

**BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION**

**IN THE MATTER OF:**

**AP# 14-003**

**LAURA FOWLER**

**vs.**

**CRAIN HYUNDAI OF BENTONVILLE**

**NOTICE OF VIOLATION**

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Crain Hyundai of Bentonville (hereinafter "Crain"), a licensed dealer, violated the disclosure of damage prior to sale statute. This action 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 if the public interest would not be impaired thereby and the payment of the penalty will achieve the desired disciplinary results.

**FACTUAL BACKGROUND**

The Commission finds the following facts as true:

- F1. Crain is located at 3000 SE Moberly Lane, Bentonville, AR 72712.
- F2. On November 29, 2013, Mrs. Laura A. Fowler visited Crain, purchased a new 2013 Hyundai Santa Fe Sport AWD for the cash price of \$28,999.00, and traded-in her 2012 Hyundai Tucson.
- F3. The new Hyundai Santa Fe was damaged prior to the sale to Ms. Fowler in the amount estimated at \$10,000 to \$15,000.

F4. This damage prior to sale by Crain was not disclosed.

**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 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. In accordance with Ark. Code Ann. § 23-112-706 (a), whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor but before sale by the dealer to the consumer, and the occurrence and extent of such damage is in excess of six percent (6%) of the sticker price of the vehicle, it must be disclosed by the dealer to the consumer prior to the sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards, and (b) upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

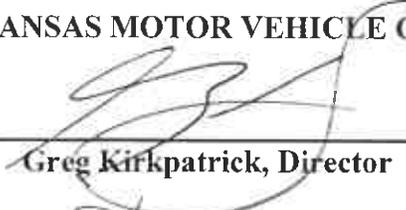
**CHARGES**

C1. Crain violated Ark. Code Ann. § 23-112-706 when it failed to notify Mrs. Fowler of the damages prior to sale.

AS A RESULT OF THESE VIOLATIONS, you are hereby directed to pay a civil penalty in the amount of one thousand dollars (\$2,500.00). 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:   
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Greg Kirkpatrick, Director

Date: 9/12/2014