

**MOTOR VEHICLE DEALER BOARD  
MINUTES**

**June 12, 2008**

The regular meeting of the Dealer Board was held at the Department of Revenue offices, Lakewood, Colorado. The following persons were present:

**BOARD MEMBERS:** Jeff Carlson, President  
Steve Perkins, 1<sup>st</sup> Vice President  
James Varner, 2<sup>nd</sup> Vice President  
Robert Feder  
James Reitz  
Philip Harris  
Lisa Schomp  
John Medved  
Eva Wilson

**MEMBERS ABSENT:** None

**DEPT OF REVENUE,  
SENIOR DIRECTOR OF  
ENFORCEMENT** Matt D. Cook

**EXCUTIVE SECRETARY:** Bruce Zulauf

**LEGAL ASSISTANT:** Leland BeBee

**DEPT OF REVENUE,  
AID, ENFORCEMNET  
DIVISION STAFF** Chris Rouze  
Chuck Halberstadt  
Eric Hartsough  
Kaye Kopecky  
Bud Heinrich  
Gloria Breeden  
Lisa Denmon  
Brenda Byers  
Margaret Jungmann  
Jerry Smith

**A.G.'S OFFICE:** Rob Huss

**BUDGET OFFICE:** Pamela Keller  
Curtis Tremble

**VISTORS:**

Tammy McCoy, CADA  
Jon Kroneberger, CIADA  
Mary Marvin, CIADA  
Ryan Lorimar, Grand Valley Hyundai  
Kirk Martelon, AID Retired  
Cesar Simental, Custom Auto Sales, LLC  
Ivon Macias, Custom Auto Sales, LLC  
Antonio Quezada, Custom Auto Sales, LLC  
Jack John, DSS

**OPENING STATEMENT:**

Board President Jeff Carlson opened the Colorado Dealer Licensing Board meeting with a welcome to Mr. Kirk Martelon and Mary Marvin as past AID staff. Mr. Carlson expressed his appreciation to Mr. Bruce Zulauf for the new Board notebooks and indicated that they were very organized and professional in appearance. Mr. Zulauf introduced Mr. Leland BeBee. Mr. BeBee has been appointed to the vacant Legal Assistant position effective July 1, 2008.

**BUDGET:**

Pamela Keller of the Budget Office informed the Board that the decision item related to the imaging project had been approved by the Department to move forward. The next step in the process will require putting together an in depth efficiency and effective analysis. Additionally the Department had decided to allocate additional funds to the Division in FY 09-10 for legal services so there is no need to move forward with this decision item as it has already been successful. Ms. Keller presented the Board with the current budget report and asked the Board if there were any questions. Mr. Carlson stated that he wanted to know if collections for May (2008) were lower than projected. Ms. Keller stated that the May (2008) collections were lower than the cash flow analyses and indicated that it was nearly the same as the same month in 2007. Mr. Harris asked if the change in management for the Auto Industry Division required the payment of severance pay. Mr. Matt Cook responded and stated that any severance pay does not come from the Auto Industry Division budget and is confidential.

**ATTORNEY GENERAL'S OFFICE:**

AAG Huss informed the Board that the Reuter matter was dismissed with a stipulation. AAG Huss further informed the Board that the CU Advantage process was waiting to see if there was going to be any upcoming oral arguments.

## **EXECUTIVE SECRETARY'S REPORT:**

Mr. Zulauf informed the Board that Ms. Becky Davis would give the report on the Portal as had been requested by the Board during the May (2008) meeting. He stated that the Rule Making Workshop that was scheduled in May 2008 was cancelled due to a number of people being out of town. He informed the Board that the rulemaking committee had met and would have a full report for the Board after the lunch break.

Mr. Zulauf informed the board that Ms. Rouze would answer some of their May 2008 requests for information on Translease, 10 day letters to Champion Kia, and if there were any additional complaints on the Champion dealerships. These questions would be address during the investigations report.

Mr. Zulauf presented the Executive Secretary's report.

The following hearings took place o 03/19/2008, Scott Garber acted as Hearing Officer for the Motor Vehicle Dealer Board.

