

BEFORE THE ARKANSAS MOTOR VEHICLE COMMISSION

IN THE MATTER OF:

H # 09-006

ORR CADILLAC OF HOT SPRINGS

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Arkansas Motor Vehicle Commission (hereinafter the “Commission”) held a hearing on April 15, 2009, to determine whether Orr Cadillac of Hot Springs (hereinafter “Orr”) violated the Arkansas Motor Vehicle Commission Act, Ark. Code Ann. § 23-112-101 et seq. The charges before the Commission concerned whether Orr violated Commission statutes and advertising rules.

The Respondent, Orr, was represented by Drew Warburton.

After hearing testimony from Dana Brown, Drew Warburton, and reviewing documents received in evidence, the Commission makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

- F1. The Commission reviewed the Orr advertisement in the September 27, 2008, Arkansas Democrat Gazette.
- F2. The top of the Cadillac advertisement depicted three vehicles with advertised prices while the disclosures for these vehicles were listed at the bottom of the advertisement with a substantial amount of information in the middle of the advertisement. Included in these disclosures was the fact the three vehicles referenced above were courtesy cars.
- F3. The Commission contacted Drew Warburton by telephone on October 1, 2008, to discuss the September 27, 2008, advertisement, and to advise Mr. Warburton that

Orr needed to place the disclosures for the three vehicles referenced above adjacent to those vehicles.

- F4. The Commission sent Orr a letter on October 2, 2008, regarding the aforementioned advertisement as a follow-up to the October 1, 2008, telephone conversation.
- F5. The Commission then reviewed the Orr advertisement from the October 11, 2008, Arkansas Democrat Gazette. The Commission telephoned Drew Warburton regarding this advertisement to advise him that while the phrase “courtesy car” was identified adjacent to the vehicles, the pricing disclosures were still not listed in the vicinity of the vehicles.
- F6. The Commission reviewed an Orr advertisement from the Friday, December 13, 2008, Arkansas Democrat Gazette in which Orr identified a 2008 Cadillac DTS utilizing the phrase “all the options.”
- F7. The Commission contacted Drew Warburton with Orr to advise him the phrase “all the options” was not an accurate statement because the advertised Cadillac DTS did not include “all the options” available for this model vehicle.
- F8. Orr continued to advertise the phrase “all the options” for a Cadillac DTS for \$28,950.00 in the December 27, 2008, Arkansas Democrat Gazette and a Cadillac DTS for \$32,990 in the January 10, 2009, Arkansas Democrat Gazette.
- F9. On February 3, 2009, the Commission issued AP# 09-001 Notice of Violation in which the ad hoc Committee recommended a fine of one thousand dollars (\$1,000.00). On February 9, 2009, Orr contested the allegations set forth in the Notice of Violation.

CONCLUSION OF LAW

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

Conclusion of Law:

- C1. Orr violated Commission statutes and the Advertising Rule when they failed to utilize disclosures adjacent to the advertised vehicle.
- C2. Orr violated Commission statutes and the Advertising Rule when they utilized false and misleading advertising.

ORDER

The Commission finds that the violations of Commission statutes by Orr warrants a total civil penalty of two thousand dollars (\$2,000.00) which is 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 _____
F. S. Stroope, Chairman

Date: _____