

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

AP# 17-002

SUPERIOR NISSAN

NOTICE OF VIOLATION

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Superior Nissan (hereinafter "Superior Nissan"), a licensed dealer, violated the deceptive and fraudulent practices statute for not disclosing damage of vehicle prior to sale. This is in direct violation of the Arkansas Motor Vehicle Commission Act, Ark Code Ann. §23-112-101, et seq., 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 monetary penalty in lieu of revocation or suspension.

FACTUAL BACKGROUND

The Commission finds the following facts as true:

- F1. Superior Nissan is located at 3372 North College Avenue, Fayetteville, AR.
- F2. On July 2, 2016, Tonya Bryant purchased a 2007 Ford Expedition/Eddie Baur.
- F3. According to the notarized complaint filed on September 30, 2016, immediately after, the same day that Ms. Bryant and her husband brought the vehicle home, the handle to close the hatch broke and split in two pieces. Apparently, it had been broken prior to purchase and glued back together.
- F4. Approximately, two days after that, the shroud fan fell out and had to be bolted back up.

- F5. Ms. Bryant also inquired about the “branded title” that was listed on a car fax that was given to them at the time of purchase. In turn, she was told that an oil change was recorded incorrectly so that was only a mileage discrepancy and that was the reason for the branded title.
- F6. Per correspondence from Arkansas DMV/DFA states that there are three brands in the State of Arkansas; Salvage, Rebuilt, or Parts Only.

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. 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.
- 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 not to exceed ten thousand dollars (\$10,000.00) as per Ark. Code Ann. § 23-112-309.

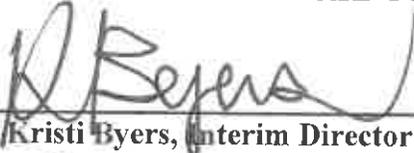
CONCLUSIONS OF LAW

- C1. Superior Nissan violated Commission statutes when they did not disclose to Ms. Bryant the prior damage of the vehicle that she was purchasing.

AS A RESULT OF THESE VIOLATIONS, you are hereby directed to pay a civil penalty in the amount of one thousand dollars (\$1,000.00). This amount should be sent to the Commission within seven (7) days of receipt of this Notice of Violation.

IF YOU DESIRE TO CONTEST the alleged violation or the penalty imposed, please so indicate on the attached form and return to the Commission Office within seven (7) days and this matter will be set for an evidentiary hearing before the Commission.

ARKANSAS MOTOR VEHICLE COMMISSION

By: 
Kristi Byers, Interim Director

Date: August 31, 2017