**Kevin Barnes, Salesperson Applicant #32115.** Unfitness of criminal Character or Record as evidenced by the following:

Mr. Barnes was sentenced to two (2) years probation, restitution, 100 hours ups and fines/fees on 10/02/2003. On 08/18/2005, the judge determined that the probation was terminated unsuccessfully. The Hearing Officer recommended that the Board deny the license. An extensive discussion occurred between the Board members as to the Hearing Officer having statutory authority to deny a license under CRS 12-6-104(3)(I)(A). The Board passed a motion to set aside the Hearings Officer's decision - unanimously. The Board then passed a motion to deny the license - unanimously.

**Gabino Nieto, Salesperson Applicant #153026.** Unfitness of criminal Character or Record as evidenced by the following:

On 12-6-2006 Mr. Nieto entered a plea to possession of a controlled substance, a Class 3 felony, for which he received a sentence of six (6) years probation, 90 days in jail and substance abuse evaluation and treatment. The Hearing Officer recommended that Mr. Nieto be granted a restricted license. The Board passed a motion to set aside the Hearings Officer's decision - unanimously. The Board then passed a motion to deny the license - unanimously.

**Nathanial Tuttle, Salesperson Applicant #169698.** Unfitness of criminal Character or Record as evidenced by the following:

On 05/06/2004 Mr. Tuttle was convicted of a 3<sup>rd</sup> degree assault. Mr. Tuttle also violated CRS 12-6-118(5)(b) material misstatement. Mr. Tuttle did not appear at the hearing although he had received proper notice. The Hearing Officer recommended that the Board grant a one year probationary license. The Board passed a motion to set aside the Hearings Officer's decision - unanimously. The Board then passed a motion to revoke the license – unanimously.

**Craig Peckat, Salesperson Applicant #168356.** Unfitness of criminal Character or Record as evidenced by the following:

On 11/29/2008, Mr. Craig Peckat was convicted of possession of a controlled substance, a class 6 felony. Mr. Peckat also violated CRS 12-6-118(5)(b) material misstatement. Mr. Peckat did not appear at the hearing although he had received proper notice. The Hearing Officer recommended a one year probationary license. The Board passed a motion to set aside the Hearing Officer's decision - unanimously. The Board then passed a motion to revoke the license – unanimously.

**Mark Colangelo, Salesperson Applicant #169255.** Unfitness of criminal Character or Record as evidenced by the following:

On 06/16/2000, Mr. Mark Colangelo received a conviction of a class 6 felony menacing, which is a mandatory disqualifying conviction. The Hearing Officer recommended that the Board grant a one year probationary license. The Board passed a motion to set aside the Hearing Officer's decision - unanimously. The Board then passed a motion to revoke the license – unanimously.

The following hearings took place on 04/22/2008, Elizabeth Kelly acted as Hearing Officer for the Motor Vehicle Dealer Board.

**Michelle Marin, Salesperson Applicant #169850.** Unfitness of criminal Character or Record as evidenced by the following:

On 03/07/2008, Michelle Marin was convicted of forgery – Check/Commercial instrument, a class 6 felony, a mandatory disqualifying conviction. The Hearing Officer recommended that the license be denied. The Board passed a motion to set aside the Hearing Officer's decision - unanimously. The Board then passed a motion to deny the license – unanimously.

**Eric Wass, Salesperson Applicant #154790.** Unfitness of criminal Character or Record as evidenced by the following:

On 10/13/2005, Mr. Eric Wass entered a guilty plea to a class 2 misdemeanor, attempted 3<sup>rd</sup> degree assault, for which he received two (2) years probation. On 03/20/2006, Mr. Eric Wass entered a guilty plea to a class 2 misdemeanor, attempted 3<sup>rd</sup> degree assault, for which he received two (2) years in jail with work release to run concurrent with the 01/13/2005 conviction. The Hearing Officer recommended that the Board grant a one year probationary license and impose a fine of \$550.00. The Board passed a motion to set aside the Hearing Officer's decision - unanimously. The Board then passed a motion to conduct a full board hearing of the license – unanimously. The Board discussed the matter further with Mr. Huss and there was lengthy discussion about legal issues related to this matter and the need for Conflicts Counsel intervention. The Board then passed a motion to retract the prior motion – unanimously. The Board then passed a motion to table the matter until next meeting to discuss the matter with Conflicts Counsel.

