

**MOTOR VEHICLE DEALER BOARD
MINUTES**

February 21, 2017

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

BOARD MEMBERS:

Robert Endter
Justin Franks
Joseph Gebhardt
Lucky Heggs
Michael Jorgensen
Stan Martin
Steven Perkins
Dominic Scrivner

MEMBERS ABSENT:

Chris Langley

SENIOR DIRECTOR OF ENFORCEMENT:

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

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

Chris Rouze
Chris Hartman
Gloria Breeden
John Opeka
Martin Kenney
Cheryl Morrison
Erika Garcia
Michael Harlost
Eric Teklu
Frank Agos
Hunter Helton
Nit Hamby
Annamarie Steenbock
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brendon Reese

VISITORS:

Tracey McManus
Van DiSants
Lori Church, John Elway Dealerships
Eric Hartsough, Dealer Services
James Tohal, Solon pre-owned/Grand West Kia
Ryan Middleton, Spradley Berr Ford
Cesar Ivan Torres Betancort, Denver Autos
Todd O'Connell, CIADA
Tammi McCoy, CADA
Art Erwin, Christopher's Dodge World
Tim Jackson, CADA

President, Joseph Gebhardt, opened the meeting of February 21, 2017 at 9:08 a.m. Mr. Gebhardt turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no changes to the agenda as posted. Mr. Langley will not be in attendance today. Mr. Kammerzell will give the Board an update on legislative matters. The Board will discuss Mr. Reese's redraft of Policy #15-001.

MINUTES

The minutes of the January 17, 2017 meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Jambo Motors #43299** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Betancort, Cesar #161153** – Motion to grant the license – approved unanimously.

Mr. Gebhardt stated that Mr. Gutierrez was employed by his brother.

- **Gutierrez, Eric #179827** – 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.

Mr. Heggs recused himself and left the room.

- **Hutchison, Scott #184774** – 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.

Mr. Heggs returned to the room.

- **McManus, Tracey #30535** – Motion to grant the license – approved unanimously.
- **Middleton, Ryan #189115** - 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.
- **Nelson, Jarad #195567** – Table for proof of successful completion of probation and deferred sentence – approved unanimously.

- **Rivero, Huber #195554** - Motion to deny the license based on unfitness of criminal character, having been convicted of a misdemeanor under title 18 or any felony and outstanding fines and probation not being completed – approved unanimously.
- **Salzano, Armando #152163** - Motion to deny the license based on unfitness of financial character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Tohal, James #194953** - Motion to grant the license – approved 5-2 (Scrivner and Franks opposed).

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Community Auto Center, LLC, Dealer #41993** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Econo Auto Sales, Dealer #3075** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Two M Plus, Inc., Dealer #42017** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Erik's Auto Broker, Dealer #43384** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Request from Licensee for Expungement or Sealing of Record – Timothy Steves, Salesperson #187343** – The Board took no action on this matter.

Board took a 15 minute break.

INVESTIGATIONS REPORT

Ms. Rouze presented the following to the Board:

Statistical Reporting – Ms. Rouze informed the Board that we started with 277 cases, 187 new cases were opened and 182 cases were closed for the month, giving the Division a balance of 282 open cases. There were 1,140 background inquiries performed.

Affidavits of Probable Cause:

- **Apex Automotive Sales, DL #40804** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Apex Automotive Sales, Dealer #40804; 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.
- **Schnase, Jeffrey L., SP #133306** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Schnase, Jeffrey L., Salesperson #133306; and that the case be assigned to the Colorado Department of Revenue Hearings Division for a hearing on the merits – approved unanimously.

- **Car Sales Ltd., DL #39656** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Car Sales Ltd., Dealer #39656; and 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.
- **Colorados Car Connection, DL #43149** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Colorados Car Connection, Dealer #43149; 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.
- **Crescent Auto Sales, Inc., DL #3198** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Crescent Auto Sales, Inc., Dealer #3198; 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.
- **Mr. Mazda, Inc., DL #8446** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Mr. Mazda, Inc., Dealer #8446; 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.
- **Grand West Kia, DL #39278** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Grand West Kia, Dealer #39278; and 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.
- **John Elway Chevrolet, DL #41988** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to John Elway Chevrolet, Dealer #41988; and 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.
- **Solon Pre-Owned (now doing business as Grand West Motors), DL #41923** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Solon Pre-Owned (now doing business as Grand West Motors), Dealer #41923; 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.

ATTORNEY GENERAL'S REPORT

Mr. Reese presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Daniel M. Ramirez, Jr., Salesperson #13186** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

LEGISLATIVE UPDATE – Mr. Zulauf informed the Board that the Sunset Review has gone to the Sunset Committee. The Committee agreed to sponsor the Sunset Bill and a draft of the bill is expected any day. The Committee removed the Sunset recommendations related to the Amalgamation of Parts 1 & 5, the repeal of the prohibition on Sunday sales and the repeal of the Board’s authority to propose adjustments to licensing fees from consideration in the bill draft. The remaining Sunset recommendations will be in the first bill draft.

Mr. Kammerzell briefed the Board on Senate Bill 17-001, Regulatory Relief Act, Senate Bill 17-002, Compulsory Rule Review Act and Senate Bill 17-186, Methods to Reduce Regulatory Burdens on Business from Administrative Rules, all of which could impact the Rulemaking and Regulatory process throughout state government. Mr. Kammerzell will continue to monitor and update the Board as the bills progress through the legislative process.

OPEN DISCUSSION – Review of Redraft of Board Policy #15-001

Mr. Zulauf opened the discussion by informing the Board that Mr. Reese has redrafted the policy in an attempt to clarify the language as per the Board’s request from last month. The redrafted policy, #17-001 would replace #15-001 if the Board accepts the new language.

Mr. Zulauf informed the Board he was going to use his statutory authority granted under 12-6-104(3)(a.5) C.R.S., allowing the Executive Secretary to make recommendations to the Board on all matters within the authority of the Board. He stated that he was going to make two recommendations to the Board.

Mr. Zulauf’s first recommendation was that the Board accepts the Policy as drafted by Mr. Reese. This Policy provides protection to the Board.

His second recommendation was that the Rulemaking process be changed by having the Board members attend all stakeholder meetings as participants in the discussion. This would allow the Board members to be involved in the beginning stages and be fully informed when the final rulemaking hearing takes place.

Mr. Jackson and Ms. McCoy of CADA and Mr. O’Connell and Mr. McKinnon of CIADA addressed the Board in open discussion.

After lengthy discussion, a motion was made to adopt Board Policy #17-001 – passed 6-1 (Mr. Heggs opposed).

A motion was made to adopt the recommendation to have stakeholder meetings, which will include the Dealer Board – passed unanimously.

New Business – No new business.

Public Comment – No public comment.

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:24 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