



ENFORCEMENT DIVISION
(512) 465-4204
(512) 465-5650 FAX

October 18, 2019

[DEALER NAME AND ADDRESS]

RE: IN THE MATTER OF THE LICENSE(S) OF
[DEALER NAME]
WHEN RESPONDING, PLEASE REFER TO MVD DOCKET NO. [CASE NUMBER]

Dear Licensee:

In accordance with the notice provisions of Texas Administrative Procedure Act (TEX. GOV'T CODE §§ 2001.001 et seq.) and 43 TEX. ADMIN. CODE § 215.500, enclosed is a Notice of Department Decision ("Decision") prepared by the Texas Department of Motor Vehicles ("Department"), Enforcement Division alleging that you, as a licensee of the Department, have violated the cited provisions of law in the manner described in the Decision. The allegation(s) are a result of a Department initiated investigation or outside complaint made against you and a Department investigation of that complaint.

If there are circumstances surrounding the allegations that you believe should mitigate any sanction imposed by the Decision you can discuss an informal settlement with the undersigned enforcement attorney. To discuss an informal settlement of the case you **must first request an administrative hearing** as explained in the Decision within twenty-six (26) days from the date of the Decision. **For your convenience, you may use the request for hearing form included in this packet.**

In most instances, an informal settlement can resolve the case in a shorter period of time with reduced civil penalties or other sanctions and without the costs associated with a formal proceeding. The undersigned attorney can be contacted at (512) 465-4204 or by writing using the address above.

If this case is set for hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") you are entitled to receive a Notice of Hearing. Hearings in these matters are conducted under the rules of the Department and SOAH.

ATENCIÓN: Este es un documento legal importante que puede influir negativamente en su licencia para operar como concesionario de vehículos de motor en Texas. Se le ha acusado de violar la ley. Si dentro de los 26 días de esta carta no recibimos de usted una solicitud por escrito para una audiencia en este asunto una orden final será emitida por el DMV que puede imponer sanciones contra usted, incluyendo una multa civil y/o revocación de su distribuidor de vehículos de motor licencia. Instamos enérgicamente a ponerse en contacto inmediatamente con un abogado privado o el abogado del DMV que suscribe con respecto a este documento legal. Si lo desea, alguien con el DMV puede discutir este documento con usted en el idioma Español.

If you do not request an administrative hearing within twenty-six (26) days from the date of the Decision, the terms and any sanctions contained therein become final.

Sincerely,

[ATTORNEY NAME],
Attorney, Enforcement Division

Enclosures



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**MOTOR VEHICLE DIVISION
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**IN THE MATTER OF THE LICENSE(S) OF
[DEALER NAME]**

MVD DOCKET NO. [CASE NUMBER]

NOTICE OF DEPARTMENT DECISION

The Texas Department of Motor Vehicles, (hereinafter, "Department" or "Petitioner"), is the state agency with authority to administer and enforce Texas Occupations Code Chapter 2301; Texas Transportation Code Chapters 501, 502 and 503; and 43 Texas Administrative Code Chapter 215. An investigation of your business was conducted by the Department. As a result of that investigation, the Department determined that you, [DEALER NAME], (hereinafter "Respondent"), the holder of a license issued by the Department, violated certain provisions of Texas Occupations Code Chapter 2301; and/or Texas Transportation Code Chapters 501, 502 and 503 and/or 43 Texas Administrative Code Chapter 215. The Department alleges that Respondent committed the following violations:

1. [ALLEGED VIOLATIONS]

The Department is authorized to deny an application for a license, revoke or suspend a license, under Texas Occupations Code § 2301.651; Texas Transportation Code § 503.038; and 43 Texas Administrative Code § 215.141(a). Further, Texas Transportation Code § 503.095 allows for a civil penalty of up to \$1,000.00 for each violation of, or per day for a continuing violation, of Chapter 503, or a rule or order adopted under the chapter. Texas Occupations Code § 2301.801 allows for a civil penalty of up to \$10,000.00 for each violation of, or per day for a continuing violation, of Chapter 2301, or a rule or order adopted under the chapter.