**Rick Bailey, Salesperson Applicant #29713.** Unfitness of criminal Character or Record as evidenced by the following:

Mr. Rick Bailey received a Notice of Charges for acting as a used motor vehicle dealer without being duly licensed (10 counts). The Hearing Officer recommended that the Board grant a ten (10) year probationary license (one (1) year for each count) and to impose a fine of \$5,000 (\$500 for each count). The Board passed a motion to set aside the Hearings Officer's decision - unanimously. The Board then passed a motion by 5 to 2 to revoke the license and impose a fine of \$2,500.

**Dustin Robison, Salesperson Applicant #169611.** Unfitness of criminal Character or Record as evidenced by the following:

Mr. Dustin Robison received the following convictions.

- 07/31/1998, 2<sup>nd</sup> degree criminal trespass, a class 3 misdemeanor.
- 07/16/2001, possession of a controlled schedule 2 substances, a class 4 felony.
- 07/16/2001 unlawful use of a controlled schedule 2 substances, a class 5 felony.
- 12/16/2005, attempted to escape while in custody or confinement, a class 5 felony.

Mr. Dustin Robison did not appear at his hearing even though he received proper notice. The Hearing Officer recommended that the Board grant a five (5) year probationary license and to impose a \$2,500 fine. The Board passed a motion to set aside the Hearings Officer's decision - unanimously. The Board then passed a motion to revoke the license – unanimously.

**Joshua Christianson, Salesperson Applicant #169441.** Unfitness of criminal Character or Record as evidenced by the following:

On 01/17/2006, Joshua Christianson was convicted of prohibited use of a gun while drunk, a class 2 misdemeanor. The Hearing officer recommended that the Board grant a one (1) year probationary license. The Board passed a motion to set aside the Hearings Officer's decision - unanimously. The Board then passed a motion 6 to 2, to revoke the license.

**Donovan Aragon, Salesperson, Applicant #170797.** Unfitness of criminal Character or Record as evidenced by the following:

On 06/12/2007, Donovan Aragon was convicted of possession of a schedule 2 controlled substance for which he received a two (2) year deferred sentence and judgment. This was revoked and he was sentenced to a two (2) year probation, costs and 6 days in jail to include undergoing alcohol and substance abuse evaluation. The Hearing Officer recommended that the Board grant a five (5) year restricted license. The recommended restrictions are that Mr. Donovan Aragon have no convictions, arrests or charges of any criminal offenses and not possess or consume alcohol or engage in any illegal drug activity. Further that the license is not granted until Mr. Aragon is employed and the employing dealer provides a written letter indicting that the dealer is aware of the conviction and takes responsibility for Mr. Aragon's actions. The Board passed a motion to modify the Hearings Officer's decision to grant a one (1) year probationary license with the requirement to notify the Auto Industry Division when changing employment. The Board then passed the motion 6 to 2.

**Pete Loma, Salesperson Applicant #162239**– Unfitness of Criminal Character or Record as evidenced by the following:

Notice of Charges describe a violation pursuant 12-6-118(6)(d), C.R.S. for violating any lawful order of the Board. The Hearing Officer recommends that the Boards grant a probationary license for a total period of twelve months and to impose a fine of \$500. The Board passed a motion to set aside the Hearings Officer’s decision - unanimously. The Board then passed a motion to revoke the license – unanimously.

**Bennie Long, Salesperson Applicant #170418.** Unfitness of criminal Character or Record as evidenced by the following:

On 03/17/2003, Mr. Bennie Long was convicted in the State of Texas of a 3<sup>rd</sup> degree assault causing bodily injury which is considered a felony in the state of Texas. Mr. Long received a three (3) year probation.

On 05/22/2003, the probation was revoked and he was sentenced to two (2) years confinement in a facility of the Texas Department of Criminal Justice.

