

**MOTOR VEHICLE DEALER BOARD  
MINUTES**

**March 15, 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:**

Robert Endter  
Justin Franks  
Joseph Gebhardt  
Michael Jorgensen  
Chris Langley  
Stan Martin  
Jason Wagner

**MEMBERS ABSENT:**

Anthony Brownlee  
Deborah Thompson

**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  
John Opeka  
Gloria Breeden  
Martin Kenney  
Cheryl Morrison  
Erika Garcia  
Margaret Jungmann  
Melissa DeBruin  
Arleen Criddell Tapanen

**ATTORNEY GENERAL'S OFFICE:**

Y.E. Scott  
Austin Bernstein

**VISITORS:**

Michael Dommermuth, CADA  
Eric Hartsough, Dealer Services  
Todd O'Connell, CIADA  
Rick Wynkoop, Wynkoop Law  
Michael Sorensen, Vibe Automotive  
Robert Sommers, Skyline Mitsubishi  
Tammi McCoy, CADA  
Saul Larsen, DORA  
Art Erwin, Christopher's Dodge World  
William Wolf, Pratis Investment Company  
Randy Palson, Pratis Investment Company

President, Jason Wagner, opened the meeting of March 15, 2016 at 9:05 a.m. Mr. Wagner turned the floor over to Executive Secretary, Bruce Zulauf.

## **AGENDA REVIEW AND ANNOUNCEMENTS**

Mr. Zulauf informed the Board there were corrections to the agenda. Items #3, #4 and #6 were removed from the agenda. Ms. Thompson and Mr. Brownlee will not be in attendance today. The new rule pertaining to Material Damage Disclosures / Material Particulars will be effective April 14, 2016. An Exceptions hearing and a Disciplinary hearing are scheduled for Thursday, March 24, 2016.

## **MINUTES**

The minutes of the February 16, 2016 meeting were approved unanimously.

## **ATTORNEY GENERAL'S REPORT**

Ms. Scott presented the following to the Board:

***Court of Appeals No. 14CA1467 Colorado Motor Vehicle Dealer Board Case No. BD13-1288  
Colorado Department of Revenue – Petitioner – Appellee v.  
Astro Imports, Inc. DL #8065 – Respondent –Appellant***

Ms. Scott informed the Board that the Court of Appeals affirmed the Board's findings and decision in this Case.

## **BACKGROUND INVESTIGATIONS TEAM**

Ms. Breeden presented the following to the Board:

### **Dealer Applications:**

- **Auto Connection LLC #43501** – Motion to deny the license based on unfitness of licensing character and unfitness of criminal character – approved unanimously.
- **Colorado Automotive Group #43513** – Motion to table for next month's meeting – approved unanimously.
- **Gateway Auto LLC #43498** – Motion to grant the license – approved 5-1 (Jorgensen opposed)

Mr. Langley recused himself and left the room.

- **Jambo Motors #43299** – Motion to table, pending outcome of disposition of Jambo Motors pending case – approved unanimously.

Mr. Langley returned to the room.

- **Motion Autohaus #43423** – Motion to grant the license – approved unanimously.

- **Vibe Automotive #43500** – Motion to grant the license – approved unanimously.

### **Salesperson Applications:**

- **Bagwell, Clayton #55672** – 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.
- **Calderon, Kevin #564305** – 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.
- **Citarella, Robert #181022** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Degrado, Joshua #558540** – Motion to deny the license based on unfitness of criminal character – approved unanimously.
- **Fontenot, Jerid #558312** – Motion to grant the license – approved unanimously.
- **Freeman, Karen #564337** – Motion to deny the license based on unfitness of criminal character and unfitness of financial character – approved 5-1 (Franks opposed).
- **Gallagher, Michael #559670** – Motion to grant a conditional license - approved unanimously.
- **Nataren, Melvin #561902** – 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.
- **Normatov, Stanislav #192684** – Motion to grant the license – approved unanimously.
- **Pagels, Cayla #189315** – Motion to grant the license – approved unanimously.
- **Pidcock, Jason #561240** – Motion to table for more information on possible mandatory conviction – approved unanimously.
- **Smith, Wyatt #561552** – Motion to grant the license – approved unanimously.
- **Sommers-Smelker, Robert #568342** – Motion to grant the license – approved unanimously.
- **Thomas, Jacques #561251** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Wimmer, John #155836** – Motion to grant the license – approved 4-2 (Langley and Endter opposed).

