

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

H#06-017

CRAIN FORD LINCOLN MERCURY

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on December 6, 2006, to determine whether Crain Ford, Lincoln, Mercury (hereinafter “Crain”) violated the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101, et seq. and the Advertising Rules promulgated by the Commission pursuant to Ark. Code Ann. § 23-112-204. The charges before the Commission concern whether an advertisement which appeared in the Arkansas Democrat Gazette on September 1, 2006, violated Commission statutes and the Advertising Rule 3 when Crain advertised a separate MSRP and List Price in the above referenced advertisement, and when Crain failed to place the disclosure which materially modified the terms in the above referenced advertisement adjacent to each advertised vehicle.

The Respondent, Crain, was represented by Larry Crain, General Manager for Crain, and Drew Dees, Advertising Manager for the Crain Automotive Team.

After hearing testimony from Greg Kirkpatrick, Larry Crain, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

F1. Crain advertised in the Arkansas Democrat Gazette on Friday, September 1, 2006, utilizing an MSRP or the “Manufacturer Suggested Retail Price” and a separate price called the “List Price.”

F2. Crain advertised in the Arkansas Democrat Gazette on Friday, September 1, 2006, utilizing a disclosure which stated the following: “Deals negotiated which are different than advertised price are binding on customer without regard to the offers in this ad. Examples of deals that may be negotiated differently include customer’s negative equity in trade added to sales price, customers who do not meet rebate qualifications as defined by manufacturer and customers who elect to receive terms different than offered in this ad. Photos, pictures and drawings are for illustration purposes only and may not reflect the actual sale vehicles, model, trim level or equipment.”

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission makes the following Conclusions of Law:

- C1. Crain violated Commission statutes and the Advertising Rule 3 Advertising, Section 1, Paragraph U and Rule 3, Section 6, Paragraph D when it advertised a separate MSRP and List Price in the above referenced advertisement.
- C2. Crain violated Commission statutes and the Commission Rule 3 Advertising, Section 2, Paragraph A(1)(a) and Rule 3, Section 2, Paragraph A(1)(c) when it failed to place the disclosure which materially modified the terms in the above referenced advertisement adjacent to each advertised vehicle.

ORDER

The Commission finds that the violation of the advertising rule warrants a civil penalty of \$500 per charge for a total of \$1,000.00 which 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 _____
F. S. Stroope, Chairman

Date: _____