The Hearing Officer recommended that the Board grant a five (5) year restricted license with additional restrictions of no convictions, arrests or charges of any criminal offense and not to possess or consume alcohol or engage in any illegal drug activity. Further that the license is not granted until Mr. Long is employed and the employing dealer provides a written letter indicting that the dealer is aware of the conviction and takes responsibility for Mr. Long’s actions. The Board passed a motion to set aside the Hearings Officer’s decision - unanimously. The Board then passed a motion 7 to 1, to deny the license.

Mr. Zulauf reported to the Board that Mr. Gary Nelson had requested that the remaining balance of \$5,659.00 of his total fine of \$30,000 be dismissed. The Board discussed the situation and passed a motion to discharge the \$5,659 of the remaining balance due, but that it would be reinstated if Mr. Nelson applied to the Board in the future for a license.

#### **PORTAL REPORT:**

Ms. Becky Davis gave the Board an update on the Portal. Ms. Davis stated that the Portal had taken on two (2) projects that included new licensing and renewal licensing/testing. She stated that the Tech personnel and Colorado.gov personnel did not feel conformable with the renewal licensing project due to the data base’s age and could not take the Auto Industry into the future. Ms. Davis stated that the original programmer did not fully understand the systems requirements as they were reportedly unclear. Further that the current data base is unstable. It can handle the current load but nothing additional as it is an 8 or 9 year old system.

When asked by Mr. Carlson as to how the Secretary of State system different than the DOR system, Ms. Davis stated that the main difference is the architecture. Ms. Davis stated that it was her recommendation that the Board look to an outside vendor to conduct any new programming.

Mr. Medved stated that he strongly felt that the Board needed to address this situation. He did not want any future Boards to have to deal with an outdated system. Mr. Cook said that when the system was built it was a very limited system, but now we are asking for it to do far more, some of which was never contemplated. Mr. Medved said that the Board needed to project future demands and address the problem now.

Mr. Carlson recommended that the group working on the psychometric testing project, or similar college group, give the Board an RFP to tackle the project as they are on the cutting edge. Mr. Medved confirmed and stated that the group understood what the Board's future needs would be in 5 to 7 years. Ms. Davis suggested that the Board look into how other states are handling licensing.

Mr. Carlson requested that Ms. Davis report back to the Board in July as to the standing of the project and how the new OIT Director views our situation.

Mr. Kroneberger of CIADA stated 2 1/2 years ago, the Division had asked CIADA and CADA to address this same project. He stated that it was completed and ready to go. Ms. Tami McCoy of CADA said that the new license algorithms needed to be completed and could be installed in phases. Ms. Davis stated that she was aware of the CIADA system, but was concerned with a way to interface their system with the current DOR system. Mr. Zulauf asked a clarifying question of Ms. Davis as to the DOR system being able to interface with the CIADA software package. Ms. Davis stated that security of outside systems being allowed to interface with the DOR system would have to be addressed.

## **LICENSING REPORT:**

The Dealer and Wholesale Application Approved list was reviewed by the Board. The following licenses were presented to the Board:

- Custom Auto Sales change in ownership. The Board passed a motion to grant the change in ownership – unanimously
- Grand Valley Hyundai. Mr. Ryan E. Larimore as 100% owner of Lorimor LLC would like to sell cars under the dealer license. Mr. Lorimor requested the Board grant him the ability to sell cars under the dealer license. Mr. Lorimor was approved by the Board to sell cars by a motion passed by the Board - 6-2.

The following salesperson licenses were presented to the Board

- Raymond Ceballos – The Board passed a motion to approve the license subject to Mr. Ceballos paying the balance of the court costs. Motion carried 5-4.
- Walter Mueller – The Board passed a motion by 6 to 2 to grant Mr. Mueller a one (1) year probationary license.

- Adrian Flores – The Board passed a motion by 4 to 3 to grant a one (1) year probationary license to Adrian Flores with Ms. Eva Wilson recusing herself.

A discussion was held by the Board as to why the numbers of salespersons licenses were decreasing. Mr. Carlson suggested that a larger number of salespersons were holding licenses for multiple dealers. He requested the Licensing Section report to the Board if this is occurring.

