

**MOTOR VEHICLE DEALER BOARD
MINUTES
March 13, 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 Stan Martin John Schenden Jason Wagner Sheriff Fred Wegener Levi Yoder
MEMBERS ABSENT:	Chris Hefty Beau Smith Deborah Thompson
SENIOR DIRECTOR OF ENFORCEMENT:	
EXECUTIVE SECRETARY:	Bruce Zulauf
LEGAL ASSISTANT:	Leland Bebee
DEPT OF REVENUE, AID, ENFORCEMENT DIVISION STAFF:	Chris Rouze Matt Heap Eric Hartsough John Opeka Dave Heinrich Cheryl Morrison Kaye Kopecky Arleen Criddell-Tapanen
ATTORNEY GENERAL'S OFFICE:	Y.E. Scott
BUDGET OFFICE:	
VISITORS:	Mary Marvin, CAPSS Debbie Woodley, CIADA Justin Neil Casteel Jessica Rose Gray Nicole Angela Tice

Vice President, Jason Wagner, opened the meeting of March 13, 2014, at 9:15 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 additions or corrections. Mr. Zulauf announced that Ms. Thompson, Messrs. Smith and Hefty will not be in attendance today.

Calendar - Mr. Zulauf announced there will be no Rulemaking Workshop on Thursday, March 27, 2014. The next Board meeting will be Tuesday, April 15, 2014. Mr. Zulauf anticipates the focus group report being ready in time for the April Board meeting. He will send the report out to all Board members several days in advance for their review. Mr. Zulauf anticipates all focus group members being in attendance at the April meeting and prepared to have general discussion about the work of the group over the last 17 months. Fee setting will also be discussed during the next meeting. A Rulemaking Workshop is scheduled for April 24, 2014.

Mr. Zulauf gave the Board an update on Craig Ford. The closing has been delayed and they are working with Investigator Opeka and are scheduled to close March 14, 2014. Mr. Zulauf will keep the Board updated as more information is forthcoming. Today is figure setting for the Auto Industry Division. Mr. Zulauf should know by end of day whether the department was granted expected spending authority.

MINUTES

The minutes of the February 18, 2014 Board meeting were approved unanimously.

AUDIT UPDATE

In regards to the pending audit of the Auto Industry Division and the Motor Vehicle Dealer Board, the Legislative Audit Committee had a meeting which resulted in a tied vote (4-4) down party lines. Mr. Zulauf stated that due to the outcome of the vote, the request for an audit will not move forward. He also mentioned that, around same time, an article was written concerning this issue in the Denver Business Journal.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Outpost Harley Davidson, Dealer #35832**
– Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Jaguar Colorado Springs, Dealer #38564**
– Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Land Rover Colorado Springs, Inc., Dealer #8158** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

- **Proposed Stipulation and Final Agency Order – Red Noland Infiniti, Dealer #7761** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Carflex, Dealer #3332** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Yoder asked how to go about making a statement that the willful failure to disclose is a “black mark” on the Auto Industry. Mr. Schenden suggested having CADA include this information, as a reminder, in their monthly newsletter to dealers. Mr. Martin mentioned that he strongly felt the state of Colorado was moving in the right direction in regards to dealers disclosing what they know. He stated that the two associations, CIADA and CADA, were actively working with legislature to get the 6-year salvage exemption removed and flood cars labeled “flood”.

There was a general discussion about the fining matrix. Mr. Gebhardt was concerned that salespersons are not being held as accountable as dealers when it comes to compliance with statutes governing licensing. He mentioned that dealers are more likely to be fined for having unlicensed salespersons than a dealership that is willfully committing fraudulent activities. Mr. Zulauf reminded the Board that they can change the fines at any time. He suggested we revisit the fining matrix which was adopted by the Board in February of 2009 as an agenda item for upcoming Board meeting on May 20, 2014.

- **Proposed Stipulation and Final Agency Order – Colorado Springs Dodge, Dealer #39506** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Phil Long Hyundai of Motor City, LLC, Dealer #38161** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Phil Long Hyundai of Chapel Hills, LLC, Dealer #38352** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Mustafa Mohannad Aryan, Salesperson #155162** – 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 – Itehad, Wahidullah #166442** – Motion to accept the Findings of Fact, Conclusions of Law and to set aside recommendation of the hearing officer and revoke the license based upon unfitness of financial character, unfitness of criminal character or record and failure to disclose – approved unanimously.

Ms. Scott and Mr. Opeka returned to the room. The Board took a 5 minute break.

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

Dealer Applications:

- **J & A Auto #38247** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Bauer, Kenneth P. #185748** – Motion to deny the license based on unfitness of criminal character – approved unanimously.
- **Casteel, Justin Neil #155041** – Motion to grant the license – approved 3-2 (Sheriff Wegener, Mr. Gebhardt opposed).
- **Cook, Daniel Emmett #186255** – 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.
- **Figueredo, Anthony Christopher #186582** – 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.
- **Gray, Jessica Rose #186305** – Motion to grant the license – approved unanimously .
- **Sandoval, Manuel Leo #29656** – Motion to deny the license based on unfitness of criminal character – approved unanimously.
- **Tice, Nicole Angela #166547** – Motion to grant the license – approved unanimously.
- **Wilcox, Joshua James #184794** – Motion to deny the license based on unfitness of licensing character, unfitness of criminal character and unfitness of financial character – approved unanimously.

INVESTIGATION REPORT:

Chief of Investigations Chris Rouze presented the following:

Statistical Reporting – Ms. Rouze informed the Board that we started with 534 cases, 127 new cases were opened and 174 cases were closed for the month, giving the Division a balance of 487 open cases. There were 328 background inquiries performed.

Affidavits of Probable Cause:

- **Astro Imports Inc., DL #8065** - Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Astro Imports, Inc., Dealer #8065; 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 – approved unanimously.
- **Century Auto Inc., DL #40220** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Century Auto, Inc., Dealer #40220; 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.
- **Colorado Chrysler Jeep, DL #41149** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Colorado Chrysler Jeep, Dealer #41149; 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.

New Business – Mr. Martin asked if the Board could consider imposing a 6-month suspension of salesperson licenses when they fail to disclose. Ms. Rouze and Ms. Scott reiterated that this type of change would require statutory change.

Public Comment – There was no public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 10:45 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