Board took a 10 minute break.

Mr. William Wall, owner, of Colorado Automotive Group addressed the Board in regards to his application. The Board will revisit his application at next month's meeting.

## **EXECUTIVE SECRETARY'S REPORT**

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Maaliki Motors, Dealer #37307** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Honda of Greeley, Inc., Dealer #8935** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Queen Auto Sales, Dealer #39682** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Century I Chevrolet, Inc., Dealer #836** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Charlie's Auto & Truck Sales, LLC, Dealer #4368** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

There was a general discussion of dealer's disciplinary records being expunged or deferred after a reasonable amount of time.

## **INVESTIGATIONS REPORT**

Mr. Heap presented the following to the Board:

**Statistical Reporting** – Mr. Heap informed the Board that we started with 422 cases, 164 new cases were opened and 190 cases were closed for the month, giving the Division a balance of 396 open cases. There were 383 background inquiries performed.

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

- **AutoNation Nissan Southwest, DL #40174** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Nissan Southwest, Dealer #40174; 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.
- **5280 Motors, Inc., DL #39783** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to 5280 Motors, Inc.,

Dealer #39783; 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.

- **Interstate Ford LLP, DL #41537** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Interstate Ford LLP, Dealer #41537; 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.
- **DLP Motors, DL #8775** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to DLP Motors, Dealer #8775; 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.
- **Royal Motors LLC, DL #38855** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Royal Motors LLC, Dealer #38855; 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.
- **The Ultimate Machines, Inc., DL #8136** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to The Ultimate Machines, Inc., Dealer #8136; 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.
- **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; 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.
- **Craig Dean Reuer, SL #181948** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Craig Dean Reuer, Salesperson #181948; and that the Colorado Motor Vehicle Dealer Board summarily suspend his salesperson's license as he has engaged in deliberate and willful acts and his conduct poses a threat to the public health, safety and welfare – approved unanimously.
- **Mountain States Toyota and Scion, DL #36975** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Mountain States Toyota and Scion, Dealer #36975; 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.

### **DISCUSSION OF GENERAL MOTORS – *Factory Pre-Owned Collection Vehicles/Dealers***

Mr. Gebhardt gave the Board a synopsis of GM’s factory pre-owned vehicle business operations. A general discussion of arguments against this business model followed. Ms. Scott will provide the Board with an informal opinion of this issue at a future meeting.

### **DISCUSSION OF PROPOSED LEGISLATION**

**SB16-117** – Concerning a Limitation on a State Agency’s Authority to Impose a Fine – Mr. Kammerzell informed the Board that this bill will most likely die in the House. He will keep the Board updated on how the bill navigates through the legislative process.

**HB16-1342** – Concerning the Creation of a State-Level NMVTIS Reporting Database – The Division is preparing a response.

**HB16-1296** – Concerning Increased Criminal Penalties for the Unlicensed Selling of Automobiles – The Division is preparing a response.

**HB16-1293** – Concerning the Addition of a Total Loss Brand – The Division is preparing a response.

**New Business** – No new business.

**Public Comment** – Mr. Dommermuth and Ms. McCoy of CADA passed out recommendations for changes to form 2434 in E2. A general discussion of proposed changes followed.

Mr. Wynkoop addressed the Board regarding guaranteed financing. A general discussion followed.

This discussion topic will be revisited at next month’s meeting.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 12:59 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