(LUNCH BREAK 12:20 PM to 1: 20 PM)

## **INVESTIGATION:**

Agent in Charge Chris Rouze reported on the following agenda items and various discussion items:

**Hearing Schedule** was reviewed by the board

**Statistical Reporting** – Monthly Update

The Case Statistical Reporting, Licensing Statistics, and Activity Report were reviewed by the Board

**Fines imposed & Received Log** was reviewed with the Board.

**Criminal Filing Log and its Summary** were reviewed with the Board

**Warning Notice Log and its Summary** was reviewed with the Board.

### **Affidavit of Probable Cause:**

#### **Kenneth Ross Medina, Salesperson License #27199**

The Board reviewed the affidavit of probable cause and passed a Motion to refer this matter to a Hearing before a Hearing Officer – Unanimously.

#### **Auto Wonderland, Dealer License #36004**

The Board reviewed the affidavit of probable cause and passed a Motion to refer this matter to a Hearing before an ALJ – Unanimously.

#### **Champion Kia, Dealer License #37721**

The Board discussed a change in ownership from R. Dean Juhl to Lynn M. Juhl. The ownership change was made due to the conviction of R. Dean Juhl of a mandatory disqualifying felony under Colorado State Statute 12-6-118(3)(d).

#### **Champion Mazda, Dealer License #39870**

The Board discussed a change in ownership from R. Dean Juhl to Lynn M. Juhl. The ownership change was made due to the conviction of R. Dean Juhl of a mandatory disqualifying felony under Colorado State Statute 12-6-118(3)(d).

#### **Champion Kia, Dealer License #37721**

Agent in Charge Chris Rouze reported to the Board the historical information regarding the Auto Industry Divisions investigation into the activity of Champion Kia and the out come of those investigations.

**Champion Mazda, Dealer License #39870**

Agent in Charge Chris Rouze reported to the Board the historical information regarding the Auto Industry Divisions investigation into the activity of Champion Mazda and the out come of those investigations.

**Translease, Dealer License #4066**

Agent in Charge Chris Rouze reported to the Board the historical information regarding the Auto Industry Divisions investigation into the activity of Translease and the out come of those investigations.

**Unlicensed Sales Operation**

Agent in Charge Chris Rouze reported to the Board the summation of the unlicensed sales operation conducted by investigators of the Auto Industry Division that was conducted on May 17, 2008 with twelve (12) summons and four (4) warning notices issued.

**Richards Motors Dealer License #4114**

Agent in Charge Chris Rouze reported to the Board that a joint investigation between investigators of the Auto Industry Division and the District Attorney's office resulted in the filing of felony charges. The members of the Board conducted a discussion into the acceptance of the voluntary surrender of the dealer license. The Board decided to table any action on Richards Motors pending the issuance of a Charging Document and the discussion of any future sanctions.

**NEW BUSINESS**

**Credit Bureau Service Review:**

Ms. Margaret Jungmann reported to the Board the recommendation of changing to a different credit bureau service. The Board held a discussion on the recommendation of changing from AFS as the current vendor to Experian due to a better rate and service.

**Board Members Held Over:**

Mr. Perkins, Ms. Shomp and Mr. Feder will be carry over Board Members for the July 2008 Meeting.

The regular meeting was concluded at 2:25 PM

**Rulemaking:**

The Board then went back into session to commence rulemaking for Senate Bill 08-151. Mr. Zulauf stated that the Board will not take any official action today, but would review the present draft that was before the Board. He further stated that the rule making committee had met the

day before and the current draft before the Board was the result of the committee's work. Mr. Leland BeBee then informed the Board of the emergency rulemaking process. After this discussion, Mr. BeBee began the process of reviewing each proposed rule. There was open discussion on all of the proposed rules with the Board requesting wording changes on some. At the end of the discussion period, the decision was made to have the rulemaking committee make the necessary changes and present the final draft to the Board on the June 26, 2008 meeting.

The meeting concluded at 4:35 p.m.

Bruce Zulauf  
Executive Secretary.