

**MOTOR VEHICLE DEALER BOARD
MINUTES
January 21, 2014**

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

BOARD MEMBERS:	Joe Gebhardt Chris Hefty Stan Martin John Schenden Beau Smith Deborah Thompson Jason Wagner Fred Wegener
MEMBERS ABSENT:	Lee Yoder
SENIOR DIRECTOR OF ENFORCEMENT:	Ron Kammerzell
EXECUTIVE SECRETARY:	Bruce Zulauf
LEGAL ASSISTANT:	-Leland BeBee
DEPT OF REVENUE, AID, ENFORCEMENT DIVISION STAFF:	Chris Rouze Matt Heap Eric Hartsough Gloria Breeden Margaret Jungmann Kaye Kopecky John Opeka Cheryl Morrison Mark Kelley Bud Heinrich Erika Garcia Joe Scalabrini Arleen Criddell-Tapanen
ATTORNEY GENERAL'S OFFICE:	Y.E. Scott Brendon Reese
BUDGET OFFICE:	
VISITORS:	Mary Marvin, CAPSS Todd O'Connell, CIADA Tami McCoy, CADA Randal Ankeney Daniel Garcia

President, Beau Smith opened the meeting of January 21, 2014, at 9:10 a.m. Mr. Smith turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no additions or corrections. Mr. Zulauf announced that formal rulemaking drafts will be presented by Y.E. Scott and Brendon Reese of the Attorney General's office. There will be no public comment.

Mr. Zulauf and Mr. Krammerzell will meet later today with representatives from the Office of State Audit. Mr. Zulauf introduced new Criminal Investigator, Mr. Mark Kelley, who transferred from the Liquor Enforcement Division. Mr. Yoder will not be in attendance today.

Calendar - Mr. Zulauf announced there will be no Rulemaking Workshop on Thursday, January 23, 2014. Mr. Zulauf anticipates there will be a Rulemaking Workshop scheduled for Thursday, February 27, 2014.

The Electronic Media Focus Group report will be completed by Thursday, February 27, 2014 and draft rules presented on advertising issues at that time. Mr. Zulauf requested the March Board meeting be rescheduled from Tuesday, March 18, 2014 to Thursday, March 13, 2014, Board approved unanimously.

MINUTES

The minutes of the December 17, 2013 Board meeting were approved unanimously.
The minutes of the December 17, 2013 Rulemaking Workshop were approved unanimously.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Grand Valley Auto Sales, Dealer #37458** - Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Quest Motors, LLC, Dealer #39595** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott and Mr. Opeka recused themselves and left the room.

- **Initial Decision – Kingsley, Kayla Marie #184698** – Motion to not accept the Findings of Fact of traffic infraction, and modify Conclusions of Law to strike the language in Conclusion of Law #6, and grant a conditional license – approved 6-1 (Hefty).
- **Initial Decision – Ohimai-Green, Stephen #27438** – Motion to accept the Findings of Fact, and Conclusions of Law and deny the license – approved unanimously.

Mr. Reese recused himself and left the room.

- **Initial Decision – Phillips, Tracie L. #26739** – Motion to accept the Findings of Fact, and Conclusions of Law set aside recommendations of the Hearing Officer and revoke license – approved unanimously.

Ms. Scott and Messrs. Reese and Opeka returned to the room.

FORMAL RULEMAKING

The Board made a motion to enter into a formal rulemaking session – approved unanimously.

The following drafts were presented by Y. E. Scott and Brendon Reese:

- Proposed Rule – Purpose of the Rule is to create a Regulation that will inform both dealers/consumers how the disclosure process works.
- New Proposal (Disclosure) Form – Can be modified without going into formal rulemaking.

Motion to move forward with formal rulemaking - approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

Dealer Applications:

- **Hart’s Smart Car Sales #42736** – Motion to deny the license due to failure to cooperate in application process. – approved unanimously.
- **Johnny Martin Enterprises, LLC #42802** – Motion to approve the license – approved unanimously.

Salesperson Applications:

- **Allen, Sir Andrew Jon Paul #185608** – Motion to deny the license based on material misstatement, unfitness of criminal character and licensing character – approved unanimously.
- **Ankeney, Randal #186141** – Motion to deny the license based on unfitness of criminal character, financial character, licensing character, and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Blake, Nicholas #185926** – Motion to deny the license based on unfitness of criminal character, financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Davis, Jefferson #25580** – Motion to grant the license with standard conditions – approved (5-2).
- **Davis, Matthew #184107** – Motion to grant the license – approved unanimously.

- **Espinoza II, Ralph #186163** – Motion to deny the license based on unfitness of criminal character and financial character – approved unanimously.
- **Garcia, Daniel #159068** – Motion to grant the license – approved 6-1 (Thompson).
- **Gutierrez, Eric #179827** – Motion to deny the license based on unfitness of criminal character, financial character, and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Harrison, Travis #185979** – Motion to deny the license based on unfitness of criminal character, financial character, and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Mentel, Eric #159339** – Motion to deny the license based on unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Moreno, Joshua #185737** – Motion to deny the license based on unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Schlatter, Marc #158576** – Motion to deny the license based on failure to disclose prior Board action, material misstatement, unfitness of criminal character and licensing character – approved unanimously.
- **Toscano, Vincent #177366** – Motion to grant the license – approved unanimously.
- **Weber, Scott #185286** – Motion to grant the license – approved unanimously.
- **Zinoviev, Pavel #185669** – Motion to deny the license based on unfitness of criminal character – approved unanimously.

INVESTIGATION REPORT:

Chief of Investigations Chris Rouze presented the following:

Statistical Reporting – Ms. Rouze informed the Board that we started with 607 cases, 142 new cases were opened and 170 cases were closed for the month, giving the Division a balance of 579 open cases. There were 322 background inquiries performed.

Affidavits of Probable Cause:

- **Pikes Peak Motorsports, DL #39858** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Pikes Peak Motorsports, Dealer #39858; that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.

- **Carlin, John K., SP #34152** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Carlin, John K., Salesperson #34152; that the case be assigned to the Colorado Department of Revenue, Hearings Division for a hearing on the merits – approved unanimously.
- **Fadeyi, Sikiru Alabi, SP #167687** – Motion that the Board finds probable cause based upon the corrected Affidavit of Probable Cause presented to the Board today respective to Fadeyi, Sikiru Alabi, Salesperson #167687; that the case be assigned to the Colorado Department of Revenue, Hearings Division for a hearing on the merits – approved unanimously.
- **Craig Ford, Inc., DL #198** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Craig Ford, Inc., Dealer #198; that the case be assigned to the Colorado Motor Vehicle Dealer Board for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 and provide the Board with an update of the situation in 30 days – approved unanimously.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 10:50 a.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