

**MOTOR VEHICLE DEALER BOARD**  
**MINUTES**  
**August 18, 2015**

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

**BOARD MEMBERS:**

Anthony Brownlee  
Robert Endter  
Joseph Gebhardt  
Chris Langley  
Stan Martin  
Deborah Thompson  
Jason Wagner

**MEMBERS ABSENT:**

Justin Franks  
Michael Jorgensen

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

**ATTORNEY GENERAL'S OFFICE:**

Y.E. Scott

**VISITORS:**

Charles Free, King's Cars  
Daria Serna, EDO

Todd O'Connell, CIADA  
Michael Dommermuth, CADA  
Marla Schutte, Sonic/Echo Park Automotive  
Cameron Byrd, Echo Park  
Gene Garcia, America Auto Sales  
Eric Hartsough, Dealer Services  
Tammi McCoy, CADA  
Art Erwin, Christopher's Dodge World  
Stacey Barber, King's Cars

President, Jason Wagner, opened the meeting of August 18, 2015 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 no corrections to the agenda. There will be media coverage of a portion of the Board meeting today. Mr. Zulauf introduced the Board's new member, Mr. Christopher Langley, a detective with the City of Lakewood Police Department who will be replacing former board member, Mr. Chris Hefty. Mr. Jorgensen and Mr. Franks will not be in attendance today. Ms. Brenda Berens has been promoted to Licensing Supervisor. Margaret Jungmann has returned to the Division as the Business Analyst and Daria Serna is in attendance to oversee media coverage today.

## **CALENDAR**

There will be no Rulemaking meetings on Thursday, August 27, 2015 and Thursday, September 24, 2015. There is a possibility there will be a Rulemaking meeting on Thursday, October 22, 2015.

## **MINUTES**

The minutes of the July 21, 2015 meeting were approved unanimously.  
The minutes of the July 28, 2015 meeting were approved unanimously.

## **BACKGROUND INVESTIGATIONS TEAM**

Ms. Breeden presented the following to the Board:

### **Dealer Applications:**

- **King's Cars #43319** – Motion to grant the license – approved unanimously.

### **Salesperson Applications:**

- **Garcia, Gene DeWayne #190463** – 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 5-0 (Langley abstains).
- **Adair, Levin Franklin #190953** – 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 5-0 (Langley abstains).
- **Byrd, Cameron Jacob #190426** – Motion to grant the license – approved unanimously.
- **Ellefson, Chet Matthew #190769** – Motion to grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions. Additionally, applicant must resolve tax issues and report the resolution to the Board within 90 days – approved unanimously.

- **Gardner, Justin Louis #162827** – Table for clarification of the non-person felony and until fines are paid – approved unanimously.
- **Hoeller, Jeffery Alan #190736** – Motion to grant the license – approved unanimously.
- **James, Russ Lee #190489** – Motion to grant the license – approved unanimously.
- **Koop, Brandon Chase #181818** – Motion to table for disposition of pending case and grant a temporary license – approved unanimously.
- **Marcella, Keevan Michael #190886** – Motion to grant the license – approved unanimously.
- **Pollock, Jay Lester #185441** – Motion to grant the license – approved 4-1 (Martin opposed) and (Langley abstains).
- **Reyes, Annette Michelle #189618** – Motion to grant the license – approved unanimously.
- **Reynolds, Charles Richard #176341** – 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.
- **Savino, Anthony Michael #190792** – Motion to table until there is more information provided about the charges – approved unanimously.

Board took a 10 minute break.

## **INVESTIGATIONS REPORT**

Mr. Heap presented the following to the Board:

**Statistical Reporting** – Mr. Heap informed the Board that we started with 438 cases, 185 new cases were opened and 194 cases were closed for the month, giving the Division a balance of 429 open cases. There were 332 background inquiries performed.

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

- **Arapahoe Hyundai LLC, DL #36244** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Arapahoe Hyundai LLC, Dealer #36244; 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.
- **Auto Mart USA, DL #38257** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Auto Mart USA, Dealer #38257; 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.

