

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

AP# 16-004

DEREK LIBBY

NOTICE OF VIOLATION

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Derek Libby violated the motor vehicle commission statute when he acted as an unlicensed salesperson. 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 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. In a February 9, 2016, email exchange, Kristi Byers with the Commission reviewed an advertising event mailer sent by Derek Libby for an upcoming Government Surplus Vehicle Disposal at Teeter Chevrolet (hereinafter "Teeter"). Teeter is a licensed new motor vehicle dealer located at 1512 W. Moline, Malvern, AR.
- F2. Ms. Byers advised Mr. Libby that the Commission wanted to review an inventory list of government surplus vehicles available for sale by Teeter. Mr. Libby committed to provide this information prior to the event.

- F3. Teeter hosted the Government Surplus Vehicle Disposal Event from February 23, 2016, through February 29, 2016. Neither Teeter nor Derek Libby provided an inventory list prior to the event.
- F4. On February 26, 2016, Kristi Byers contacted Derek Libby requesting a vehicle list. On February 27, 2016, Mr. Libby sent Ms. Byers a list of two (2) vehicles that qualified as government surplus vehicles.
- F5. Commission investigator Gordon McCoy traveled to Teeter on February 29, 2016, and spoke to Derek Libby who was onsite organizing the sales event. Mr. McCoy discovered Teeter acquired three (3) vehicles that qualified as government vehicles.
- F6. On March 10, 2016, Investigator Gordon McCoy traveled to Phil Wright Autoplex (hereinafter "Phil Wright") following up on a complaint regarding a Government Surplus Vehicle Disposal event, and to obtain an inventory list. Phil Wright is a licensed new motor vehicle dealer located at 3300 E. Main St., Russellville, AR.
- F7. Mr. McCoy met with Derek Libby who was onsite and hired by Phil Wright to organize the Government Surplus Vehicle Disposal Event which was scheduled to occur from March 8, 2016, through March 14, 2016. Mr. McCoy observed Mr. Libby acting as a salesperson at the Phil Wright dealership. Additionally, Mr. McCoy discovered six (6) vehicles were available for sale during this event that qualified as government vehicles.

- F8. The Commission was not aware of this event prior to the start date, and no inventory list was provided by Phil Wright or Mr. Libby prior to the start date of this event.
- F9. The Commission's ad hoc committee met on April 20, 2016, and made a recommendation which was approved during the April 20, 2016, Commission meeting to issue a Notice of Violation to Derek Libby.

APPLICABLE LAW

- L1. Motor vehicle salespeople are required to conform their conduct to the 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.
- L2. No person may engage in the business of buying, selling, or exchanging motor vehicles, unless he or she holds a valid license issued by the Commission as per Ark. Code Ann. § 23-112-301.
- L3. If after an alternative proceeding the Commission finds that any person not holding a license is guilty of any violation, the Commission shall have the authority to impose a penalty not to exceed one thousand dollars (\$1,000.00) according to Ark. Code Ann. § 23-112-314.

CHARGE

- C1. Derek Libby violated the Motor Vehicle Commission Act when he failed to obtain licensure as a salesperson. This charge is based on the facts above and the provisions of law set out in paragraphs L1, L2, and L3.

AS A RESULT OF THESE VIOLATIONS, you are hereby directed to pay a civil penalty in the amount of one thousand dollars (\$1,000.00). The Commission finds that failure to obtain licensure as a salesperson is a violation of the Commission statutes and subject to penalty in accordance with Ark. Code Ann. § 23-112-314.

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, Director

Date: _____

6/2/2014