

**MOTOR VEHICLE DEALER BOARD
MINUTES
February 16, 2016**

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

BOARD MEMBERS:

Justin Franks
Robert Endter
Joseph Gebhardt
Stan Martin
Deborah Thompson
Jason Wagner

MEMBERS ABSENT:

Anthony Brownlee
Michael Jorgensen
Chris Langley

**SENIOR DIRECTOR OF
ENFORCEMENT:**

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:**DEPT OF REVENUE,
AID, ENFORCEMENT
DIVISION STAFF:**

Chris Rouze
Matt Heap
John Opeka
Gloria Breeden
Martin Kenney
Cheryl Morrison
Erika Garcia
Margaret Jungmann
Wendy Spaulding
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott

VISITORS:

Michael Dommermuth, CADA
Eric Hartsough, Dealer Services
Todd O'Connell, CIADA
Michael Byerly, Peak Kia
Vittorriano Miera, Grand Junction Chrysler
Steve Perkins, Centennial Leasing & Sales
Tim Jackson, CADA
Brandon D. Brooks
Tammi McCoy, CADA
Hamid Murad, Impex Automotive, LLC
Patty Ford, Stevinson

President, Jason Wagner, opened the meeting of February 16, 2016 at 9:11 a.m. Mr. Wagner turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no corrections to the agenda. Messrs. Brownlee, Jorgensen and Langley will not be in attendance today. The public rulemaking hearing pertaining to Material Damage Disclosures, Material Particulars will be held on Thursday, February 25, 2016 at 9 a.m. in the Boards and Commission conference room. The two remaining audios of the final two Stakeholder meetings of Group 2 will be posted to the website.

MINUTES

The minutes of the January 19, 2016 meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Auto Connection LLC #43473** – Motion to grant the license – approved unanimously.
- **United Auto #43459** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Bagwell, Clayton #556752** – Motion to deny the license based on unfitness of criminal character, having been convicted of a misdemeanor under title 18 or any felony and failure to disclose – approved unanimously.
- **Brooks, Brandon #177849** – Motion to grant the license – approved unanimously.
- **Degrado, Joshua #558540** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character and failure to disclose – approved unanimously.
- **Fontenot, Jerid #558312** – Motion to deny the license based on unfitness of criminal character, having been convicted of a misdemeanor under title 18 or any felony and failure to disclose – approved 4-1 (Franks opposed).
- **Gallagher, Michael #559670** – Motion to deny the license based on unfitness of criminal character, having been convicted of a misdemeanor under title 18 or any felony and failure to disclose – approved unanimously.
- **Hall, Marlon #559322** – Motion to deny the license based on unfitness of criminal character, having been convicted of a misdemeanor under title 18 or any felony and failure to disclose – approved unanimously.

- **Lander, Brady #557536** – Motion to grant the license – approved unanimously.
- **Lee, Robin #187726** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character, unfitness of licensing character, and having been convicted of a misdemeanor under title 18 or any felony – approved 4-1 (Franks opposed).
- **Mardon, Christopher #191568** – Motion to deny the license based on unfitness of financial character and unfitness of criminal character – approved unanimously.
- **Miera, Vittorriano #191755** – Motion to grant the license – approved unanimously.
- **Teachout, Audrey #562930** – Motion to grant the license – approved unanimously.

OPEN DISCUSSION – *Disclosure Form 2434*

Mr. Zulauf reminded the Board that one of their goals during rulemaking was to un-embed Form 2434 which, prior to August 14, 2015, was part of the rule. The purpose of today's discussion is to reach a consensus on proposed changes submitted by stakeholders.

Mr. Dommermuth passed out redlined versions of CADA's changes that were agreed upon at the last stakeholder meeting and new proposed changes will be presented today. A general discussion of the handouts followed.

Mr. O'Connell stated that Mr. McKinnon, attorney for CIADA, concurs with CADA's presentation.

Ms. Scott reminded the Board that the form is there to protect the consumer.

Board took a 10 minute break.

