

**MOTOR VEHICLE DEALER BOARD
MINUTES
September 15, 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:

Robert Endter
Justin Franks
Joseph Gebhardt
Michael Jorgensen
Chris Langley
Deborah Thompson

MEMBERS ABSENT:

Anthony Brownlee
Stan Martin
Jason Wagner

**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
Erika Garcia
Alma Godines
Melissa DeBruin
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott
Rebecca A. Connors
Pat Herron

VISITORS:

Jerry Johnson, Kuni Honda
Robin Michelle Lee, Grand Automotive
Eric Gutierrez

Todd O'Connell, CIADA
Michael McKinnon, Esq.
Chuck Halberstadt
James Michael Cameron, Promotion Auto
Steven Scharf, Larry H. Miller/Boulder Toyota
Paul Lambert, Auto Sheriff
James Jones, Toyota
Eric Hartsough, Dealer Services
Tammi McCoy, CADA

Vice President, Joseph Gebhardt, opened the meeting of September 15, 2015 at 9:02 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. There will be two exceptions Hearings today. Pat Herron from the Attorney General's office will advise the Board as Conflicts Counsel today. Messrs. Wagner, Brownlee and Martin are not in attendance. Mylo, the Division's new database system, will go live Thursday, September 24th. The Auto Industry Division will host next year's National Association of Motor Vehicle Boards and Commissions conference in Denver.

MINUTES

The minutes of the August 18, 2015 meeting were approved unanimously with a correction made to page 6 in the Jared James Delles motion, to read "title 18 article 3, 4 or 5 or any felony".

The minutes of the September 3, 2015 telephonic meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Airport Imports, LLC #43355** – Motion to deny the license based on failure to complete the application – approved unanimously.
- **Aspen Motors #43329** – Application not presented.

Mr. Jorgensen recused himself and left the room.

- Colorado Powersports Rentals #43100 – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).
- Colorado Powersports Rentals #43382 – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).

Mr. Jorgensen returned to the room.

- General Auto Sale, LLC 43343 – Motion to grant the license – approved 4-1 (Thompson opposed).
- Valley Tractor Repair #43339 – Motion to deny the licensed based on failure to complete the application – approved unanimously.

Salesperson Applications:

- **Cameron, James Michael #157768** – Motion to grant the license – approved 4-1(Langley opposed).
- **Guerra-Rios, Fernando Javier #151245** – Motion to deny the license based on unfitness of criminal character – approved unanimously.
- **Jones, James Richard #165251** – Motion to grant the license – approved unanimously.
- **Lambert, Paul Robert #159032** – Motion to grant a conditional license based upon applicant payment of fines and fees in county court case – approved unanimously.
- **Scharf, Steven #179863** – Motion to grant the license – approved 4-1 (Langley opposed).
- **Savino, Anthony Michael #190792** – Motion to deny the license based on abandonment of his license – approved unanimously.

INVESTIGATIONS REPORT

Mr. Heap presented the following to the Board:

Statistical Reporting – Mr. Heap informed the Board that we started with 421 cases, 146 new cases were opened and 162 cases were closed for the month, giving the Division a balance of 413 open cases. There were 291 background inquiries performed.

Affidavits of Probable Cause:

- **DSAS Inc., DL #3089** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to DSAS Inc., Dealer #3089; 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.
- **Grand Valley Powersports, DL #38339** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Grand Valley Powersports, Dealer #38339; 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.
- **Grand West Hyundai, DL #42783** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Grand West Hyundai, Dealer #42783; 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.

- **G.S. Motors, DL #37201** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to G.S. Motors, Dealer #37201; 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.

Ms. Thompson recused herself and left the room.

- **Mercedes-Benz of Colorado Springs, LLC, DL #38468** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Mercedes-Benz of Colorado Springs, LLC, Dealer #38468; 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 (Mr. Gebhardt as chairperson voted).

Ms. Thompson returned to the room.

- **Planet Honda, DL #8536** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Planet Honda, Dealer #8536; 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.
- **Arturo Bernuy, SL #177854** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Arturo Bernuy, Salesperson #177854; and that the Colorado Motor Vehicle Dealer Board summarily suspend his motor vehicle salesperson’s license in accordance with C.R.S. 24-4-104 as he has engaged in deliberate and willful acts and his conduct poses a threat to the public health, safety and welfare and that the case be assigned to the Colorado Department of Revenue Hearings Division for a hearing on the merits – approved unanimously.
- **Anthony Bisesto, Jr., SL #165431** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Anthony Bisesto, Jr., Salesperson #165431; and that the Colorado Motor Vehicle Dealer Board summarily suspend his motor vehicle salesperson’s license in accordance with C.R.S. 24-4-104 as he has engaged in deliberate and willful acts and his conduct poses a threat to the public health, safety and welfare and that the case be assigned to the Colorado Department of Revenue Hearings Division for a hearing on the merits – approved unanimously.

Board took a 10 minute break.

Mr. Gebhardt recused himself and left the room. Ms. Thompson, 2nd Vice President, assumed the role of chairperson.

Eric Gutierrez, Salesperson License #179827
Review of Initial Decision Upon Filing of Exceptions by the Applicant
Case #SD14-149

Michael G. McKinnon, Esq., appearing on behalf of the Applicant / Appellant.
Y.E. Scott, Esq., Senior Assistant Attorney General, appearing on behalf of the State.

A motion was made to enter into Executive Session – motion was withdrawn. The Board proceeded to review the case receiving legal advice from Assistant Attorney General, Pat Herron, acting as Conflicts Counsel regarding the matter of Eric Gutierrez.

Motion was made to accept the Findings of Fact and Conclusions of Law and affirm the Hearing officers recommendation to deny the license – approved 4-1 (Ms. Thompson as chairperson voted, Franks opposed).

Mr. Gebhardt returned to the room and resumed the duties of chairperson.

Robin Michelle Lee, Salesperson License #187726
Review of Initial Decision Upon Filing of Exceptions by the Applicant
Case #SD14-140

Robin Michelle Lee, appearing Pro Se.
Rebecca A. Connors, Esq., Assistant Attorney General, appearing on behalf of the State.

The Board proceeded to review the case receiving legal advice from Assistant Attorney General, Pat Herron, acting as Conflicts Counsel regarding the matter of Robin Michelle Lee.

Motion was made to accept the Findings of Fact and Conclusions of Law and affirm the Hearing Officer's recommendation to deny the license – approved 3-1 (Mr. Gebhardt as Chairperson voted) (Langley abstains, Franks opposed).

INVESTIGATIONS REPORT (cont'd.)

Mr. Heap presented the following:

- **Stan's Auto Sales, DL #3319** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Stan's Auto Sales, Dealer #3319; 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:

- **Proposed Stipulation and Final Agency Order – Stan's Auto Sales, LLC, Dealer #3319** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Springs Automotive Group, Dealer #40412** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Scarpa Motors, Ltd., Dealer #42707** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – The Ultimate Machines, Inc., Dealer #8136** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Ghent Chevrolet Cadillac, Dealer #142** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Colorado Auto Brokers, Dealer #38400** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

New Business – The October Board Meeting will be held on Thursday, October 22, 2015. The Board will discuss a new fining matrix at the October meeting.

Public Comment – No public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 12:09 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