

**BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION**

**IN THE MATTER OF:**

**AP#14-001**

**GWATNEY CHEVROLET**

**NOTICE OF VIOLATION**

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Gwatney Chevrolet (hereinafter "Gwatney") advertised a price which included limited rebates not available to all consumers. This 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, and Commission Rule 3. If the Commission determines that a firm or individual has violated the Commission Act or Rules, the Commission may revoke or suspend the license, or impose a civil penalty in lieu of revocation or suspension.

**FACTUAL BACKGROUND**

- F1. Gwatney is licensed as a new motor vehicle dealer at 1301 T.P. White Dr. in Jacksonville, AR.
- F2. Gwatney advertised in the Arkansas Democrat Gazette on Sunday, December 29, 2013.
- F3. Following up on a complaint regarding the above referenced advertisement, Commission Investigator Gordon McCoy traveled to Gwatney on January 4, 2014, to validate the offers. Investigator McCoy discussed the advertisement with the General Sales Manager, James Miller, and discovered the following:
  - a. Gwatney advertised a 2014 Chevy Silverado Crew Cab at the price of \$25,998, and included the following disclosure: Stock #13036, MSRP

\$33,965, Sale Price \$29,998, Rebate \$4,000, Service and Handling fee \$129. Gwatney also advertised a 2014 Chevy Silverado Double Cab at the price of \$22,800, and included the following disclosure: Stock #13270, MSRP \$29,608, Sale Price \$26,800, Rebate \$4,000, Service and Handling fee \$129. Gwatney included in the advertised price a \$1,000 discount that required a 1999 or newer vehicle trade-in. This discount was not disclosed and was not available to all consumers.

- b. Gwatney also advertised a new 2013 Malibu (Stock #12176) and a new Chevy Sonic LS (Stock #12879). These vehicles were part of the GM DRACS program and had two (2) to three (3) thousand miles on them. These two vehicles were the only vehicles available at the advertised price.

#### **APPLICABLE LAW**

- L1. Motor vehicle dealers 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. Violations of Commission Rules are considered to be a *prima facie* violation of Ark. Code Ann. § 23-112-402(3) which states it is unlawful for a motor vehicle dealer or salesperson to use any false or misleading advertisement.
- L3. Failure to comply with any provision of the AMVC Act or any Rule promulgated by the Commission may lead to revocation or suspension of the license as per Ark. Code Ann. § 23-112-308(a)(4). The Commission may issue a monetary penalty in lieu of revocation or suspension as per Ark. Code Ann. § 23-112-309.

L4. Arkansas Motor Vehicle Commission Rule 3 Advertising, Section 2

**CONCLUSIONS OF LAW**

- C1. Gwatney violated Commission statutes and rules when they advertised a sale price utilizing limited rebates. This charge is based on L1, L2, L3, and L4.
- C2. Gwatney violated Commission statutes and rules when they utilized false and misleading advertising. This charge is based on L1, L2, L3, and L4.

AS A RESULT OF THESE VIOLATIONS, you are hereby directed to pay a monetary penalty in the amount of one thousand dollars (\$1,000.00). 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, Executive Director

Date: 2/28/14