

**MOTOR VEHICLE DEALER BOARD
MINUTES
January 15, 2013**

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

BOARD MEMBERS:

Beau Smith
Joe Gebhardt
Bob Perry
John Schenden
Jason Wagner
Deborah Thompson
Fred Wegener
Stan Martin

MEMBERS ABSENT:

Chris Hefty

**SENIOR DIRECTOR OF
ENFORCEMENT:**

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

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

Chris Rouze
Matt Heap
Gloria Breeden
Margaret Jungmann
Ellen Hardman
John Opeka
Erika Garcia
Kaye Kopecky
Eric Hartsough
Bud Heinrich

ATTORNEY GENERAL'S OFFICE:

Claudia Brett-Goldin

BUDGET OFFICE:**VISITORS:**

Todd O'Connell, CIADA
Tammi McCoy, CADA
Marty Cain, Frontline Auto Sales
Art Erwin, Christopher's Dodge World
Christopher L. Travis, Loveland Ford Lincoln

President of the Board, Beau Smith opened the meeting of January 15, 2013, at 9:08 a.m. Mr. Smith turned the floor over to Executive Secretary Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board that there are modifications to the agenda. The 10:30 Appeal of Denial of a Dealership License Application – A & M Auto Sales has been removed. A & M Auto Sales, LLC withdrew their application and will reapply.

Mr. Zulauf informed the Board that the dealer packet last month consisted of 2122 pages. After the adoption of the new Delegation of Authority, the Board packet was 850 pages; including the Exceptions paperwork which was about 400 pages.

Mr. Zulauf announced that Mr. Hefty would not be in attendance as he had a court date get continued to today.

Y.E. Scott of the Attorney General's Office would not be present due to a family emergency. Claudia Brett-Goldin will be available as counsel.

Mr. Zulauf read into the record an uncontested motion prepared by Ms. Brett-Goldin to table Oral Arguments for G&G Auto Brokers until the February 19, 2013 Board meeting due to Ms. Scott's absence. Motion was approved unanimously.

The future meeting dates were discussed and it was decided to leave them as they are currently scheduled.

MINUTES

The minutes of the December 18, 2012, Board meeting were unanimously approved.

ATTORNEY GENERAL'S OFFICE REPORT

Ms. Brett-Goldin announced that Michael Shay will be assisting Ms. Scott with the Division cases. He will be present at the February Board meeting to meet everyone and to see how things are done.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order & Affidavit – Phil Long Ford, LLC d/b/a Phil Long Ford Lincoln #8991** – Motion to accept the Proposed Stipulation and Final Agency Order– approved unanimously
- **Proposed Stipulation and Final Agency Order & Affidavit – Preferred Automotive, Inc., d/b/a Preferred Auto Brokers #36568** – Motion to accept the Proposed Stipulation and Final Agency Order– approved unanimously.

Ms. Brett-Goldin recused herself and left the room.

- **Initial Decision – Archuleta, Steve Angelo #181650** – Motion to approve the Findings of Fact, modify the Conclusions of Law specifically paragraph 6; to strike the words “*absence of a factual basis to support it*” from the sentence, modify the recommendations of the Hearing Officer and approve a conditional license – approved 6-1 (Wegener).
- **Initial Decision – Benzel, David A. #26222** – Motion to accept the Findings of Fact and Conclusions of Law, and revoke the license on the basis of unfitness of financial character, unfitness of criminal character and having been convicted of a misdemeanor under Title 18 or any felony – approved unanimously.
- **Initial Decision – Keadle, Caleb Bradley #174410** – Motion to accept the Findings of Fact and Conclusions of Law and modify the recommendations of the Hearing Officer to issue a 12 month conditional license, a fine of \$500 to be levied, and remove the self-reporting requirement (“B”) as it is already a regulation of the Board – approved unanimously.
- **Initial Decision – Sabbagh, Khaled Anis #181332** – Motion to accept the Findings of Fact and Conclusions of Law, modify the recommendation of the Hearing Officer and issue a conditional license; conditioned upon a letter from the owner of the dealership acknowledging the situation; upon change of employment, a letter from the new dealership is required – approved unanimously.
- **Initial Decision – Tippett, Rickey Dale #171360** – Motion to accept the Findings of Fact and Conclusions of Law modify the recommendations to include a finding of fraud and revoke the license on the basis of unfitness of licensing character and unfitness of criminal character – approved unanimously.
- **Initial Decision – Tuenge, Jonathan Darrell #165219** – Motion to accept the Findings of Fact and Conclusions of Law modify the recommendations to issue a 12 month conditional license; conditioned upon a letter from the owner of the dealership acknowledging the situation; upon change of employment, a letter from the new dealership is required – approved 5-3 (Wegener, Gebhardt, Thompson)

Ms. Brett-Goldin returned to the room.

BACKGROUND INVESTIGATIONS TEAM

Matt Heap presented the following:

Salesperson Applications:

- **Antley, Kaylynn Lucille #182778** – Motion to approve a conditional license, conditioned upon a letter from the dealership owner acknowledging the situation, upon change of employment a letter is required from the new dealership – approved unanimously.

- **Cain, Marty Charles #25999** – Motion to approve the license – approved unanimously.
- **Heyen, Seth James #182977** – Motion to approve a conditional license, conditioned upon a letter from the dealership owner acknowledging the situation, upon change of employment a letter is required from the new dealership – approved unanimously.
- **Steerman, Ty Raymond #151760** – Motion to approve a conditional license – failed 6-2. Motion to table for more information from Mr. Steerman regarding alcohol treatment, an explanation of why he should have a license, and why the public and his employer would not be at harm – approved unanimously.
- **Travis, Christopher Lee #182266** – Motion to approve a conditional license, conditioned upon a letter from the dealership owner acknowledging the situation, upon change of employment a letter is required from the new dealership – approved unanimously.

INVESTIGATION REPORT:

Agent in Charge Chris Rouze presented the following:

Statistical Reporting – Ms. Rouze informed the Board that we started with a 479 cases, 153 new cases were opened and 195 cases were closed for the month, giving the Division a balance of 437 open cases.

Affidavits of Probable Cause:

- **Filyas Auto #38110** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Filyas Auto, dealer #38110; that the case be assigned to the Colorado 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.
- **Spradley Chevrolet, Inc., #59** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Spradley Chevrolet, Inc., dealer #59; that the case be assigned to the Colorado 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.
- **Spradley Ford Lincoln, Inc., #40230** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Spradley Ford Lincoln, Inc., dealer #40230; that the case be assigned to the Colorado 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.

New Business – Mr. Gebhardt asked if during the fee setting we could address the off-site sale permits. He asked if there could be some differentiation between types of permits, such as trailers at a trade show or vehicles in a parking lot and the types of events. Mr. Zulauf indicated that we could set different levels, explaining there is a difference between a trade show and the

sale set up across the street from a dealer. Those are the sales the Division has, from time to time, had issues with violations. We do not usually have issues with a trade show permit other than the dealer failing to obtain a permit for the trade show.

Mr. Zulauf stated that the initial discussion for fee setting will start in March. There will be no decisions made at the time. If the Associations have some recommendations, March will be a good time to present them.

Public Comment – There was no public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 10:40 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