

**MOTOR VEHICLE DEALER BOARD  
MINUTES  
March 10, 2011**

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

**BOARD MEMBERS:**

John Medved  
Bob Perry  
Philip Harris  
Jason Wagner  
Scott Ehrlich  
Eva Wilson

**MEMBERS ABSENT:**

Beau Smith  
Fred Wegener  
Deborah Thompson

**SENIOR DIRECTOR OF  
ENFORCEMENT:  
EXECUTIVE SECRETARY:**

Matt Cook  
Bruce Zulauf

**LEGAL ASSISTANT:**

Leland BeBee

**DEPT OF REVENUE,  
AID, ENFORCEMENT  
DIVISION STAFF**

Chris Rouze  
Kaye Kopecky  
Bud Heinrich  
Gloria Breeden  
Eric Hartsough  
Sherry Colborg  
Margaret Jungmann  
Matt Heap  
Brenda Byers

**ATTORNEY GENERAL'S OFFICE:**

Brendon Reese

**BUDGET OFFICE:**

Jill Vaughan  
Curtis Tremble

**VISITORS:**

Mary Marvin, CAPSS  
Tammy McCoy, CADA  
Andrew Kroening – Grand Prix Motorsports  
John Swayze – Promotion Auto Sales  
Eric Roth – A Better Recycler  
Jamie Roth – A Better Recycler  
Jon Setzer  
Katherine Newlon – The Master Corporation  
Benjamin Martin

President of the Board, John Medved opened the meeting of March 10, 2011 at 9:10 a.m. Mr. Medved turned the floor over to Executive Secretary, Bruce Zulauf.

## **AGENDA REVIEW AND ANNOUNCEMENTS**

Mr. Zulauf stated there were no additions or changes to the agenda. We will have Rulemaking at 1:30. Rulemaking is separate from the Board meeting. Licensing will be pulling one of the dealer applications. Mr. Smith, Mr. Wegener and Ms. Thompson are absent today; we do have a quorum. Next month's Board meeting is scheduled for April 14, 2011. We will need to enter into serious discussion on fee setting. The Budget staff and Division staff will spend serious time at the end of the month analyzing numbers and revenues to that we can give the most accurate forecast for the Board's consideration. Roughly, we are down about 4% in licensing numbers now. We still have not seen any legislation about sweeping the fund. Ms. Vaughan is watching this carefully and hasn't seen any legislation.

## **MINUTES**

The minutes of the February 10, 2011 Board meeting were unanimously approved.

## **BUDGET**

Jill Vaughan presented the budget reports:

- For January 2011, **gross** revenue collected was \$144,260. Percentage calculations indicate 53.03% of FY11 projected revenue figures have been collected as of period 7.
- For January 2011, **net** revenue collected was \$143,605 for period 7 indicating an adjustment of gross revenue in the amount of \$655.
- **Cash Fund Analysis** – synopsis of the official financial statements for the Division and indicates a current fund balance of \$904,236. This analysis shows that YTD FY11 revenue is down 33.41% and total expenditures are up 1.72% from the figures last year.
- **Cash Fund Flow Analysis** – displays the cash and fund balance position for FY11 provided all projections hold true for the Division. This analysis summarizes the data provided on the first three budget reports and includes categorized adjustments to the revenue at the bottom. January actual revenue came in at \$14,738 less than the projection of \$158,000. Expenses were more than the revenue collections for the month of January as indicated by the negative net income figure of \$77,000. The EOY fund balance for FY11 is projected to be in excess of the Division need and the projected fund balance for May is adequate at this time to cover two months of personal services expenses for the Division.
- **Expenditure Comparison** – provides actual expenses by category for the two previous fiscal years in total and includes categories for the Direct and Indirect expenses of the Division. The report displays a variance between the current year projections and previous year actuals and includes YTD expenses. The projections on this document, in the FY2010-11 column, are continually adjusted to reflect budget cuts and restrictions as required by DOR and the Governor's Office. Total expenditures shown at the end of this

column equal actual expenses for the first six months and projected expenses for the remaining six months.

