

MOTOR VEHICLE DEALER BOARD MINUTES

July 17, 2018

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 Baumgart
Fletcher Flower
Ramona Graves Bode
Lucky Heggs
John Linton
Steven Perkins
Matthew Porter
Michael Widhalm

MEMBERS ABSENT:

Jason White

**DEPUTY SENIOR DIRECTOR OF
ENFORCEMENT:**

Cory Amend

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANTS:

Leland Bebee
Beth Spellerberg

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

Chris Rouze
Chris Hartman
Gloria Breedon
John Opeka
Frank Agos
Josh Dexter
Cheryl Morrison
Erika Garcia
Eric Teklu
Hunter Helton
Chris Clements
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones

VISITORS:

Todd O'Connell, CIADA
Matthew Groves, CADA
Tim Jackson, CADA
Carolyn Berry, SDO – Enforcement
Suzanne Karrer – SDO – Enforcement
Jesus Cereceres
William Peck

Executive Secretary, Bruce Zulauf, opened the meeting of July 19, 2018 at 9:00 a.m.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no changes to the agenda as posted. Mr. White will not be in attendance today.

Mr. Zulauf read into record Executive Order A 2018 144, appointing the following members to the Motor Vehicle Dealer Board for terms expiring June 30, 2021:

- Fletcher Kristin Flower of Montrose as a representative of Licensed Motor Vehicle Dealers;
- Michael Cyril Widhalm of Longmont as a representative of Licensed Used Motor Vehicle Dealers; and
- Matthew Eugene Porter of Golden as a member of the Public at Large.

Mr. Zulauf read into record the Oath of Office, CRS 12-6-104(1) and each member was sworn in by Ms. Rouze.

Mr. Zulauf read into record the election of officers to the Board, CRS 12-6-104(2). Mr. Zulauf turned the floor over to General Counsel, Brad Jones.

Mr. Jones explained the election process. All elected officers will serve for the fiscal year 2018. The following Board officers were elected:

- Steve Perkins – President
- Lucky Heggs – 1st Vice President
- Ramona Graves-Bode – 2nd Vice President

MINUTES

The minutes of the June 19, 2018 meeting were approved 3-0-5 (Widhalm, Baumgart, Porter, Flower and Heggs abstained – Mr. Perkins as chair voted).

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Salesperson Applications:

- **Bagashlooy-Afshar, Beijan #200521** – Motion to table for 30 days – approved unanimously.
- **Cereceres Moreno, Jesus E. #187602** – Motion to grant the license – approved unanimously.
- **Fahrenholtz, Scott A. #646667** – 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.
- **Freyta-Duran, Carla D. #646395** – 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.
- **Williams, Bobby Joe #636841** – Motion to table for 30 days – approved unanimously.

EXECUTIVE SECRETARY REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Imperial Autos, Inc. #38261** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Jones recused himself and left the room.

- **Initial Decision – Zachary D. Little, Salesperson License #166059** – Motion was made to accept the Findings of Fact, Conclusions of Law, set aside the Hearing officer's recommendation and revoke the license – approved unanimously.
- **Initial Decision – William Alan Peck, Jr., Salesperson License #138757** – Motion was made to table to receive advice from Conflicts Counsel – approved unanimously.

Mr. Jones returned to the room.

INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 309 cases, 132 new cases were opened and 159 cases were closed for the month, giving the Division a balance of 282 open cases. There were 351 background inquiries performed.

Affidavits of Probable Cause:

- **Bob Penkhus Volvo Mazda, Inc. #360** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Bob Penkhus Volvo Mazda, Inc., Dealer #360; 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.
- **Heuberger Motors Inc., DL #230** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Heuberger Motors Inc., Dealer #230; 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.

Board took a 10 min. break.

ATTORNEY GENERAL'S REPORT

Mr. Jones presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Rene A. Villa #189313** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

- **Proposed Stipulation and Final Agency Order – Jeffrey L. Schnase #133306** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Board Discussion – *Presentation of 2018 Rulemaking Agenda*

Mr. Zulauf distributed a working draft of the 2018 regulatory agenda. The Board is required by law to review 20% of their rules annually. The rules review will be divided into two groups (Group 1 and Group 2). Meeting dates and times will be posted to the Division website this afternoon or tomorrow.

Mr. Jones reminded the Board that the re-titling of Title 12 to 44 is effective October 1, 2018.

New Business – None

Public Comment – None

The 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