Based on the aforementioned investigation and allegations, the Department recommends the assessment of a civil penalty in the amount of [PENALTY AMOUNT, IF ANY]. [and, if warranted] In

addition, due to the nature and number of the violations, the Department recommends that Dealer General Distinguishing Number License No. [LICENSE NUMBER] be revoked.

If you wish to contest the allegations, recommended civil penalty, or other sanction you must first request an administrative hearing in writing. You may send your own request for hearing or use the Request For Administrative Hearing form included in this packet. Send your request for hearing to the following address:

[ATTORNEY NAME]
Attorney, Enforcement Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-5650 Fax

You must include your name and the MVD Docket Number appearing in the heading of this Decision in your hearing request. The Department must receive your written hearing request not later than the 26th day after the date of this Decision.

If you timely submitted a written request for a hearing, the Department may enter into an informal settlement agreement with you regarding these violations and enforcement action at any time before a final decision is rendered in this case.

If a timely written hearing request is received and no settlement is reached, an administrative hearing will be scheduled before the State Office of Administrative Hearings (SOAH). You will be notified of the hearing date and time. Hearings will be held at SOAH's offices located at 300 W. 15th St., Austin, Texas 78701. Increased penalties or other sanctions may be recommended by the Department at the hearing.

If you do not request a hearing by the 26th day from the date of this notice, the Department Decision becomes final. After that date the Department may issue a Final Order implementing the Decision.

Failure to pay a civil penalty assessed by a Final Order within 30 days after the order becomes final may result in additional civil penalties or other sanctions being assessed against you.

If you choose to pay the civil penalty of [PENALTY AMOUNT] without requesting an administrative hearing, please remit a check or money order made payable to the Texas Department of Motor Vehicles by 26 days from date of the Decision and include the MVD Docket Number listed above. Send your payment to the following address:

Texas Department of Motor Vehicles
MVD Finance - ATTN: Enforcement Division
P.O. Box 5020
Austin, Texas 78763-5020

Should this case be set for hearing, Petitioner prays that it be found that Respondent has violated the statutes and implementing rules alleged above; and, that, as appropriate, **[amended accordingly]** Respondent's application for a license be denied or that Respondent's license be revoked, canceled or suspended or that Respondent be placed on probation, or reprimanded; that civil penalties be imposed; and that the conduct alleged above be ceased and not resumed.

If you have any questions regarding this Decision, please contact me at (512) 465-XXXX.

DATE OF DECISION: {!Finalized#CurrentDate}

Respectfully Submitted,

[ATTORNEY NAME]
Attorney – Enforcement Division
Bar Card
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-5650 Fax

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REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Docket No. _____ ENF. (The Docket Number is found in the heading of the Decision; i.e. MVD Docket No. 17-000000.ENF).

NOTE: Failure to include the Docket Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: _____

(Please Print)

Phone Number of person requesting hearing: _____

Would you like to discuss a resolution to this case without a hearing: ____ Yes ____ No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
ENFORCEMENT Division
4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number **(512) 465-5650**

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Information about the Notice of Department Decision

This document provides information about the Notice of Department Decision (“Decision”) you have just received from the Enforcement Division of the Texas Department of Motor Vehicles (“Department”). If you have questions about the Decision call the enforcement attorney who signed the document at (512) 465-4204 or consult a private attorney. Please note that the enforcement attorney only represents the Department and therefore cannot give you legal advice. When contacting the Department you should refer to the docket number at the top of the whenever you contact the Department about this case.

The Notice of Department Decision

The Department filed the Decision, because of allegations that you (the Respondent) may have violated one or more of the laws enforced by the Department. After an investigation by the Department if violations are believed to have occurred, a Notice of Department Decision is prepared including the allegations and recommended sanctions. Sanctions may include a civil penalty (a monetary fine), and in more serious cases, revocation of your license. The civil penalty amount depends on the nature of the violation, facts of the case, any prior violations, any harm to consumers, and any action by you to minimize harm.