## ATTORNEY GENERAL'S REPORT

Mr. Reese stated he had nothing to report.

## EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following reports:

- Case Status Record
- Fines Imposed and Received Log – we have two that are ready to be turned over to State collections and about 3 that are ready to go through the first step of our attempt to collect before going to State collections.

Mr. Zulauf presented the following Initial Decisions to the Board: Mr. Reese recused himself and left the room.

- **Shawn Cammorto #175164** – Motion to set aside the Hearing Officer's recommendation and revoke the license on basis of criminal character and record, material misstatement and a plea of guilty to a mandatory disqualifier – approved unanimously.
- **Theodore S. Edgecomb #23327** – Motion to adopt Hearing Officer's recommendation and grant a conditional license. The applicant is to self report any misdemeanor or felony offenses (excluding traffic misdemeanors and traffic infractions) within 10 days of the violation being alleged; the employing dealer shall notify the Motor Vehicle Dealer Board of any substantiated complaints regarding the applicant's behavior in the course of his employment – approved 4-1 (Wilson)
- **Michael A Ibarra #123939** – Motion to set aside the Hearing Officer's recommendation and revoke the license on basis of unfitness of criminal and financial character – approved unanimously.
- **Ross Dennis Netherton #160719** – Ms. Kopecky recused herself. Motion to adopt the Hearing Officer's recommendation and deny the license – approved unanimously. (Ms. Kopecky returned to the room)
- **Christopher Obeid #176517** – Motion to set aside the Hearing Officer's recommendation and revoke the license on basis of unfitness of criminal character and a material misstatement – approved unanimously.
- **Dustin M. O'Day #158838** – Motion to set aside the Hearing Officer's recommendation and revoke the license on basis of unfitness of criminal character and record, material misstatement and a mandatory disqualifier – approved unanimously.
- **Joni Tims #156995** – Ms. Kopecky recused herself. Motion to table the decision until the April meeting – approved unanimously. (Ms. Kopecky returned to the room)

- **Patrick D. Nolan #172978** – Motion to Reserve the Right to Review – approved unanimously.
- **Robert J. Patterson #177739** - Motion to Reserve the Right to Review – approved unanimously.
- **David Rozenblum #171654** - Motion to Reserve the Right to Review – approved unanimously.
- **Adis Selimovic #159473** - Motion to Reserve the Right to Review – approved unanimously.
- **Chad Slaughter #154738** - Motion to Reserve the Right to Review – approved unanimously.
- **Auto Locator #1282** - Motion to Reserve the Right to Review – approved unanimously.
- **Integrity Auto Consultants #38132** - Motion to Reserve the Right to Review – approved unanimously.
- **US Auto #8572** - Motion to Reserve the Right to Review – approved unanimously.

Mr. Reese returned to the room.

Mr. Harris questioned the practices of applicants who fail to disclose on an application and then resubmit an application and disclose and whether we should be drawing a line somewhere. It was suggested that quite often the applicant doesn't understand the question. Applicant's state they didn't remember or they didn't think it had to be disclosed because the action occurred in another state. We also run into attorneys giving incorrect information and there are those that just fail to disclose criminal history.

Mr. Zulauf stated that in the past, in an effort to streamline processes, the application was changed to a 1 page document; this is not sufficient. Medical Marijuana has a 23 page application and we need to find a good middle ground. The one question we ask about disclosure should be asked in 4 or 5 separate very well worded questions. Mr. Zulauf stated he was anticipating that sometime in the coming months we will be presenting a 4-5 page application for the Board's review.

Mr. Medved asked if the future form could include a question that requests information on anything that transpired out of the State.

