

**BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION**

**IN THE MATTER OF:**

**H# 11-006**

**STEVE LANDERS CHRYSLER DODGE JEEP & LANDERS PRE-OWNED**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on September 21, 2011, to determine whether Steve Landers Chrysler Dodge Jeep and Landers Pre-Owned, (hereinafter “Landers and Lander’s Pre-Owned”), violated the Arkansas 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. The charges before the Commission concerned whether Landers failed to have advertised vehicles or comparable vehicles available for purchase at the advertised price, whether they utilized false and misleading advertising and whether they utilized unlicensed sales personnel.

The Respondent, Landers and Lander’s Pre-Owned, was represented by Steve Landers, Jr.

After hearing testimony from Jennifer Padgett, Tammy Field, Otis Hogan, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law, and Order:

**FINDINGS OF FACT**

F1. On March 2, 2011, the Commission received a mailer advertisement from Jennifer DeSilva of the Better Business Bureau of Arkansas regarding Landers Pre-Owned. The eight (8) page mailer promoted a pre-owned vehicle sales event

taking place on March 1, 2011- March 6, 2011. The mailer had several advertising violations:

- A. Using inaccurate photographs when describing specific automobiles;
  - B. Failure to have an advertised vehicle in the dealer's possession as confirmed by an investigation from Commission Investigator Danny Holmes;
  - C. Offering a minimum trade-in allowance; and
  - D. Offering a down payment assistance voucher on pre-owned vehicles.
- F2. On March 8, 2011, Jennifer Padgett with the Commission sent the attached letter to Landers Pre-Owned regarding the violations listed in the eight (8) page mailer.
- F3. On March 11, 2011, the Commission reviewed an advertisement listed in the Arkansas Auto Buyer, March 3 – March 9, 2011, Vol. X No. 49. The Auto Buyer advertisement featured a large selection of pre-owned vehicles along with monthly payments. The advertisement did not list the required disclosures of the amount of a down payment, the terms of repayment, or the amount of the annual percentage rate. Jennifer Padgett sent the attached letter to Landers Pre-Owned outlining the violations listed in the advertisement.
- F4. On May 3, 2011, Tammy Field contacted the Commission regarding an advertising flyer she received from Landers Pre-Owned and filed a notarized complaint with the Commission on May 5, 2011. Ms. Field's alleged the promotion was false. The Commission received a response to Ms. Field's complaint from Landers Toyota Scion listing Brandi Newsom of North Little

Rock as a winner of the vehicle promoted in the flyer along with the statement. Ms. Field's maintained in her answer to Landers that the event was fraudulent.

- F5. On May 4, 2011, Commission Investigator Otis Hogan, obtained a similar envelope as the one sent to Ms. Field's, however, Investigator Hogan's envelope was from Steve Landers Chrysler Dodge Jeep. The envelope stated you could possibly join "Norma Jean" on a trip to Las Vegas to "roll the dice for a chance to win \$1 Million Dollars!" Directly below this statement, the instructions inform one to "Scan Your Barcode For a Chance to Join Norma to Roll the Dice & Win \$1 Million Dollars!!!" A barcode appears in a boxed section along with instructions to "SCAN AT THE DEALERSHIP."
- F6. The envelope included a 9-digit pin number that appears below the mentioned "Scan Your Barcode" details directing the recipient to call a toll free number to see if he/she has won a new truck followed by instructions to see the document inside for details. The document inside the envelope is a flyer for an event that is to be held on May 2 thru Sunday May 8. Many additional prizes are available to win if your "scratch off number" matches the number sequence of the items to include a truck mentioned on the outside of the envelope. The flyer again states "Don't forget to scan your barcode at this event for a chance to win \$25,000, a free gift, or a Las Vegas Trip to Roll the Lucky Dice to win \$1 Million Dollars!" Also attached is a key glued to the flyer with instructions to come into the dealership and try the key for a chance to win a new vehicle.
- F7. Investigator Hogan called the toll free number to give his 9 digit pin number to see if he had won the new truck. After giving his pin number and name, the

recording immediately gave instructions to answer questions to determine your approval amount in purchasing a car, including personal information to run a credit application. If you object, the recording instructs you to visit the dealership and scan your envelope onsite.