Motion was made to leave form as it is and revisit when CADA, the Attorney General's Office and consumer advocate attorneys, submit proposed changes to E2 – approved unanimously.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – D S A S, Inc., Dealer #3089** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Mercedes-Benz of Colorado Springs, LLC, Dealer #38468** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Wagner recused himself and left the room.

- **Proposed Stipulation and Final Agency Order – Planet Honda, Dealer #8536** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Gebhardt as chairperson voted).

Mr. Wagner returned to the room.

- **Proposed Stipulation and Final Agency Order – Avalanche Harley-Davidson, Dealer #42222** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Johnson Auto Plaza, Inc., Dealer #186** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Peak Kia, Dealer #37330** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott recused herself and left the room.

- **Initial Decision – Anthony Andrew Bisesto, Jr., Motor Vehicle Salesperson License #165431** – Motion was made to accept the Findings of Fact and Conclusions of Law, set aside the recommended order, and revoke the license – approved unanimously.

Ms. Scott returned to the room.

INVESTIGATIONS REPORT

Mr. Heap presented the following to the Board:

Statistical Reporting – Mr. Heap informed the Board that we started with 424 cases, 184 new cases were opened and 186 cases were closed for the month, giving the Division a balance of 422 open cases. There were 340 background inquiries performed.

Affidavits of Probable Cause:

- **AutoNation Nissan Arapahoe, DL #3222** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Nissan Arapahoe, Dealer #3222; and 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 – approved unanimously.
- **Carhop, DL #41405** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Carhop, Dealer #41405; and 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 – approved unanimously.
- **Dye Enterprises, DL #2575** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Dye Enterprises, Dealer

#2575; and 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 – approved unanimously.

- **Golden Road Auto, DL #41686** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Golden Road Auto, Dealer #41686; and 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 – approved unanimously.
- **Marks Auto Sales, DL #2679** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Marks Auto Sales, Dealer #2679; and 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 – approved unanimously.
- **Palem Auto Sales, DL #39376** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Palem Auto Sales, Dealer #39376; and 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 – approved unanimously.
- **Expo Automotive LLC, DL #43071** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Expo Automotive LLC, Dealer #43071; and 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 – approved unanimously.
- **USA Enterprises LLC, DL #42141** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to USA Enterprises LLC, Dealer #42141; and that the Colorado Motor Vehicle Dealer Board summarily suspend their motor vehicle dealer’s license in accordance with C.R.S. 24-4-104 as they have engaged in deliberate and willful acts and their conduct poses a threat to the public health, safety and welfare, and 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 – approved unanimously.
- **Masini Motors LLC, DL #3028** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Masini Motors, Dealer #3028; and that the Colorado Motor Vehicle Dealer Board summarily suspend their motor vehicle dealer’s license in accordance with C.R.S. 24-4-104 as they have engaged in deliberate and willful acts and their conduct poses a threat to the public health, safety and welfare, and 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 – approved unanimously.
- **Ryan Neal Middleton, SP #189115** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Ryan Neal

Middleton, Salesperson #189115; and that the case be assigned to the Colorado Department of Revenue, Hearings Division for a hearing on the merits – approved unanimously.

DISCUSSION OF PROPOSED LEGISLATION

HB16-1029 – Registration of Kei Vehicle for Use on the Public Roadways has been postponed indefinitely.

SB16-117 – Concerning a Limitation on a State Agency’s Authority to Impose a Fine – Every fine the Board imposes is a discretionary fine.

Motion was made to oppose SB16-117 and authorized the Executive Secretary to compose a letter to that effect which will be signed by Board president – passed unanimously.

New Business – Mr. Gebhardt suggests the March agenda include a topic for discussion with regards to manufacturers possibly acting as dealers by soliciting buyers and negotiating vehicle sales.

Mr. Zulauf informed the Board of two websites that were brought to his attention.

Shift.com is a website of a California-based company where private sellers can sign their vehicles over and the vehicles are maintained at their facility until sold.

Blinker.com is a website formed by a former Colorado dealer where private sellers or buyers can use phone apps to sell vehicles. They are now marketing nationwide.

Public Comment – No public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 12:45 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