

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

AP# 16-003

CRAIN CHEVROLET

NOTICE OF VIOLATION

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Crain Chevrolet (hereinafter "Crain"), a licensed dealer, violated the motor vehicle commission statute and Rule 7 when they displayed a new motor vehicle away from the licensed location and outside of the dealership's relevant market area. 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. Crain is a licensed new motor vehicle dealer located at 9911 Interstate 30, Little Rock, Arkansas.
- F2. On February 25, 2016, Commission staff traveled to 824 Salem Road in Conway, Arkansas, and observed a new 2016 Chevrolet Silverado Banded Edition truck on display. The signs adjacent to the truck advertised Crain Automotive Team, Limited Edition Trucks, the Chevrolet logo was on the signs, and the signs referenced Little Rock and the phone number (501) 255-5300. This phone number

is listed as the contact number for Eric Turner, the General Manager for Crain Chevrolet in Little Rock.

- F3. The Commission contacted Crain on February 25, 2016, and advised them the truck was displayed outside of the dealership relevant market area.
- F4. A follow-up investigation on February 26, 2016, confirmed the vehicle was removed from display.
- F5. 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 Crain Chevrolet.

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. Failure to comply with any provision of the Motor Vehicle Commission Act or Rules 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.
- L3. Pursuant to Ark. Code Ann. § 23-112-308, the Commission may suspend or revoke a license for any of the following reasons:
 - A. For failure to comply with any provisions of this chapter or with any rule or regulation promulgated by the commission, Ark. Code Ann. § 23-112-308(a)(4);

- B. For any violation of any law relating to the sale of motor vehicles, Ark. Code Ann. § 23-112-308(a)(7); and,
 - C. Selling, attempting to sell, or advertising for sale vehicles from a location other than that set forth on the license, Ark. Code Ann. § 23-112-308(a)(10).
- L4. Arkansas Motor Vehicle Commission Rule 7 Off-Premise Sales, Displays, and/or Events.

CHARGE

- C1. Crain violated the Motor Vehicle Commission Act when it displayed a new Chevrolet Silverado away from the licensed location and outside of the dealership's relevant market area. This charge is based on the facts above and the provisions of law set out in paragraphs L1, L2, L3, and L4.

AS A RESULT OF THESE VIOLATIONS, you are hereby directed to pay a civil penalty in the amount of five hundred dollars (\$500.00). The Commission finds that in lieu of a suspension of Crain'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 Crain in accordance with Ark. Code Ann. § 23-112-309 in the amount of five hundred dollars (\$500.00).

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, Director

Date: 5/20/16