MOTOR VEHICLE DEALER BOARD
MINUTES

September 13, 2007

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, 1st Vice President Jim Varner, 2nd Vice President Bob Feder Lisa Schomp Jim Reitz Eva Wilson John Medved Philip Harris
MEMBERS ABSENT:	none
DEPT OF REVENUE, ACTING DIRECTOR OF ENFORCEMENT:	Matt Cook
EXECUTIVE SECRETARY:	Robert Sexton
LEGAL ASSISTANT:	Birgit Bindel
DEPT OF REVENUE, AID, ENFORCEMENT DIVISION STAFF:	Eugene Tardy Jerry Smith Kaye Kopecky Eric Hartsough Bud Heinrich Sherry Colborg Chris Rouze Charles Halberstadt
A.G.'S OFFICE:	Diana Black
BUDGET OFFICE:	Pamela Keller

VISITORS:

Mary Marvin, CIADA
Jon Kroneberger, CIADA
Jeremy Coffrell, CADA
Tammy McCoy, CADA
Kayne Collie

Brandon Beard
Wilbert Collins
David Minshall
Brian Heath, Loveland Habitat for Humanity

The meeting convened at 9:10 a.m.

Jon Kroneberger congratulates Mr. Perkins who won two National Quality Dealer awards in Colorado as well as in Arizona.

Dr. DeMiranda gave a presentation regarding psychometric testing of motor vehicle license applicants. The Board requested to receive a RFP from Dr. DeMiranda's office within 10 days.

MINUTES:

The minutes of August 9, 2007 were approved unanimously with the following amendments:
(Amendments are underlined and written in Italics.)
page 2 now reads: ….The Board passed a Motion to maintain the Board's *leadership* composition until the Governor renders a decision regarding the composition of the Board – unanimously.
Page 5 now reads: BLH - Motion passed to refer to hearing before the Board **–** *unanimously.*

BUDGET:
Documents were presented to the Board by the Budget Department, Department of Revenue, Enforcement Group regarding FY 06/07 year to date actual legal expenditures and revenue. The Board reviewed the documents, which reflect a fund balance of $725,210.64. The Board stated that the Division is cash funded through fees. The Board would like to have a discretionary fund to use for example for psychometric testing. Senior management of the EBG Budget Office, Pamela Keller, replied that the Board does not have spending authority, which can be only accomplished either through a legislative bill or to ask for appropriation through legislative authorization. The Board passed a motion that a request is prepared for a discretionary fund for the Board mandated by legislative. **Motion passed unanimously.**
The Board directed Robert Sexton to file supplement budget reports: One shall be in the amount of $200,000.00, another for $100,000.00. The requested funds shall be used for expenses to implement a psychometric testing system, to cover additional expenses for the powersport implementation, increase of legal fees and microfilm replacement.

ASSISTANT ATTORNEY GENERAL:

Colbert Auto Sales: Motion to Dismiss - passed **unanimously.**

Don Massey: Motion to Dismiss - passed **unanimously.**

Covenant Motors: Motion to Dismiss - passed **unanimously.**

The AG's office had nothing else to report.

EXECUTIVE SECRETARY'S REPORT:

The Executive Director's appointed six (6) Hearing Officers for Salesperson licensure hearings due to the legislative changes reflected in SB07-221. Motor Vehicle Salesperson Hearings took place on 8/13/07 before Hearing Officer Art Julian. Robert Sexton, Executive Secretary, reported the following Initial Decisions to the Board for review.

Allen Tiller – The Hearing Officer decided that a license was to be denied. The Board affirmed this decision. Motion passed - **unanimously.**

Thanh Than – The Hearing Officer decided that a probationary license year was to be granted with a probationary period of one year. The Board affirmed this decision. Motion passed - **unanimously.**

Timothy Saturday – The Hearing Officer decided that a license was to be denied. The Board affirmed this decision. Motion passed – **6:2.**

Bryan Walters – The Hearing Officer decided that a probationary license year was to be granted with a probationary period of 18 months. The Board modified this decision by amending the probationary period to 12 months. Motion passed – **5:4.**

Jeffrey Freeman – The Hearing Officer decided that a license was to be denied. The Board affirmed this decision. Motion passed - **unanimously.**

Jeremy Goo – The Hearing Officer decided that a license was to be denied as a matter of law. The Board affirmed this decision. Motion passed - **unanimously.**

Mark Smith – The Hearing Officer decided that a license was to be denied as a matter of law. The Board affirmed this decision. Motion passed - **unanimously.**

Robert Sexton, Executive Secretary, further reported case status regarding

ALJ: Auto Exchange East. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed the license revocation in the decision, but modified the decision by imposing a fine of $5000 per 6 counts = total of $30,000.00 fine payable prior to any re-licensure. Motion passed - **unanimously.**

ALJ: Auto Chase. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed this decision. Motion passed - **unanimously.**

ALJ: Christopher Dreblow. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed the license revocation in the decision, but modified the decision by imposing a fine of $1000 per 6 counts = total of $6,000.00 fine payable prior to any re-licensure.

