

**BEFORE THE
ARKANSAS MOTOR VEHICLE COMMISSION**

IN THE MATTER OF:

LINDA BLACKSTOCK

v.

WELCH MOTOR COMPANY

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on August 17th, 2005, to determine whether Welch Motor Company (hereinafter “Welch Motors”) has violated the Arkansas Motor Vehicle Act, Ark. Code Ann. § 23-112-101, *et seq.*, and or the rules promulgated by the Commission pursuant to Ark. Code Ann. § 23-112-204.

Welch Motors appeared by David Welch, one of the owners. After hearing testimony from Linda Blackstock, Dennis Robins, the Interim Executive Director, David Welch, and Brian Irwin, and after examining exhibits received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

F1. Linda Blackstock received an advertisement in the mail from Welch Motors. The outside of the mailing stated “Congratulations Linda, you are the grand prize winner.” The advertisement announced a “seized and repossessed vehicle event” and represented that 387 seized and repossessed automobiles would be sold at Welch Motors on October 28, 29, and 30, 2004.

F2. The advertisement contained an emblem of an eagle which would lead one to suspect that a government agency was involved in the seizures.

F3. The advertising materials contained what appeared to be a check in the amount of \$4,000.00 which was labeled as a “customer down payment bonus.”

F4. The advertisement represented that automobiles would be available for as little as \$55.00 per month and that all purchasers had been pre-approved for automobile financing up to \$29,000.00.

F5. Linda Blackstock went to Welch Motors in response to this printed material. She was not shown any automobiles that were available to purchase for \$55.00 per month.

F6. Linda Blackstock selected a 2003 Nissan Altima. The purported \$4,000.00 voucher was not applied to the cost of the car as shown on the retail buyer’s order contract.

F7. The Nissan Altima selected by Linda Blackstock was neither seized nor repossessed; in fact it had previously been titled to Hertz Vehicles, LLC of Los Angeles, California.

F8. There were at most four automobiles on the lot available for purchase at \$55.00 per month.

CHARGES

The charges before the Commission were:

C1. That Welch Motors employed false and misleading advertisement in connection with the “seized and repossessed vehicle event.”

C2. That Welch Motors engaged in bait-and-switch advertising and sales practices.

C3. Welch Motors overstated Linda Blackstock’s wages on a credit application document.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission concludes:

1. That Welch Motors has violated Ark. Code Ann. § 23-112-402(3), false and misleading advertising.
2. That Welch Motors did not engage in bait-and-switch advertising sales practices.
3. That there was insufficient evidence to establish that employees of Welch Motors overstated Linda Blackstock's wages on a credit application document.

ORDER

The Commission finds that there is sufficient cause upon which to revoke the license of Welch Motors. However, the Commission concludes that the appropriate penalty in this case is a civil penalty of \$10,000.00 which is imposed in lieu of revocation of the dealer's license.

The civil penalty should be paid within thirty (30) days of receipt of this Order.

This decision of the Arkansas Motor Vehicle Commission is a final appealable order and Welch Motor Company may seek judicial review in the Circuit Court of Pulaski County or the circuit court of the county in which the dealership is located. If Welch Motor Company desires to seek judicial review it should immediately contact an attorney because there are strict timelines which apply to the appeal of a decision of the Arkansas Motor Vehicle Commission.

ARKANSAS MOTOR VEHICLE COMMISSION

By: _____
F. S. Stroope, Chairman

Date: _____