Counsel agreed that Respondent should not be assessed a civil penalty for this error. Counsel recommends issuing a Letter of Instruction explaining the surety bond requirements as it relates to two-year increments instead of a one-year increment.

New Recommendation: Letter of Instruction

New Commission Decision: Concur.

12.2023025471 (ES)
Date Complaint Opened: 05/25/2023
First Licensed: 03/24/2011
Expiration: 03/31/2025

License Type: Motor Vehicle Dealer
History (5 yrs.): None.

Complainant is a resident of North Carolina who purchased a vehicle from Respondent on 8/20/22. Complainant alleges the title has never been cleared or provided. Complainant alleges they have received temporary tags consistently since the purchase and Respondent has ignored all communications. Respondent failed to respond, and an investigation was conducted. The investigation revealed two temporary tags were issued to the vehicle. The Complainant stated they were informed by Respondent that they could not get the title from the previous owner and began the refund process. Respondent has refunded Complainant \$19,500 but still owes them \$31,500. The investigation also revealed Respondent had been operating without a surety bond for nearly nine months between 5/30/22 and 3/31/23. Respondent denied knowing the surety bond had been cancelled but the investigation revealed Respondent had failed to pay the premiums. Respondent states they will refund the remainder of the money owed to Complainant but states they don't have it at this time. Counsel recommends issuing a \$500 civil penalty per month that Respondent was operating with an expired surety bond, for a total \$4,500 civil penalty.

Recommendation: Authorize a \$4,500 civil penalty for operating with an expired surety bond for nine months

Commission Decision: Concur.

New Information: Counsel has been notified that Respondent's surety bond was never expired and the misinformation provided to Counsel was due to an internal error. However, Counsel recommends issuing a civil penalty because the Respondent initially failed to respond to the complaint prior to the investigation. Respondent eventually cooperated with the investigation and provided all requested information and documentation once they were contacted by the investigator. Respondent continues to make payments to the Complainant to make them whole. Respondent has paid an additional \$9,000 to Complainant since this matter was last presented to the Commission. Complainant still has the vehicle and is still owed \$22,500.

Respondent has also provided more information to Counsel about what transpired and led to the complaint being filed. The vehicle that was sold to Complainant had been a trade-in vehicle to Respondent and had a lien on it through a third-party. Respondent states that they never pay off any third-party loans by a singular method, but instead they use different methods of payment just in case something doesn't go as planned. Therefore, Respondent paid the loan off for the trade-in vehicle to Navy Federal Credit Union (NFCU) with two different payment methods. Respondent states they wired \$20,000 to the loan account and paid \$19,500 with a cashier's check. After months of waiting for the title, Respondent reached out to NFCU and was informed that NFCU saw evidence of the \$20,000 wire, but it was never applied towards the loan. Respondent states the \$20,000 had been withdrawn from their account. Further, Respondent was informed that NFCU had no record of the cashier's check ever being satisfied with them. Respondent asked their bank, Bank of America (BOA) to investigate this matter. BOA found out the cashier's check was satisfied to a different

account that was not affiliated to NFCU. After months of back and forth with BOA, they were able to reverse the \$19,500 amount. Respondent states the initial \$20,000 wire is “gone” and this is what led to the situation Respondent and Complainant are in now. Respondent states the previous owners of the vehicle are also still making payments on the vehicle. Respondent claims NFCU will not give them any information to allow Respondent to contact the previous owners of the vehicle at issue. Respondent feels they have done everything they can to obtain the title, but nothing has worked.

Counsel recommends issuing a \$500 civil penalty for failing to respond to this complaint after it was mailed to Respondent via certified mail and delivered on 6/29/23.

New Recommendation: Authorize a \$500 civil penalty for failure to respond.

New Commission Decision: Void previous consent order that was issued to Respondent and require Respondent to appear before the Commission at the next regularly scheduled Board meeting.

Chairman Roberts called for a roll call vote to approve the Legal Report, as amended. Commissioner Leavy made a motion to approve the Legal Report, seconded by Commissioner Vaughan.

ROLL CALL VOTE

Ian Leavy	YES
Charles West	YES
Debbie Melton	YES
Sandra Elam	YES
Eleni Speaker	YES
Tim Copenhaver	YES
Jim Galvin	YES
Stan Norton	YES
Farrar Vaughan	YES
Nate Jackson	YES
Karl Kramer	YES
Hubert Owens	YES
John Barker	YES
Victor Evans	YES
John Roberts	YES

MOTION CARRIED

LEGISLATIVE UPDATE – General Counsel, Erica Smith

Nothing to Report

RULES COMMITTEE

Nothing to Report

AUDIT COMMITTEE

Nothing to Report

NEW BUSINESS

Nothing to Report

OLD BUSINESS

Nothing to Report

Adjourn

Chairman Roberts called for a motion to adjourn the meeting. Commissioner Vaughan made a motion to adjourn, seconded by Commissioner Norton. Chairman Roberts called for a voice vote.

MOTION PASSED

MEETING ADJOURNED