

**MOTOR VEHICLE DEALER BOARD
MINUTES
October 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:

Joe Gebhardt
John Schenden
Jason Wagner
Deborah Thompson
Stan Martin
Chris Hefty
Lee Yoder

MEMBERS ABSENT:

Beau Smith
Fred Wegener

**SENIOR DIRECTOR OF
ENFORCEMENT:****EXECUTIVE SECRETARY:**

Bruce Zulauf

LEGAL ASSISTANT:

Leland BeBee

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

Chris Rouze
Gloria Breeden
Margaret Jungmann
John Opeka
Cheryl Morrison
Eric Hartsough
Bud Heinrich
Arlene Criddell-Tapanen
Kaye Kopecky

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott

BUDGET OFFICE:**VISITORS:**

Mary Marvin, CAPSS
Todd O'Connell, CIADA
Tami McCoy, CADA
Jimmy Brown
"Joey" Jose Delgado
Robert Endter, Ace Design

Vice President of the Board, Jason Wagner, opened the meeting of October 15, 2013, 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 that due to a scheduling issue, Conflicts Counsel is not available so we have had to reschedule the 10:00 a.m. Exceptions Hearing and the 10:45 Dealer Denial. The Exceptions Hearing has been rescheduled for the November 19th meeting. The 10:45 Dealer Denial will be heard at the next Board meeting on October 24th. This is a rulemaking meeting, but the hearing will be held at 9:00. After the hearing, the meeting will be adjourned and we will go into the rulemaking workshop.

We are planning to have the first draft of all the hearing procedures for review. We also hope to have drafts for disclosure, bailment, and down payment issues. If it looks good, then official rulemaking starts.

Mr. Smith and Sheriff Wegener will not be present.

Mr. Zulauf stated he was in a negotiation settlement meeting with an applicant. While in the process of making the standard offer, the person he was negotiating with wanted to speak with the board. Mr. Zulauf said “No, if you want to talk with the Board that is called a hearing”. Mr. Zulauf was concerned that the licensee would attempt to contact the Board members.

Ms. Scott addressed the Board and gave them some information on the pitfalls of speaking with applicants. This is Board business and you cannot discuss Board business with outsiders. Ms. Scott advised the Board members that they need to put a stop to the conversation as soon as it starts, even if they are being presented with a hypothetical problem.

MINUTES

The minutes of the September 17, 2013 Board meeting were unanimously approved.
The minutes of the September 26, 2013 rulemaking meeting were unanimously approved.

ATTORNEY GENERAL’S OFFICE REPORT

Ms. Scott did not have a presentation.

EXECUTIVE SECRETARY’S REPORT

Mr. Zulauf presented the following to the Board:

- **Initial Decision – Smith, David Nathaniel #20509** – Motion to table this until the next Board meeting to allow the AG’s office to address a legal issue – approved unanimously.
- **Proposed Stipulation and Final Agency Order & Affidavit – Jimmy D. Brown #30325** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously

Ms. Scott and Mr. Opeka recused themselves and left the room.

- **Initial Decision – Anaya, Shawn #29147 (SD12-252)** – Motion to accept the Findings of Fact, the Conclusions of Law, and the recommendations of the Hearing Officer to deny the license – approved unanimously.
- **Initial Decision – Anaya, Shawn #29147 (BD12-046)** – Motion to accept the Findings of Fact the Conclusions of Law, and modify the recommendation of the Hearing Officer to revoke the license – approved unanimously.
- **Initial Decision – Macklin, Joshua Lee #26753** – Motion to accept the Findings of Fact, the Conclusions of Law and the recommendations of the Hearing Officer to issue a 12 month conditional license – approved unanimously.
- **Initial Decision – Medina, Tomas #28687** – Motion to accept the Findings of Fact, the Conclusions of Law and the recommendations of the Hearing Officer to grant a conditional license – approved 5-1 (Thompson)
- **Initial Decision – Samu, Ricky Lee #34455** – Motion to accept the Findings of Fact, the Conclusions of Law and the recommendations of the Hearing Officer to deny the license – approved unanimously.

Ms. Scott and Mr. Opeka returned to the room.

The Board took a short break due to technical difficulties with a Board member laptop.

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

Dealership Applications:

- **Rebel Automotive LLC #42781** – Motion to approve the license application – approved unanimously.
- **Skyy Automotive LLC #42752** – Motion to approve the license application – approved unanimously.

Salesperson Applications:

- **Alcorn, Jeffrey #164629** – Motion to deny the license on the basis of unfitness of licensing character, unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Cook, Steven #157299** – Motion to deny the license on the basis of unfitness of licensing character, unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Gilley, Matthew #185108** – Motion to approve the license – approved 5-1 (Thompson).
- **Hurt, Gary #185227** – Motion to deny the license on the basis of unfitness of licensing character, unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.

- **Lucero, Daniel #184843** – Motion to deny the license on the basis of unfitness of criminal character and unfitness of financial character – approved unanimously.
- **Mentel, Eric #159339** – Motion to table a decision to allow the investigators time to obtain a police report for the 2009 misdemeanor – approved unanimously.
- **Mora, Paula #156896** – Motion to approve the license application – approved unanimously.
- **Rouch, Jessica #184783** – Motion to approve the license application – approved unanimously.
- **Salas, Alicia #184816** – Motion to deny the license on the basis of unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Vick, Dale #184853** – Motion to approve the license application – approved unanimously.
- **Wilson, April #180693** – Motion to approve the license application – approved unanimously.

INVESTIGATION REPORT:

Ms. Rouze did not have a presentation.

New Business – Mr. Martin brought up the subject of “branded titles”. There was general discussion regarding flood vehicles, disclosures required, and Carfax. Tami McCoy informed the Board that there is a title working group currently looking into this issue.

Public Comment – There was no public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 10:30 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