

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

AP# 13-005

FLEA MARKET LUMBER / RONNIE DAVIS

NOTICE OF VIOLATION

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Flea Market Lumber and Ronnie Davis (hereinafter "Flea Market Lumber"), was selling new motor vehicles without obtaining proper licensure 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 violated the Commission Act or Rules, the Commission may impose a civil penalty.

FACTUAL BACKGROUND

- F1. Flea Market Lumber at 1121 Highway 71 East in DeQueen, Arkansas, is not licensed by the Commission as a new motor vehicle dealer.
- F2. On April 23, 2013, Investigator Danny Holmes observed two (2) new motor scooters on display and offered for sale at Flea Market Lumber. The two (2) scooters are the type of motor vehicle requiring licensure by the Commission to sell.
- F3. A salesperson identified as Javier G. confirmed to Investigator Holmes the vehicles were in fact new. Mr. Holmes then spoke to the business owner, Ronnie Davis, by telephone to advise him that a license is required to sell new motor vehicles.

- F4. Investigator Holmes confirmed that Ronnie Davis Flea Market and Yard, then at 1197 Highway 71 East in DeQueen, Arkansas, was sent a letter of warning by Director Greg Kirkpatrick for selling new motor vehicles without a license on June 20, 2007, as a result of a previous investigation, #08-512, by Investigator Holmes and Investigator Otis Hogan.
- F5. On May 15, 2013, the Commission's Ad Hoc Committee determined that a summary alternate proceeding should be invoked to review the investigation against Flea Market Lumber. This summary alternate proceeding resulted in the Ad Hoc Committee recommending a fine in the amount of two hundred fifty dollars (\$250.00) for each vehicle offered for sale for a total fine of five hundred dollars (\$500.00). The Commission accepted the Ad Hoc Committee's recommendation for a fine of five hundred dollars (\$500.00) unanimously by voice vote following a proper motion and second.

APPLICABLE LAW

- L1. Ark. Code Ann. § 23-112-301(a)(2) states it shall be unlawful for any person to engage in business, as or serve in the capacity of, or act as a new motor vehicle dealer, motor vehicle salesperson, or a distributor without first obtaining a license.
- L2. Ark. Code Ann. § 23-112-301(d)(1) states no person may engage in the business of buying, selling, or exchanging motor vehicles unless they hold a valid license issued by the Commission.
- L3. Ark. Code Ann. § 23-112-314 provides that the Commission may impose a monetary penalty not to exceed one thousand dollars (\$1,000.00) per violation for any person not holding a license that is found guilty of violating Commission

statute, that each day of violation of this chapter shall constitute a separate violation subjecting the person to a separate civil penalty, and that repeated violations shall result in an increase in the penalty assessed by the Commission.

L4. Rule 2, Hearing Provisions.

CONCLUSION OF LAW

C1. Flea Market Lumber violated Commission statutes when it displayed and offered for sale two (2) vehicles as an unlicensed dealer. This conclusion is based on L1, L2, and L3.

AS A RESULT OF THIS CONCLUSION OF LAW, you are hereby directed to pay a civil penalty in the amount of five hundred dollars (\$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: _____
Greg Kirkpatrick, Executive Director

Date: _____

Case: AP #13-005
FLEA MARKET LUMBER / RONNIE DAVIS

ACKNOWLEDGEMENT

I, _____, owner or a representative of Flea Market Lumber, acknowledges that I have received and read the foregoing Notice of Violation.

I admit that I violated the Arkansas Motor Vehicle Act and/or Rules as alleged in the attached Notice of Violation, and agree to pay a civil penalty in the amount of five hundred dollars (\$500.00). My remittance in that amount is enclosed

I desire to contest the allegations set forth in the attached Notice of Violation and the proposed civil penalty.

Signature

Date