Settling Your Case

You may settle this matter informally and avoid a hearing before an Administrative Law Judge (“ALJ”) at the State Office of Administrative Hearings (“SOAH”) by timely filing a request for hearing within 26 days of the date of the Decision and discussing the case with the enforcement attorney. During settlement discussions, you may make the enforcement attorney aware of any mitigating or extenuating circumstances that may justify a lower civil penalty or other adjustment of sanctions recommended in the Decision.

Paying the Civil Penalty

If you settle this matter before a SOAH hearing, the Enforcement attorney will prepare and send you an “Agreed Final Order” containing the terms of the settlement. **You must sign the order and return a complete copy of it to the Department along with a check to pay any civil penalty imposed by the**

order. The Department Board Chairman or a delegate will then sign the Agreed Final Order, which ends your case. The Department will send you a copy of the signed order to you or your representative.

Notice of Hearing

If you request a hearing within 26 days of the date of the Decision and you do not settle the case, it will be set for a SOAH hearing. You will be sent a Notice of Hearing stating the time, place and nature of the hearing. **If you plan on appearing at the hearing, you must notify the enforcement attorney. If you appear at the hearing without filing a response to the allegations or notifying the enforcement attorney, the hearing may be reset for another date.**

Changing the Hearing Date

Contact the enforcement attorney if you wish to change the hearing date. If you and the enforcement attorney cannot agree on changing the hearing date, you should call the SOAH docket clerk at (512) 475-3445 about how to file a motion for continuance.

The Hearing

The Texas Rules of Evidence and SOAH's rules of procedure apply to SOAH hearings. The enforcement attorney will present evidence in the form of witness testimony and documents. You (if representing yourself) or your attorney/representative may object to the evidence and question each witness. You may present your case after the enforcement attorney's presentation. You should bring your witnesses with you or arrange with the ALJ before the hearing to have the witnesses testify by telephone. If you need an interpreter, notify the enforcement attorney as soon as possible before the hearing. You need to bring an original and two copies of all documents you intend to present at the hearing.

After reviewing the parties' evidence and arguments, the ALJ will issue a Proposal For Decision ("PFD") addressing whether any violations occurred and what sanctions, if any, should apply.

If you disagree with the PFD, you may file "exceptions" explaining your disagreement. The Department will consider the PFD with the exceptions and any replies to the exceptions. You may also orally address your case before the Department Board at a scheduled meeting. The Department Board may: (1) issue a Final Order approving the PFD, (2) issue a Final Order approving the PFD with modifications, or (3) send the case back to SOAH for a new hearing.

If a Final Order is issued and you disagree with the order, you have 20 days after receiving it to file a Motion for Rehearing. If the Department Board or its delegate does not grant the Motion for Rehearing, the order will be final. If the order assessed a civil penalty or other sanction, you must comply with the order or the Department may initiate contempt action against you.

Appealing the Final Order

You may appeal a Final Order to the Travis County District Court if you have filed a proper Motion for Rehearing within 30 days after a Final Order becomes final and appealable.

Failing to Attend the Hearing (Default)

If you do not settle the case and fail to attend the hearing, the enforcement attorney may request a civil penalty and/or license revocation, and/or other sanction be entered against you. The sanctions requested may be more severe than if you had settled before the hearing date. The Department will then issue and send you a copy of a Final Order. If you disagree with the order you may file a Motion for Rehearing. The case becomes final if you do not file a motion for rehearing within 20 days after receiving the order, or if the motion is not granted.

Running Your Business While the Case is Pending

You may continue operating your business and can renew your license while your case remains pending, unless the ALJ orders you to stop operating during the case.

Communications with the ALJ, Director or Department Board Members

The law prohibits communications about a pending case with the ALJ and the Department, **except communications with the enforcement attorney** or when the other party is included in the communication. For example, you may send a letter to the ALJ about a pending case only if you copy the enforcement attorney on the correspondence.