

**BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION**

**IN THE MATTER OF:**

**AP# 16-007**

**GENTRY CHEVROLET**

**NOTICE OF VIOLATION**

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter "Commission") that Gentry Chevrolet (hereinafter "Gentry"), a licensed dealer, violated the motor vehicle commission statute when they utilized false and misleading advertising. 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, they 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. Gentry is a licensed new motor vehicle dealer, F887, located at 801 W. Collin Raye Dr., DeQueen, AR.
- F2. On July 6, 2016, Commission investigator Gordon McCoy, contacted Gentry to verify an advertisement in the Ouachita Trading Post on page 32. The June 15, 2016, advertisement listed five (5) vehicles for sale with a variety of discounts.
- F3. Each vehicle listed a five hundred dollar (\$500.00) Farm Bureau discount, four (4) vehicles listed a seven hundred fifty dollar (\$750.00) Conquest discount, and one (1) vehicle listed a one thousand five hundred dollar (\$1,500.00) Equinox Loyalty

discount. Each of these discounts require a consumer to meet qualifications in order to receive the incentive.

- F4. The Commission's Ad Hoc committee met on Wednesday, August 17, 2016, and made a recommendation to the full Commission which was approved during a Wednesday, August 17, 2016, Commission meeting to issue a Notice of Violation to Gentry.

#### APPLICABLE LAW

- L1. Motor vehicle dealers are required to conform their conduct to the Motor Vehicle Commission Act, Ark. Code Act § 23-112-101, *et seq.* and the Rules promulgated by the Commission pursuant to Ark. Code Act § 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. The price of a new motor vehicle, when advertised by a dealer, must be the price that is available to every consumer. Rebates or incentives that are available to all consumers without qualification can be deducted from the price. Limited rebates or incentives that are only available to select or qualifying consumers shall not be deducted from the advertised price as stated in Rule 3 Advertising, Section 2(A).

L5. Licensees shall not use false or misleading advertising Rule 3 Advertising, Section 2(B).

**CHARGE**

C1. Gentry violated Commission statutes and Rule 3 on Advertising when they advertised a price not available to every consumer by utilizing discounts only available to qualifying consumers. This charge is based on the facts as stated and referenced above, and the provisions of law set out in paragraphs L1, L2, L3, and L4.

C2. Gentry violated Commission statutes and Rule on Advertising when they utilized false and misleading advertising by applying discounts with qualifications not available to all consumers when advertising a price. This charge is based on the facts as stated and referenced above, and the provisions of law set out in paragraphs L1, L2, L3, L4 and L5.

**AS A RESULT OF THESE VIOLATIONS**, you are hereby directed to pay a civil penalty in the amount of two thousand five thousand dollars (\$2,500.00).

The Commission finds the violations of Commission statutes and rules by Gentry warrant a suspension of Gentry's license for failure to comply with provisions of the Commission Act and Rules promulgated by the Commission as per the applicable law stated above.

The Commission finds that in lieu of a suspension of Gentry'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 Gentry in accordance with Ark.

Code Ann. § 23-112-309 in the amount of five hundred dollars (\$500.00) per day for five (10) days for an aggregate amount of two thousand five hundred dollars (\$2,500.00).

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 indicate this request 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: \_\_\_\_\_

