

**BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION**

**IN THE MATTER OF:**

**H# 10-006**

**RANDAL TYLER FORD**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on September 15, 2010, 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 failed to have advertised vehicles available, utilized false and misleading advertising, and utilized bait and switch advertising.

The Respondent, Tyler Ford, was represented by Bryan Kirk.

After hearing testimony from Investigator Otis Hogan, Bryan Kirk, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order:

**FINDINGS OF FACT**

F1. On March 9, 2010, Investigator Hogan traveled to Tyler Ford to verify a flyer advertisement of the “HUGE AUTO CRISIS” sales event between March 3, 2010, and March 6, 2010. Featured vehicles were depicted as follows: 2001 Saturn SL2 for \$1,720.00; 2008 Chrysler PT Cruiser for \$9,250.00; 2004 Jeep Grand Cherokee for \$6,495.00; and a 1999 Ford Expedition for \$8,058.00.

- F2. Investigator Hogan was approached by a sales person who identified himself as Corey. Investigator Hogan informed Corey that he was seeking to purchase the silver 1999 Ford Expedition that was advertised in the flyer brochure.
- F3. Corey informed Investigator Hogan that the vehicle had already sold. Investigator Hogan then inquired about the 2004 Jeep Grand Cherokee and was again told the vehicle had sold. Corey went on to say that all of the advertised vehicles had been sold, one selling before the sales event.
- F4. Corey then attempted to move Investigator Hogan to a 2006 Ford Expedition. Corey stated that the 2006 Ford Expedition actually looked like the model in the flyer. Corey clarified the remark by pointing out that the 1999 Ford Expedition being sold by Tyler Ford on the flyer was represented by a picture of the 2006 Ford Expedition. Corey informed Investigator Hogan that about ten thousand dollars (\$10,000.00) separated the price of the 2006 Ford Expedition from the advertised price of the 1999 Ford Expedition referenced in the flyer.
- F5. Investigator Hogan identified himself as an AMVC Investigator and asked to speak with the manager.
- F6. Investigator Hogan was escorted to Mr. Bryan Kirk's office. Mr. Kirk admitted the 1999 Ford Expedition was represented in advertisement by a photo of a 2006 Ford Expedition.
- F7. Additionally Investigator Hogan learned the 2001 Saturn SL2 depicted in the flyer was sold at auction two (2) days before the start of the "HUGE AUTO CRISIS" sales event, and the 2004 Jeep Grand Cherokee was sold ten (10) days prior to the start of the sales event.

- F8. Tyler Ford was issued a notice of violation on July 31, 2009, as a result of utilizing false and misleading advertisements in flyer mailings and fined two thousand five hundred dollars (\$2,500.00) which was paid on September 11, 2009.
- F9. On March 29, 2010, the Commission issued a Notice of Violation, AP# 10-003, in which the Ad Hoc Committee recommended a fine of five thousand dollars (\$5,000.00). On April 3, 2010, 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 failed to have the specific vehicles or equivalent vehicles in possession at the time the advertisement was placed.
- C2. Tyler Ford violated Commission statutes and Rule 3 on Advertising when they utilized false and misleading advertising.
- C3. Tyler Ford violated Commission statutes and Rule 3 on Advertising when they utilized bait and switch advertising.

### **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 two thousand five hundred dollars (\$2,500.00) 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** \_\_\_\_\_  
**Joe Morgan, Chairman**

**Date:** \_\_\_\_\_