

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

H# 12-005

RANDAL TYLER FORD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter “Commission”) held a hearing on November 14, 2012, to determine whether Randal Tyler Ford, Inc’s. (hereinafter “Tyler Ford”) license to sell new motor vehicles should be suspended or revoked, or whether a monetary penalty should be imposed in accordance with the provisions of the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101 et seq., and Commission Rule 2 regarding hearings and appeals. The charges before the Commission concerned whether Tyler Ford employed unlicensed personnel, utilized franchised logos and/or trademarks in conjunction with used motor vehicles, and sold new motor vehicles from an unlicensed location.

Randal Tyler appeared as Respondent’s representative. Mike Mitchell represented the Respondent as legal counsel.

Having heard testimony from Director Greg Kirkpatrick, Investigator Danny Holmes, Randal Tyler, and having reviewed the exhibits admitted into evidence by the Commission and the Respondent, the Commission makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

F1. On August 16, 2012, Commission Investigator Danny Holmes traveled to Tyler Auto in Greenwood, Arkansas, in response to a complaint that Tyler Ford was selling new motor vehicles from this used vehicle lot.

- F2. Tyler Ford is a licensed new motor vehicle dealer in Booneville, Arkansas, for Ford Motor Company. Tyler Auto, located in Greenwood, Arkansas, is a used motor vehicle dealer licensed by the State Police. According to the Arkansas Secretary of State corporate filing, Tyler Auto is a listed fictitious name of the corporation name Tyler Ford. Tyler Ford and Tyler Auto are approximately twenty-one (21) miles apart.
- F3. Investigator Holmes inspected the Tyler Auto lot and did not see a new motor vehicle on display and offered for sale. All vehicles on the lot had a bright yellow license plate on the front stating Tyler Auto. All vehicles on the lot also displayed a smaller decal on the rear that stated Tyler Ford, Booneville, Arkansas, and utilized the Ford Motor Company logo.
- F4. Investigator Holmes spoke with the Sales Manager, Brian Patterson, who showed Mr. Holmes Tyler Auto's current used motor vehicle dealer license. Mr. Patterson also informed Mr. Holmes that he was the Sales Manager for both Tyler Auto and Tyler Ford, and that each dealership operated separately with unique account numbers for vehicle financing and individualized sales forms and documents. Mr. Patterson was not able to confirm whether the vehicles on the Tyler Auto lot were transferred out of Tyler Ford's inventory into a separate Tyler Auto inventory list.
- F5. Mr. Patterson and a salesperson named Karah Patterson provided Mr. Holmes with business cards. One side of the card listed each individual as an employee of Tyler Ford in Booneville utilizing the Ford Motor Company logo. The other side

of the card listed each individual as an employee of Tyler Auto in Greenwood. Mrs. Patterson is not a licensed salesperson for Tyler Ford.

- F6. In early September 2012, a representative with Ford Motor Company contacted the Commission regarding Tyler Auto's operations as they related to Tyler Ford. As a result of these discussions, the Commission reviewed a flyer for Tyler Auto advertising a "4 Day Only Event!" from Wednesday, August 8, 2012, to Saturday, August 11, 2012.
- F7. The Tyler Auto flyer reflected new Ford vehicles offered for sale utilizing Ford Motor Company incentives. The flyer prominently advertised "0% APR" with the disclosure stating "(8) with approved credit, 0% APR on select new vehicles", and the flyer prominently advertised "NO PAYMENTS FOR 90 DAYS" with the disclosure stating "(9) with approved credit. No payments for 90 days on select new vehicles."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission makes the following

Conclusions of Law:

- C1. Respondent violated Commission statutes and rules when it conducted an unapproved Off-Premise Sale in accordance with Ark Code Ann. § 23-112-308 and Rule 7 on Off-Premise Displays, Sales, and Events.

ORDER

The Commission finds the violation of Commission statutes and rules by Tyler Ford warrants a suspension of the 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).

The Commission finds that in lieu of a suspension of Tyler Ford's license, a monetary penalty should be issued in accordance with Ark. Code Ann. § 23-112-309 in the amount of one thousand dollars (\$1,000.00).

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 _____
Sandy Stroope, Chairman

Date: _____