

**MOTOR VEHICLE DEALER BOARD
MINUTES**

July 19, 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
Steven Perkins
Dominic Scrivner

MEMBERS ABSENT:

Lucky Heggs

SENIOR DIRECTOR OF ENFORCEMENT:

**SENIOR DEPUTY DIRECTOR OF
ENFORCEMENT:**

EXECUTIVE SECRETARY:

Bruce Zulauf

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

Chris Rouze
Gloria Breedon
John Opeka
Cheryl Morrison
Erika Garcia
Nit Hamby
Lisha Duran
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott
Rebecca Connors
Allison Ailer

VISITORS:

Eric Hartsough, Dealer Services
Todd O'Connell, CIADA
Art Erwin, Christopher's Dodge World
Tammi McCoy, CADA
Mike McKinnon, Esq.
Josh Knepp, Knepp Motor Company
Aaron Smith, Arrowhead Trailer
Araik Mumdzhyan, Tatos Auto Sales

Vice-President, Joseph Gebhardt, opened the meeting of July 19, 2016 at 9:04 a.m. Mr. Gebhardt turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no corrections to the agenda as posted. Mr. Zuluaf introduced new board members Mr. Steven Perkins and Mr. Dominic Scrivner. New Board member, Mr. Lucky Hegggs was not in attendance today. Conflicts Counsel, Allison Ailer, will advise Board during Exceptions hearings.

Ms. Rouze administered the Oath of Office to the new members pursuant to Section 12-6-104(1) C.R.S.

Pursuant to Section 12-6-104(2) C.R.S., the following Board officers were elected and unanimously approved:

- Mr. Joseph Gebhardt – President
- Mr. Stan Martin – 1st Vice President
- Mr. Robert Endter – 2nd Vice President

MINUTES

The minutes of the June 21, 2016 meeting were approved unanimously with a typographical correction made to reflect the proper spelling of Timothy Jackson's name.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Arrowhead Trailer Repair and Supply #43593** – Motion to grant the license – approved unanimously.
- **Coach Auto Sales, LLC #43614** – Motion to deny the license based on unfitness of financial character – approved 6-1 (Langley opposed).

Salesperson Applications:

- **Andrada, Paul Albert #28907** – Motion to grant a conditional license based upon applicant successfully completing probation and providing the Board with written proof of same – approved unanimously.
- **Tims, Joni Rena #156995** – Motion to deny the license based on unfitness of licensing character and unfitness of criminal character – approved unanimously.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

Ms. Scott recused herself and left the room.

- **Initial Decision – Steven Michael Bennett, Salesperson License #174460** – Motion was made to accept the Findings of Fact, Conclusions of Law and the recommended Order – approved unanimously.

Ms. Scott returned to the room.

INVESTIGATIONS REPORT

Ms. Rouze presented the following to the Board:

Statistical Reporting – Ms. Rouze informed the Board that we started with 395 cases, 129 new cases were opened and 171 cases were closed for the month, giving the Division a balance of 353 open cases. There were 147 background inquiries performed.

Affidavits of Probable Cause:

- **1st Choice Motors, DL #4208** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to 1st Choice Motors, Dealer #4208; 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.
- **Herbies Auto Sales, DL #36753** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Herbies Auto Sales, Dealer #36753; 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.
- **HIS Motorcar Company, DL #39843** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to HIS Motorcar Company, Dealer #39843; 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.
- **Payless Financial Group, LLC, DL #41575** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Payless Financial Group, Dealer #41575; 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.

ATTORNEY GENERAL'S REPORT

Ms. Scott suggested the Board go into Executive Session to receive legal advice in regard to pending and future cases the Attorney General's office and the Executive Secretary attempt to negotiate.

Mr. Zulauf gave a brief history of how the stipulation and fine process works. Mr. Zulauf distributed a fine matrix with four (4) levels for the Board to review. The matrix outlines, in general concepts, what each level entails.

A motion was made to enter Executive Session pursuant to C.R.S. section 24-6-402(3)(a)(II); for the expressed purpose of seeking legal advice for a specific legal question in regard to the Board's Delegation of Authority regarding stipulations of various pending cases – passed unanimously.

Board entered into Executive Session at 9:57 a.m. and Resumed Open Session at 10:37 a.m.

Board took a 10 min. break.

The Board decided to move forward with the stipulation concepts presented by the Attorney General and the Executive Secretary.

REVIEW OF INITIAL DECISIONS UPON FILING OF EXCEPTIONS

Case #BD13-1926

Araik Mumdzhyan – Licensee/Respondent

Michael G. McKinnon, Esq., appearing on behalf of Applicant/Appellant

Y.E. Scott, Esq., Assistant Attorney General, appearing on behalf of the State

Oral arguments were heard pursuant to the exceptions process.

A motion was made to enter Executive Session pursuant to C.R.S. section 24-6-402(3)(a)(II); for the expressed purpose of seeking legal advice for a specific legal question in the matter of Araik Mumdzhyan – passed unanimously.

The Board went into Executive Session at 11:08 a.m. and Resumed Open Session at 11:31 a.m.

After Board discussion, a motion was made to affirm the Findings of Fact and Conclusions of Law and uphold the Recommended Order – passed unanimously.

Case #SD15-102

Charles Richard Reynolds, Jr. – Applicant/Appellant

Michael G. McKinnon, Esq., appearing on behalf of Applicant/Appellant

Rebecca A. Connors, Esq., Assistant Attorney General, appearing on behalf of the State

Oral arguments were heard pursuant to the exceptions process.

A motion was made to enter Executive Session pursuant to C.R.S. section 24-6-402(3)(a)(II); for the expressed purpose of seeking legal advice for a specific legal question in the matter of Charles Richard Reynolds, Jr. – passed unanimously.

The Board went into Executive Session at 11:52 a.m. and Resumed Open Session at 12:05 p.m.

After Board discussion, a motion was made to affirm the Findings of Fact and Conclusions of Law and uphold the Recommended Order to deny the license – passed 5-2 (Franks and Perkins opposed).

Case #SD15-056

Marc Alan Mackie – Applicant/Appellant

Michael G. McKinnon, Esq., appearing on behalf of Applicant/Appellant

Y.E. Scott, Esq., Assistant Attorney General, appearing on behalf of the State

Oral arguments were heard pursuant to the exceptions process.

A motion was made to enter Executive Session pursuant to C.R.S. section 24-6-402(3)(a)(II); for the expressed purpose of seeking legal advice for a specific legal question in the matter of Marc Alan Mackie – passed unanimously.

The Board went into Executive Session at 12:30 p.m. The Board took a 5 minute break. The Board Resumed Open Session at 1:07 p.m.

Mr. Franks disclosed that he employed Applicant 10 years ago. Applicant’s attorney and Assistant Attorney General had no objections to Mr. Franks remaining and voting on the matter.

After Board discussion, a motion was made to accept the Findings of Fact and Conclusions of Law and uphold the Hearing officer’s recommendation – passed unanimously.

New Business – Mr. Zulauf is working on the 2016 Rulemaking schedule. The schedule will be posted to the website. The Board currently has 19 rules to review. Mr. Zulauf advised Board members to anticipate a second meeting of the Board the fourth Thursday of October, November and December for Rulemaking hearings.

Public Comment – No public comment.

The meeting of the Motor Vehicle Dealer Board was adjourned at 1:20 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