- **CMC Auto, DL #41569** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to CMC Auto, Dealer #41569; 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.
- **Keesee Motor Company, DL #734** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Keesee Motor Company, Dealer #734; 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.
- **Loveland Ford Lincoln, DL #7232** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Loveland Ford Lincoln, Dealer #7232; 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.
- **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. 12-6-104 – approved unanimously.
- **McCloskey Motors, Inc., DL #1655** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to McCloskey Motors, Inc., Dealer #1655; 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.
- **Phil Long Hyundai of Motor City, LLC, DL #38161** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Phil Long Hyundai of Motor City, LLC, Dealer #38161; 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.
- **Sunset Auto, DL #8684** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Sunset Auto, Dealer #8684; 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.

## EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- 1. Proposed Stipulation and Final Agency Order – Phil Long Hyundai of Motor City, LLC Dealer #38161** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- 2. Proposed Stipulation and Final Agency Order – DJ's Auto Sales, Dealer #38539** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott recused herself and left the room.

- 3. Initial Decision --- Benjamin Serrano  
Motor Vehicle Salesperson License #150152**

Motion was made to accept the Findings of Fact, Conclusions of Law and set aside the recommended Order and revoke the license – approved unanimously.

Ms. Scott returned to the room.

### **Board Discussion – Regulation 12-6-104 (3) (j) – *Board approval for third-party examination administrators (continued from Last Meeting)***

At last month's Board meeting, Ms. Marla Schutte of Sonic Automotive made a request to the Board to become a third-party administrator of the mastery exam in Charlotte, NC. There was a general discussion of whether Sonic's call center employees should be licensed as salespeople, which would bring them under the Board's jurisdiction.

Mr. Zulauf provided the Board with a copy of the definition of a Motor Vehicle Salesperson in the state of Colorado and Ms. Schutte provided a copy of Sonic d/b/a Echo Park Automotive's call center personnel job description for the Board's review.

A motion was made to deny the request of Sonic Automotive d/b/a Echo Park Automotive to become an out-of-state third-party administrator – passed unanimously.

### **Board Discussion - Regulation 12-6-102 (16) – *Off Premise Permits***

The Division would like to have dealers apply for their permits a week or two prior to their events and out-of-state salesperson be properly licensed. Franchise dealers cannot sell new cars at a used car dealer event.

CADA has suggested having two levels for issuance of a permit. The consensus of the Board is to move forward with incorporating levels of off premise permit applications and to adjust the timeframe.

The fourth meeting of Group 2 Stakeholders will be held Wednesday, August 19, 2015 at which time these suggestions will be discussed at length.

**New Business** – No New Business

**Public Comment** – Tammi McCoy, CADA, commented that the timing implementation of the disclosure form 2434 was miscommunicated in regards to an effective date which resulted in some dealers not being in compliance as of August 14, 2015.

Mr. Dommermuth, Esq., CADA addressed concerns with DR 2434. The two main issues are the buyer's right to cancel the contract shown in paragraph E1 and the dealer's potential absolute obligation to return the down payment shown in paragraph E2. Mr. Dommermuth proposes adopting a new form.

## **ATTORNEY GENERAL'S REPORT**

Ms. Scott presented the following to the Board:

### **1. Affidavit of Probable Cause – Jared James Delles Motor Vehicle Salesperson License #185180**

Motion was made to enter Executive Session at this time to discuss with counsel pending or imminent court action involving the board as a party pursuant to C.R.S 24-6-402(3)(a)(II) and §13-90-107 (1) (b) C.R.S.; specifically the case of Jared James Delles – passed unanimously.

### **The Board went into Executive Session at 12:15 p.m. and Resumed Open Session at 12:27 p.m.**

Motion was made to modify previous order, no summary suspension and revoke license based on unfitness of criminal character and having been convicted of a misdemeanor under Title 18, article 3, 4, or 5 or any felony - approved unanimously.

There was a general discussion to have co-buyer included on form 2434 when revised.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 12:40 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