## **LICENSING REPORT:**

Ms. Kopecky presented the following to the Board:

### **Dealer Applications:**

- **A Better Recycler** – Motion to approve the license application – approved unanimously.
- **Colorado Ride the West RV Rentals Inc.** – pulled for further information.
- **The Master Corporation LLC** – Motion to approve the license application – approved unanimously.

#### **Salesperson Applications:**

- **Joetta Marie Ileo #178700** – Motion to approve the application for a salesperson license – approved unanimously.
- **Nicles Allen Long #178523** – Motion to approve the application for a salesperson license – approved unanimously.
- **Nathan Alan Noble #178634** – Motion to deny the salesperson license application on basis of unfitness of criminal character and record – approved unanimously.
- **Adam Isaiah Serrato #178724** – Mr. Harris recused himself – Motion to approve the application for a salesperson license – approved 4-1 (Wilson) with Mr. Medved voting.

Mr. Harris returned to the room.

- **Billy Two Bears #155010** – Motion to deny the salesperson license application on basis of unfitness of criminal character – approved 3-2 (Wagner, Ehrlich)

#### **Salesperson Applications with Prior Board Action**

- **John Francis Brislin** – Motion to approve the application for a salesperson license – approved unanimously.
- **Andrew Steven Kroening** – Motion to approve the application for a salesperson license – approved unanimously.
- **Chad Garrett Phillips** – pulled for further information.
- **John Dwayne Swayze** – Motion to deny the application for a salesperson license on basis of unfitness of criminal character and record. Did not receive a second. Motion to approve a conditional salesperson license with employer notification required for one year – approved 4-1 (Wilson)
- **Preston Sidney Walker** – Motion to deny the application for a salesperson license on basis of unfitness of criminal character – approved unanimously.
- **Franklin Deluescovo** – Motion to deny the application for a salesperson license on basis of unfitness of financial character – approved unanimously.
- **Benjamin Donald Martin** – Motion to approve the application for a salesperson license – 4-1 (Wilson)

Ms. Kopecky presented the Dealer Approved List.

### **Backgrounds**

Ms. Kopecky informed the Board there were 279 backgrounds completed

34 disclosed

6 failed to disclose

### **INVESTIGATION REPORT:**

Agent in Charge, Chris Rouze presented the following report:

**Statistical Reporting** – This report will be given verbally rather than a printed copy. Ms. Rouze informed the Board that 109 new cases were opened and 129 cases were closed for the month, giving the Division a balance of 593 open cases.

### **Affidavits of Probable Cause:**

- **Boulder Motors LLC #36757** – Motion made that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Boulder Motors LLC #36757; that the case be assigned to the Colorado Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations under the Complaint Investigation Settlement Process – approved unanimously.
- **Lada Auto Sales #41171** – Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Lada Auto Sales #41171; that the case be assigned to the Colorado Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations under the Complaint Investigation Settlement Process – approved unanimously.
- **Metro Auto Link #38409** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Metro Auto Link #38409; that the case be assigned to the Colorado Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations under the Complaint Investigation Settlement Process – approved unanimously.
- **Dennis B. Craig, Salesperson #26375** – Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Dennis B. Craig, Salesperson #26375; that the case be assigned to the Colorado Department of Revenue Hearings Division for a hearing on the merits – approved unanimously.

**NEW BUSINESS:** It was suggested that in the future whenever we need to have rulemaking that we schedule it for 11:00. The Board would break for the Rulemaking hearing and resume afterwards rather than scheduling it for the afternoon.

**PUBLIC COMMENT:** There was no public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 10:37 p.m.

*(Note: The Minutes of the Motor Vehicle Dealer Board summarize the contents of the meeting. They are not verbatim transcripts and are based principally upon the digital recording of the meeting and upon the later collaboration of staff attendees to ensure that the summary faithfully captures the matters before the Board and the actions the Board took. The digital recording of the meeting is a permanent record of the Board, retained in the electronic filing system of the Auto Industry Division, and is available as a resource for review, as needed.)*

Bruce Zulauf  
Executive Secretary