

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

H# 12-001

RANDAL TYLER FORD

AMENDED NOTICE OF HEARING

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that it should hold a hearing on whether Randal Tyler Ford (hereinafter "Tyler Ford") utilized false and misleading advertising. This is in direct violation of the Arkansas Motor Vehicle Commission Act, Ark Code Ann. §23-112-101, *et seq.*, and the Rules promulgated by the Commission pursuant to Ark. Code Ann. §23-112-204. If the Commission determines that a firm or individual has violated the Commission Act or Rules, the Commission may revoke or suspend the license, or impose a civil penalty in lieu of revocation or suspension.

FACTUAL BACKGROUND

- F1. Tyler Ford is a licensed new motor vehicle dealer in Booneville, Arkansas.
- F2. On October 27, 2011, Investigator Danny Holmes visited Tyler Ford to verify offers listed in a special sales flyer for "Off –Lease, Auction, & Used Vehicle Mega Sale."
- F3. Upon arrival, Mr. Holmes was approached by a salesman named Randall Bradford. Mr. Holmes requested to view the 2005 Ford Freestyle, Stock # P8513A, listed in the flyer at the a sales price of "\$6495 after discount." The vehicle was a used vehicle, not a demonstrator model.
- F4. Mr. Holmes attempted to use the "Customer Cash Voucher" from the flyer in the amount of \$1,864.00. The Customer Cash Voucher states in bold print "*Valid*

towards the purchase of any used vehicle during this event!” The voucher included the disclosure “Not in conjunction with any other offer or previous pricing.”

- F5. Mr. Bradford informed Mr. Holmes that the voucher could not be applied toward the Ford Freestyle listed in the flyer because the discount had already been deducted from the normal selling price.
- F6. On December 27, 2011, the Commission issued a Notice of Violation, AP# 11-004, in which the Ad Hoc Committee recommended a fine of five thousand dollars (\$5,000.00). On December 29, 2011, Tyler Ford contested the allegations set forth in the Notice of Violation.

APPLICABLE LAW

- L1. Motor vehicle dealers are required to conform their conduct to the Motor Vehicle Commission Act, Ark. Code Act § 23-112-101, *et seq.* and the Rules promulgated by the Commission pursuant to Ark. Code Act § 23-112-204.
- L2. Violations of Commission Rules are considered to be a *prima facie* violation of Ark. Code Ann. § 23-112-402(3) which states it is unlawful for a motor vehicle dealer or salesperson to use any false or misleading advertisement.
- L3. Failure to comply with any provision of the AMVC Act or any Rule promulgated by the Commission may lead to revocation or suspension of the license as per Ark. Code Ann. § 23-112-308(a)(4). The Commission may issue a monetary penalty in lieu of revocation or suspension as per Ark. Code Ann. § 23-112-309.
- L4. False or misleading advertising is prohibited by Rule 3 Advertising, Section 2 and the following are in violation of this Rule:

- a. Specific claims or discount offers shall only be used in connection with a new or demonstrator vehicle, Rule 3 Advertising, Section 2(A)(6);
- b. Direct statements or reasonable inferences that have the tendency to mislead consumers, Rule 3 Advertising, Section 2(B)(2)(a);
- c. When an advertisements overall impression has the tendency to mislead consumers, Rule 3 Advertising, Section 2(B)(2)(b); and,
- d. The refusal to sell an advertised vehicle in accordance with the terms offered, Rule 3 Advertising, Section 2(B)(3)(a).

CHARGES

- C1. Tyler Ford violated Commission statutes and the Advertising Rule when they utilized false and misleading advertising.
- C2. Tyler Ford violated Commission statutes and the Advertising Rule when they offered discounts in connection with used vehicles.

TIME AND PLACE OF HEARING

The Commission will conduct a hearing to determine whether Randal Tyler Ford violated the Commission statutes and rules as alleged above. The hearing will be conducted on Wednesday, March 21st, 2012, at 9:30 a.m. in the office of the Arkansas Motor Vehicle Commission, 101 East Capitol, Suite 204, Little Rock, Arkansas.

The hearing will be conducted pursuant to the provisions of the Administrative Procedures Ark. Code Ann. §25-15-201 et seq., and Rule 2 of the Arkansas Motor Vehicle Commission.

Respondents may be heard in person, may be represented by counsel, may cross-examine witnesses appearing against them and may offer witnesses, documents, and evidence in support of the response to the allegations.

ARKANSAS MOTOR VEHICLE COMMISSION

By: _____
Greg Kirkpatrick, Executive Director

Date: _____

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

H# 12-001

RANDAL TYLER FORD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on March 14, 2012, to determine whether Randal Tyler Ford (hereinafter “Tyler Ford”) violated the Arkansas Motor Vehicle Commission Act, Ark Code Ann. §23-112-101, *et seq.*, and the Rules promulgated by the Commission pursuant to Ark Code Ann. §23-112-204. The charges before the Commission concerned whether Tyler Ford utilized false and misleading advertising, and offered discounts in connection with used motor vehicles.

The Respondent, Tyler Ford, was represented by Brian Patterson.

After hearing testimony from Executive Director Greg Kirkpatrick, Investigator Danny Holmes, Respondent Brian Patterson, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order:

FACTUAL BACKGROUND

- F1. Tyler Ford is a licensed new motor vehicle dealer in Booneville, Arkansas.
- F2. On October 27, 2011, Investigator Danny Holmes visited Tyler Ford to verify offers listed in a special sales flyer for “Off –Lease, Auction, & Used Vehicle Mega Sale.”
- F3. Upon arrival, Mr. Holmes was approached by a salesman named Randall Bradford. Mr. Holmes requested to view the 2005 Ford Freestyle, Stock #

P8513A, listed in the flyer at the a sales price of “\$6495 after discount.” The vehicle was a used vehicle, not a demonstrator model.

- F4. Mr. Holmes attempted to use the “Customer Cash Voucher” from the flyer in the amount of \$1,864.00. The Customer Cash Voucher states in bold print “*Valid towards the purchase of any used vehicle during this event!*” The voucher included the disclosure “Not in conjunction with any other offer or previous pricing.”
- F5. Mr. Bradford informed Mr. Holmes that the voucher could not be applied toward the Ford Freestyle listed in the flyer because the discount had already been deducted from the normal selling price.
- F6. On December 27, 2011, the Commission issued a Notice of Violation, AP# 11-004, in which the Ad Hoc Committee recommended a fine of five thousand dollars (\$5,000.00). On December 29, 2011, Tyler Ford contested the allegations set forth in the Notice of Violation.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission makes the following

Conclusions of Law:

- C1. Tyler Ford violated Commission statutes and Rule 3 on Advertising when they utilized false and misleading advertising.
- C2. Tyler Ford violated Commission statutes and Rule 3 on when they offered discounts in connection with used vehicles.

ORDER

The Commission finds the violations of Commission statutes and Rule 3 on Advertising by Tyler Ford warrants a suspension of Tyler Ford's license for failure to comply with provisions of the Commission Act or any Rule promulgated by the Commission as per Ark. Code Ann. § 23-112-308(a)(4). The Commission finds that in lieu of a suspension of Tyler Ford's license, a monetary penalty is issued in the amount of five thousand dollars (\$5,000.00) in accordance with Ark. Code Ann. § 23-112-309.

This penalty is to be paid within thirty (30) days of receipt of this Order.

This is a final Order of the Commission and as such is subject to judicial review pursuant to Ark. Code Ann. § 25-15-212.

ARKANSAS MOTOR VEHICLE COMMISSION

By _____
Sandy Stroope, Chairman

Date: _____