

**MOTOR VEHICLE DEALER BOARD
MINUTES
June 17, 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
Deborah Thompson
Jason Wagner
Sheriff Fred Wegener
Levi Yoder

MEMBERS ABSENT:

Chris Hefty
Beau Smith

**SENIOR DIRECTOR OF
ENFORCEMENT:**

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

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

Chris Rouze
Matt Heap
Eric Hartsough
John Opeka
Gloria Breeden
Dave Heinrich
Cheryl Morrison
Kaye Kopecky
Erika Garcia
Arleen Criddell-Tapanen

ATTORNEY GENERAL'S OFFICE:

Brendon Reese
Skip Spear

VISITORS:

Todd O'Connell, CIADA
Tammi McCoy, CADA
Art Erwin, Christopher's Dodge World
Randall Cherry, First Assistant Attorney General

Vice President, Jason Wagner opened the meeting of June 17, 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 he received correspondence from Beau Smith of his intentions to resign his position on the Board due to personal issues. Mr. Zulauf also informed the Board that Lee Yoder has decided not to seek re-appointment to a second term. Mr. Zulauf and the Board thanked Mr. Yoder for his service. Mr. Zulauf also informed the Board that Sheriff Fred Wegener would be leaving the Board as he has severed two full terms and is now term limited. Mr. Zulauf presented Sheriff Wegener with a plaque for his service to the Board and the citizens of the State of Colorado.

MINUTES

The minutes of the May 20, 2014, Board meeting were approved unanimously.

FINAL ORDER DISCUSSION FOR:

Astro Imports, Inc. #8065

**Motion for Judgment on the Pleadings in Disciplinary Case
Case #BD13-1288**

Skipper S. Spear, Esq., Senior Assistant Attorney General appeared as Conflicts Counsel for the Board. Mr. Reese recused himself and left the room.

Mr. Spear opened the discussion for the Board related to the proposed final order.

A motion was made to revoke the license of Astro Imports, Inc. on the basis that Astro Imports, Inc. willfully misrepresented or failed to disclose material particulars in the sale of motor vehicles and to issue the proposed final order as written. Motion was approved unanimously.

The Board had a general discussion about Astro Imports, Inc.'s inventory and what would be the next phase of litigation, which is to Appeal the Final Board Order to the Colorado Court of Appeals.

Mr. Reese returned to the room.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Land Rover Denver East, Dealer #42203**
– Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Auto World, LLC, Dealer #38461** –
Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

- **Proposed Stipulation and Final Agency Order – Eric Robert Lancaster, Salesperson #167307** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Messrs. Reese and Opeka recused themselves and left the room.

- **Initial Decision – Weltruski, Joseph #167446** – Motion to accept the Findings of Fact, Conclusions of Law and modify the decision and revoke the license based on financial character – approved unanimously.
- **Initial Decision – Hall, Korey Shane #26538** – Motion to table for 30 days – approved unanimously.
- **Initial Decision – Jones, Troy A. #163526** – Motion to accept the Findings of Fact, Conclusions of Law grant a conditional license and impose a fine of \$1,000 (\$500 payable within 30 days and \$500 in abeyance for one (1) year) – approved unanimously.
- **Initial Decision – Bennett Brothers Motors #38482** – Motion to accept the Findings of Fact, Conclusions of Law and modify the decision to make an express finding of fraud and revoke the license – approved unanimously.

Messrs. Reese and Opeka returned to the room. The Board took a 5 minute break.

- **Proposed Stipulation and Final Agency Order – Shelby GT, Dealer #38881** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

ATTORNEY GENERAL’S OFFICE REPORT

Brendon Reese presented the following to the Board:

- **Proposed Stipulation and Final Agency Order for Blake Auto Sales d/b/a Leila Auto Sales #39571** – A motion was made to enter Executive Session to discuss with Counsel pending court action involving the Board as a party pursuant to C.R.S. 24-6-402(3)(a)(II) specifically Blake Auto Sales d/b/a Leila Auto Sales, Case #BD14-0291 – passed unanimously.

The Board entered into Executive Session at 10:17 a.m. and resumed Open Session at 10:40 a.m.

Mr. Reese attested the only matter discussed while electronic recording was off, is related to privileged attorney/client information.

- **Proposed Stipulation and Final Agency Order for Blake Auto Sales d/b/a Leila Auto Sales #39571** – Motion to reject the Proposed Stipulation and Final Agency Order – Attorney General’s office will renegotiate a stipulation to reflect 10 counts of C.R.S. 12-6-118, \$50,000 fine, \$10,000 payable in ten (10) months), \$40,000 in abeyance for one (1) year. Respondent would undergo on-site quarterly audits for the duration of the probationary period, would complete a pre-licensing class and a compliance class. If Respondent agreed and signed a Stipulation with those components, the Summary Suspension would be immediately lifted – approved unanimously.

Mr. Zulauf and Mr. Reese mentioned that in the event Respondent rejects the Stipulation, a Hearing is scheduled for July 24, 2014, which could last approximately two days.

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

Dealer Applications:

- **Expo Automotive, LLC #42972** – Motion to deny the license based on unfitness of financial character – approved unanimously.
- **Lifetime Auto, LLC #42951** – Motion to deny the license based on unsuitable principal place of business – approved unanimously.
- **Red Hot Auto Broker, LLC #42941** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Becker, Aaron #187105** – 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 (3-2, Thompson and Gebhardt opposed).
- **Burch, Christopher #169707** – Motion to deny the license based on unfitness of criminal character and unfitness of financial character – approved unanimously.
- **Gardner, William #157538** – Motion to deny the license based on unfitness of financial character – approved unanimously.
- **Nuttall, Jacob #186375** – 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.
- **Smith, David #20509** – 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.
- **White, Paul #187260** – Table for 30 days – approved unanimously.

INVESTIGATION REPORT:

Chief of Investigations Chris Rouze presented the following:

Statistical Reporting – Ms. Rouze informed the Board that we started with 473 cases, 156 new cases were opened and 185 cases were closed for the month, giving the Division a balance of 444 open cases. There were 490 background inquiries performed.

Affidavits of Probable Cause:

- **Alrashed, Badar, SP #174416** - Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Alrashed, Badar, Salesperson #174416; and that the case be assigned to the Colorado Department of Revenue, Hearings Division 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.
- **Alrashed Auto Sales, LLC, DL #41005** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Alrashed Auto Sales, LLC, Dealer #41005; 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.
- **Autonation Chrysler Dodge Jeep Ram Southwest, DL #41510** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Autonation Chrysler Dodge Jeep Ram Southwest, Dealer #41510; 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.
- **Weld County Auto Sales, LLC, DL #7165** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Weld County Auto Sales, LLC, Dealer #7165; 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. Gebhardt asked if dealers were required to give a disclaimer when there is a recall on new or used vehicles from various manufacturers. Mr. Zulauf stated that his position is dealers are required to disclose any prior knowledge of vehicle to consumer.

Public Comment – Board members wished Sheriff Wegener and Mr. Yoder the best in all future endeavors.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 11:50 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