

MOTOR VEHICLE DEALER BOARD MINUTES

April 16, 2019

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

BOARD MEMBERS:

Carrie Ann Baumgart
Ramona Graves Bode
Fletcher Flower
John Linton
Steven Perkins
Matthew Porter
Jason White
Michael Widhalm

MEMBERS ABSENT:

Lucky Heggs

EXECUTIVE SECRETARY:

Bruce Zulauf

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

Chris Rouze
Chris Hartman
John Opeka
Frank Agos
Josh Dexter
Cheryl Morrison
Erika Garcia
Eric Teklu
Jim Osborn
Beth Spellerberg
Margaret Jungmann
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones

BUDGET:

Lorri Dugan – Chief Financial Officer
Ryan Reather – Budget Director
Kyoung Joo Kang – Budget Manager

VISITORS:

Todd O'Connell, CIADA
Matthew Groves, CADA
Ryan Neal Middleton
David C. Taylor, Evergreen Auto Brokers, LLC

President, Steven Perkins, opened the meeting of April 16, 2019 at 9:05 a.m. Mr. Perkins 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. Heggs will not be in attendance today. Fee setting will be presented by the budget team.

LEGISLATIVE UPDATE

HB19-1286 – Motor Vehicle Wholesaler Authorized Individuals – The bill has cleared the house and is headed to the Senate.

MINUTES

The minutes of the March 19, 2019 meeting were approved 5-3 (Mr. Perkins as Chair voted) (Messrs. Flower, Porter and Widhalm abstained).

BACKGROUND INVESTIGATIONS TEAM

Ms. Morrison presented the following to the Board:

Dealer Applications:

- **Evergreen Auto Brokers, LLC #44435** – Motion to grant the license – approved unanimously.
- **Summit Peak Motors, LLC #44442** – Motion to table for additional information – approved unanimously.

Salesperson Applications:

- **Marquez, Octavio A. #665573** – Motion to table for additional information – approved unanimously.
- **Middleton, Ryan Neal #189115** – Motion to grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions – approved unanimously.

EXECUTIVE SECRETARY REPORT

Mr. White recused himself and left the room. Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Schomp BMW #34** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Schomp Honda #718** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Schomp Hyundai #44229** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

- **Proposed Stipulation and Final Agency Order – Schomp Subaru #44230** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. White returned to the room.

- **Proposed Stipulation and Final Agency Order – Spradley Ford Lincoln, Inc. #40230** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Smart Choice Auto #40340** – Motion to accept the Proposed Stipulation and Final Agency Order – approved 6-1 (Widhalm opposed).
- **Proposed Stipulation and Final Agency Order – Premier Truck and Auto Center #43752** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – American Auto Sales & Leasing, Inc. #3246** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Car2Green #43086** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 277 cases, 155 new cases were opened and 152 cases were closed for the month, giving the Division a balance of 280 open cases. There were 377 background inquiries performed.

Affidavits of Probable Cause:

- **Cuelnos Inc., DL #44077** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Cuelnos Inc., Dealer #44077; 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. 44-20-104 – approved unanimously.
- **Grand Mesa Motorsports LLC, DL #42019** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Grand Mesa Motorsports LLC, Dealer #42019; 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. 44-20-104 – approved unanimously.
- **Maaliki Motors, DL #37307** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Maaliki Motors, Dealer #37307; 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. 44-20-104 – approved unanimously.

- **Zambranos Auto Sales Inc., DL #38820** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Zambranos Auto Sales Inc., Dealer #38820; 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. 44-20-104 – approved unanimously.
- **Ancel R. James, SL #20702** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Ancel R. James, Salesperson #20702; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits – approved unanimously.

ATTORNEY GENERAL’S REPORT

Mr. Jones presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Kevin Neal Pinkham, Motor Vehicle Salesperson License #26397** – Motion to accept the proposed Stipulation and Final Agency Order – approved unanimously.

Board took a 10 min. break.

BUDGET BASICS & CASH FUND OVERVIEW – Lorri Dugan – Chief Financial Officer

Ms. Dugan provided a PowerPoint presentation for the Board outlining how the Auto Industry Division is funded and how a cash-funded program operates in state government.

BUDGET REPORT & FEE SETTING – Ryan Reather, Budget Director and Kyoung Joo Kang, Budget Manager

Mr. Jones read into the record C.R.S. 44-20-111(5) (a), the statute that governs the Board in fee setting.

Mr. Reather distributed a historical breakdown of the Board’s fee setting beginning with FY10 through FY 18. He also distributed several scenarios based upon anticipated growth and/or lack of growth within the industry and how those could impact the overall fund balance. The budget team recommended a 10% fee increase in all scenarios.

After lengthy discussion, the Board concluded that the industry is steady and there is no anticipated growth or decline expected.

Mr. Widhalm made a motion to adopt a 10% fee increase across the board while off-premise permit fee, late fee and reprint fee remain the same – passed unanimously.

Mr. Perkins requested the Budget team provide a breakdown in trends for all licensing activity for FY2020/21 Fee setting.

New Business – None

Public Comment – None

The meeting of the Motor Vehicle Dealer Board was adjourned at 11:45 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