- F8. Investigator Hogan visited the dealership and was greeted by an unlicensed salesperson named Theodore (Ted) Joyner. Mr. Joyner appears to have a Denver, Colorado address, and previously was licensed as a salesperson in Arkansas September 23, 2010. Investigator Hogan asked Mr. Joyner to decipher the information listed in the mailer. Mr. Joyner began the process of selling Investigator Hogan a vehicle. Mr. Hogan pressed Mr. Joyner to see if he had won any of the prizes advertised in the mailer by scanning his barcode. Mr. Joyner informed Mr. Hogan that there had never been a barcode scanner at the dealership. Mr. Joyner further informed Mr. Hogan that there was not a “barcode scan” avenue to win anything. However, the scratch off number did match a “Dream Vacation”. The “Dream Vacation” is presumed false and misleading because payment of occupancy fees, transportation fees, transfers, meals, port fees, and gratuities are required. Mr. Joyner further stated the bar code scanner was to “get people in” and not to “give away” anything. Mr. Hogan’s key was entered into a drawing in case no winning key or scratch off number surfaced.
- F9. On August 17, 2011, the Commission received a notarized complaint from Dorothy Ehlebracht against Landers Pre-Owned. Ms. Ehlebracht’s complaint stated that upon her visit to Landers Pre-Owned she was greeted by a sales person who ushered her to a lady who took her flyer and told her the name of the keys

that will open the car. The lady then entered Ms. Ehlebracht's information on the screen. Ms Ehlebracht stated the lady put her information into the screen incorrectly and felt like she had been treated unfairly. She also wondered if her information would have been entered correctly if she would have won something. She was given two gold coins, which she refused. The flyer states you will be given three gold coins.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Commission makes the following Conclusions of Law:

- C1. Landers Pre-Owned violated Commission statutes and Rule 3 on Advertising when they failed to have the advertised vehicles or comparable vehicles available for purchase.
- C2. Landers Pre-Owned violated Commission statutes and Rule 3 on Advertising when they utilized false and misleading advertising.
- C3. Steve Landers Chrysler Dodge Jeep violated Commission statutes and Rule 3 on Advertising when they utilized false and misleading advertising.
- C4. Steve Landers Chrysler Dodge Jeep violated Commission statutes by utilizing unlicensed sale personnel.

### **ORDER**

The Commission finds the violations of Commission statutes with regards to Landers Pre-Owned warrants a suspension of Landers Pre-Owned license for failure to comply with provisions of the Commission Act or any Rule promulgated by the Commission as per Ark. Code Ann. § 23-112-308(a)(4). The Commission finds that in

lieu of a suspension of Landers Pre-Owned license, a monetary penalty is issued in the amount of one thousand five hundred dollars (\$1,500.00) in accordance with Ark. Code Ann. § 23-112-309.

The Commission finds the violations of Commission statutes with regards to Steve Landers Chrysler Dodge Jeep warrants a suspension of Steve Landers Chrysler Dodge Jeep license for failure to comply with provisions of the Commission Act or any Rule promulgated by the Commission as per Ark. Code Ann. § 23-112-308(a)(4). The Commission finds that in lieu of a suspension of Steve Landers Chrysler Dodge Jeep, a monetary penalty is issued in the amount of one thousand five hundred dollars (\$1,500.00) in accordance with Ark. Code Ann. § 23-112-309.

These penalties are to be paid within thirty (30) days of receipt of this Order.

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** \_\_\_\_\_  
**Joe Morgan, Chairman**

**Date:** \_\_\_\_\_