

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

AP #14-004

LANDERS PRE-OWNED

NOTICE OF VIOLATION

IT HAS BEEN determined by the Arkansas Motor Vehicle Commission (hereinafter “Commission”) that Landers Pre-Owned (hereinafter “Landers”) utilized false and misleading advertising. 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 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 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. Landers is licensed as a new motor vehicle dealer branch location, license number 187-1, at 5909 South University Avenue, Little Rock, AR.
- F2. Landers advertised with a direct mailer advertisement entitled “Inventory WipeOut” on or before Saturday, August 9, 2014.
- F3. Following up on a complaint regarding the above referenced advertisement, Commission Investigator Gordon McCoy and Licensing Supervisor Vicki Wright traveled to Landers on August 11, 2014, to validate the offers. Investigator McCoy and Licensing Supervisor Wright discussed the advertisement with the General Sales Manager, Todd Hubbart, and discovered the following:

- a. Landers direct mailer stated “If your CodeKase ID# matches THIS NUMBER: 957570, Then you are GUARANTEED to win one of the prizes listed here! If your number matches and your number is BLUE, you’ve won!” The CodeKase ID# was 957570 and in blue which indicated the mailer was a winner.
 - b. Landers presented Investigator McCoy and Licensing Supervisor Wright an “Android Tablet Certificate” numbered 1407005. The certificate included directions on how to redeem for the tablet which included paying \$59.99 with either a money order or cashier’s check, and sending the certificate and payment to an address in New Port Richey, Florida.
 - c. The certificate expired September 1, 2014, and stated “please allow 6-8 weeks for delivery.”
- F3. Landers was fined one thousand five hundred dollars (\$1,500.00) on October 11, 2011, following H#11-006 as a result of violating rule 3 related to an advertising mailer.

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.

CHARGE

C1. Landers violated Commission statutes and rules when they utilized false and misleading advertising. This charges are based the provisions of law set out in paragraphs L1, L2, L3, and L4.

C2. Landers violated Commission statutes and rules when they advertised a prize that had to be redeemed by mail with substantial fees. 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 two thousand dollars (\$2,000.00). 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: 10/31/14