

MINUTES OF THE ARKANSAS MOTOR VEHICLE COMMISSION

Business Meeting
101 East Capitol Avenue, Suite 204
Little Rock, Arkansas

April 16, 2014

The regularly scheduled meeting of the Arkansas Motor Vehicle Commission was called to order at 9:30 a.m. by Chairman Sandy Stroope. Staff present included Executive Director Greg Kirkpatrick, License Supervisor Vicki Wright, Licensing Coordinator Jennifer Simpson, and Administrative Specialist Crystal Campbell. All Commissioners were present during the meeting. Also in attendance were Mark Ohrenberger with the Attorney General's Office; Steven McKelvey with Nelson Mullins, Joe Falasco with Quattlebaum, Grooms, Tull & Burrow PLLC, Cristian Torres with Volkswagen of America representing the Respondent; Kenneth Shemin with Shemin Law Firm and Bryan Hunt with Volkswagen Northwest Arkansas; Michael Mitchel with Mitchell Blackstock representing Randal Tyler Ford; Pat Watson representing TrueCar; Dennis Jungmeyer with the Arkansas Automobile Dealers Association; Court Reporter Susan Whitson; and Hearing Officer Cathleen Compton. All Commissioners were present during the meeting.

The minutes from the February 19, 2014, meeting were reviewed and approved unanimously as written following a proper motion and second.

The Commission unanimously approved the expenditures for the April 16, 2014, meeting following a proper motion and second.

The fiscal reports for February 2014 and March 2014 were reviewed and approved unanimously following a proper motion and second.

Chairman Stroope opened the floor for a motion regarding officer elections. Following a proper motion and second, the Commission approved re-electing the current slate of officers unanimously: Sandy Stroope - Chairman, Bobby Ferguson - Vice Chairman, and Joy Blankenship - Secretary.

Director Kirkpatrick reviewed the license activity report, summary of revenue, investigation summary, the consumer assistance report, and introduced Pat Watson with TrueCar.

There were no ad hoc meeting recommendations that required approval. There was not a legal brief report presented.

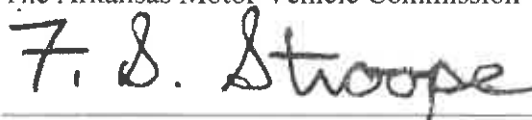
The Commission moved on the agenda to H#13-004, Volkswagen Northwest Arkansas (“VWNWA”) vs. Volkswagen of America, Inc. (“Volkswagen”), for the purpose of approving the Findings of Fact, Conclusion of Law, and Order. Following a proper motion and second, the Commission found that in accordance with Ark. Code Ann. § 23-112-403(a)(5), it shall be unlawful for a distributor to unreasonably reduce a dealer’s area of sales effectiveness, trade area or similar designation without giving notice of at least thirty (30) days of the proposed reduction. The change of the dealer’s area of sales effectiveness, trade area or similar designation shall not take effect if the dealer commences an administrative action to determine whether good cause exists for a change within the thirty (30) day notice period. The burden of proof in this action shall be on the distributor to prove that good cause exists to change the dealer’s area of sales effectiveness, trade area or similar designation. Volkswagen’s proposed reduction of VWNWA’s Primary Area of Influence (“PAI”) constitutes a reduction in VWNWA’s “area of sales effectiveness, trade area or similar designation” and Volkswagen failed to “prove that good cause exists to change” VWNWA’s PAI. The Commission ordered that Volkswagen failed to meet its burden of proof to prove that good cause exists to change VWNWA’s area of sales effectiveness, trade area or similar designation.

The Commission moved on the agenda to H#14-009, AMVC vs. Randal Tyler Ford (“Tyler Ford”). Following testimony the Commission found Respondent Tyler Ford violated Commission statutes and rules when they advertised a sale price utilizing limited rebates in accordance with Ark Code Ann. § 23-112-308 and Rule 3 on Advertising. The violations of Commission statutes and rules by Tyler Ford warrant a suspension of Respondent’s license for failure to comply with provisions of the Commission Act and Rules promulgated by the Commission as per Ark. Code

Ann. § 23-112-308(a)(4). In lieu of a suspension of Tyler Ford's license the public interest would not be impaired and the payment of a penalty will achieve the desired disciplinary result by issuing a monetary penalty against Tyler Ford in accordance with Ark. Code Ann. § 23-112-309 in the amount of five thousand dollars (\$5,000.00). The Commission further finds that three thousand dollars (\$3,000.00) of this penalty be paid within 30-days of the service of this final order, and the remaining two thousand dollars (\$2,000.00) is suspended and not required to be paid at this time. Additionally, Tyler Ford is to be placed on probation for a period of two years. If another violation occurs within that two-year period that is found by the Commission, then the two thousand dollars (\$2,000.00) suspended penalty shall be activated and become due in addition to any other penalty that might be afforded in that subsequent proceeding. If, however, at the end of the two-year probationary period there has been no further violation, then the two thousand dollars (\$2,000.00) is waived.

Chairman Stroope accepted a proper motion and second to adjourn the meeting.

These minutes are subject to approval by
The Arkansas Motor Vehicle Commission

Handwritten signature of Sandy Stroope in black ink.

Sandy Stroope, Chairman
Bobby Ferguson, Vice Chairman
Joy Blankenship, Secretary

