BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:                      H# 14-012

LAURA FOWLER

vs.

CRAIN HYUNDAI OF BENTONVILLE

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER


Laura Fowler and Kenny Fowler appeared and provided testimony as the complainant.

Attorney Jamie Jones with Friday Eldredge Clark represented Crain as legal counsel and testimony was heard from General Manager Stephen Hawkins.

Having heard testimony from the above referenced parties, Director Greg Kirkpatrick, and having reviewed the exhibits admitted into evidence, the Commission makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

F1. Crain is located at 3000 SE Moberly Lane, Bentonville, AR 72712.
Mrs. Laura A. Fowler filed a notarized complaint with the Commission on May 1, 2014, alleging the following:

a. On November 29, 2013, Mrs. Laura A. Fowler visited Crain, purchased a new 2013 Hyundai Santa Fe Sport AWD for the cash price of $28,999.00, and traded-in her 2012 Hyundai Tucson.

b. The new Hyundai Santa Fe was damaged prior to the sale to Ms. Fowler in the amount estimated at $10,000 to $15,000.

c. This damage prior to sale by Crain was not disclosed.

On September 12, 2014, the Commission issued a Notice of Violation, AP# 14-003, in which the Ad Hoc Committee recommended a fine of two thousand five hundred dollars ($2,500.00). On September 18, 2014, Crain contested the allegations set forth in the Notice of Violation.

Paragraphs F1 through F3 were established as true through testimony and evidence.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission makes the following

Conclusions of Law:


C2. Failure to comply with any provision of the AMVC Act 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.

C3. In accordance with Ark. Code Ann. § 23-112-706 (a), whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor but before sale by the dealer to the consumer, and the occurrence and extent of such damage is in excess of six percent (6%) of the sticker price of the vehicle, it must be disclosed by the dealer to the consumer prior to the sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards, and (b) upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

ORDER

The Commission finds the violation of Commission statutes and rules by Crain warrant a suspension of Respondent’s license for failure to comply with provisions of the Commission Act and Rules promulgated by the Commission as per Ark. Code Ann. § 23-112-308(a)(4).

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) per day for five (5) days for an aggregate amount of two thousand five hundred dollars ($2,500.00).

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: \[Signature\]
Sandy Stroope, Chairman

Date: 2-26-2015