Motion passed – **3:2.**

ALJ: Ricky Redfern. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed this decision. Motion passed - **unanimously.**

ALJ: Cool Cars MV07-017. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed the license revocation in the decision, but modified the decision by imposing a fine of $2000 per 18 counts = total of $36,000.00 fine payable now. In its absence a total of $54000.00 will be due prior to any re-licensure. The Board determined findings of fraud regarding charge 3. Motion passed - **unanimously.**

ALJ: Colorado Auto Sales. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed this decision. Motion passed - **unanimously.**

Final Agency Actions:

David Attridge, SL 167148
The Executive Secretary asked the Board to review the Final Agency Action. The AG's office gave their approval. The Board directed the Division to mail the pleading.

Thomas Reuter, SL 164668
The Executive Secretary asked the Board to review the Final Agency Action. The AG's office gave their approval. The Board directed the Division to mail the pleading.

ALJ: Cool Cars MV07-004. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed this decision. Motion passed - **unanimously.**

ALJ: Tri-City Cycles Services, Inc. d/b/a Dimicks Motorsports MV07-0006. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed this decision. Motion passed - **unanimously.**

ALJ: Patrick Colbert MV07-0003. The Board reviewed the ALJ's Initial Decision. The matter was to determine whether to impose additional sanctions. The Respondent was not present. The Board affirmed this decision. Motion passed - **unanimously.**

LICENSING REPORT:
Dealer & Wholesaler Application Approved List was reviewed by the Board.

Rocky Mountain Motors Sports, Inc., DL39953: Ms. Kopecky presented the Board with a dealer license application. The Board reviewed the documents and passed a **Motion to** deny the license**: 4:3** due to financial unfitness**.**

Kayne Collie: Ms. Kopecky presented the Board with a salesperson license. Mr. Collie has a mandatory disqualifying conviction on his criminal record and he has prior Board actions less than five years ago. Ms. Kopecky stated that a temporary license had been inadvertently issued to the applicant by the Division. At the time of this Board meeting, the applicant's sentencing date of his conviction was more than 10 years ago. Therefore, the Board passed a **Motion** to grant a license: **6:1.**

Wilbert Collins: Mr. Collins requested approval to transfer his probationary license to a new Dealership. The Board requested that Mr. Collins will inform the Board in writing when he finds a new employer. No Motion passed.

Karen Maes: Ms. Maes requested approval to transfer his probationary license to a new Dealership. The Board passed a **Motion to approve – unanimously.**

Ms. Kopecky did not present any original Salesperson license applications for Board review and action this month.

Lunch 12:15 - 1.15 PM

INVESTIGATION REPORT:
Agent in Charge Tardy reported on the following agenda items and various discussion items:

Statistical Reporting – Monthly update.
The Case Statistical Reporting, Licensing Statistics, and Activity Report were reviewed by the Board.
Criminal Filing Log and its Summary were reviewed with the Board.
Fines imposed & received log were reviewed with the Board.
Hearing schedule: was reviewed by the Board.

Autohaus Imports: The Board was informed that AID approached the Respondent in regards to a possible stipulation.

Unique Auto Sales: The Board reviewed the voluntary surrender of license form including admission of probable cause. **Motion** to accept the voluntary surrender - passed **unanimously.**

Bennett Motors – The Board was advised that the Dealer voluntarily surrendered its license. The Board required to yet summarily suspend its license.

Ace Towing- The Board was advised that this Dealer was presented to the Board in March 2007 on a compliance issue. The Board had tabled the matter for six months. AID advised that this Dealer is in compliance at this time and the matter was closed. The Board agreed with this approach.

CU Aadvantage: The Board was informed that the Notice of Appeal was filed.

Stipulations:
Auto Wonderland: The Board passed a **Motion** to accept the stipulation – **unanimously.**

A-1 Trucking: The Board requested that the AG's office re-drafts the stipulation to implement the following amendments: change the designation of parties from AID to "MVDB", change caption and paragraph 2 from Salesperson to "Dealer" (also in the order), negotiate a new closing date for the Dealer. The Board passed a **Motion** to accept the stipulation – **unanimously.**

Habitat for Humanity: This matter was initially set for Hearing for this day. The Dealer is in compliance. Therefore, a **Motion to Dismiss** passed **unanimously.**

Other Investigations Matters:

- Christopher's Dodge World Report was reviewed by the Board.
- The Board appreciated receiving information regarding Buyer's Bill of Rights in different states.
- The Board expressed again their appreciation for finding Dr. DeMiranda in regards to psychometric testing. AIC Tardy mentioned that the credit belongs to Investigator Rouze.
- AIC Tardy informed the Board that the organization chart is still in progress and will be presented to Board at the next meeting.
- **Glauser Fund:** AIC Tardy informed the Board that CADA has taken over the operation of the Glauser Fund.

NEW BUSINESS:

The Board requested to add to next months' agenda: work session regarding threshold in Dealer license applications.

Rule Making:

1) Ms. Kopecky gave update on the powersport rule making. **Motion** passed to publish powersport rules – **unanimously.**
2) **Motion** passed to notify the EDO on powersport rules – **unanimously.**
3) **Motion** passed to publish rule on Deferred Judgment and Sentence - **unanimously.**

PUBLIC COMMENTS:
None.

HEARINGS:
Habitat for Humanity – Motion to Dismiss passed unanimously.

Meeting concluded at 4.35 p.m.

Robert C. Sexton
Executive Secretary