

# MOTOR VEHICLE DEALER BOARD MINUTES

**October 16, 2018**

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

**BOARD MEMBERS:**

Carrie Baumgart  
Ramona Graves Bode  
Fletcher Flower  
Lucky Heggs  
John Linton  
Steven Perkins  
Matthew Porter  
Jason White  
Michael Widhalm

**MEMBERS ABSENT:**

**SENIOR DIRECTOR OF ENFORCEMENT:**

Cory Amend

**EXECUTIVE SECRETARY:**

Bruce Zulauf

**LEGAL ASSISTANT(s):**

Leland Bebee  
Beth Spellerberg

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

Chris Rouze  
Chris Hartman  
Gloria Breedon  
John Opeka  
Josh Dexter  
Cheryl Morrison  
Erika Garcia  
Mark Kelley  
Eric Teklu  
Chris Clements  
Jim Osborn  
Arleen Criddell Tapanen

**ATTORNEY GENERAL'S OFFICE:**

Brad Jones, General Counsel  
Skip Spear, Conflicts Counsel

**VISITORS:**

Todd O'Connell, CIADA  
Matthew Groves, CADA  
Art Erwin, Christopher's Dodge World  
Peter Flaherty, PFFDCF Automotive

President, Steven Perkins, opened the meeting of October 16, 2018 at 9:02 a.m. Mr. Perkins turned the floor over to Executive Secretary, Bruce Zulauf.

## **AGENDA REVIEW AND ANNOUNCEMENTS**

Mr. Zulauf informed the Board there were no changes to the agenda as posted. Conflicts Counsel, Skip Spear, will appear to advise the Board on two Exceptions hearings scheduled for today. A public Rulemaking hearing is scheduled for Thursday, October 25, 2018 at 1881 Pierce St., Conference Room 110, Lakewood, CO 80214 at 9:00 a.m.

The Auto Industry Division offices have officially moved to the temporary location at 143 Union Blvd., Ste. 350, Lakewood, CO 80228.

The week of December 17<sup>th</sup>, the Certificate of Occupancy should be ready for the permanent move to 1697 Cole Blvd., Ste. 200, Lakewood, CO 80401.

New forms have been updated and placed on the website reflecting the change from Title 12 to Title 44.

The fingerprinting process may be affected by SB 17-189 in regards to third-party contractors providing fingerprinting services. As of November 1, 2018, the Colorado Bureau of Investigations (CBI), may no longer accept hard card fingerprints. The Division is currently working on a feasible solution to this issue.

## **MINUTES**

The minutes of the September 18, 2018 meeting were approved unanimously (Mr. Perkins as Chair voted) (Ms. Baumgart, Ms. Bode, Messrs. Heggs and Porter abstained).

## **ATTORNEY GENERAL'S REPORT**

Mr. Jones reiterated that the change from Title 12 to Title 44 is non-substantive and will not affect the laws as they pertain to the industry. The legislature modernized the language which resulted in different numbering.

Mr. Jones distributed a cheat sheet to the Board which will be included in future Board packets.

During next week's Rulemaking hearing for Group 2, the rules will be presented to the Board in the Title 44 framework and will enlist the Title 12 framework that was discussed during stakeholder meetings.

## **BACKGROUND INVESTIGATIONS TEAM**

Ms. Breeden presented the following to the Board:

### **Dealer Applications:**

- **JD Byrider of Colorado Springs #44304** – Motion to grant the license – approved unanimously.
- **NEZ, Ltd. #44255** – Motion to deny the license based on unfitness of criminal character (44-20-121 (7) (b), C.R.S.) and having been convicted of a misdemeanor under title 18 or any felony (44-20-121 (3) (c), C.R.S.) and unfitness of licensing character pursuant to ( 44-20-121 (7) (a), C.R.S.) – approved unanimously.

## Salesperson Applications:

- **Coy, Heather R. #655129** – Motion to deny the license based on unfitness of licensing character (44-20-121 (7) (a), C.R.S.), unfitness of financial character (44-20-121 (7) (c), C.R.S.), unfitness of criminal character (44-20-121 (7) (b), C.R.S.) and having been convicted of a misdemeanor under title 18 or any felony (44-20-121 (6) (h), C.R.S.) – approved unanimously.
- **Jaroscak, Derik W. #653869** – Motion to grant the license – approved unanimously.

## INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

**Statistical Reporting** – Ms. Hartman informed the Board that we started with 292 cases, 115 new cases were opened and 104 cases were closed for the month, giving the Division a balance of 303 open cases. There were 277 background inquiries performed.

### Affidavits of Probable Cause:

- **Advance Auto Body and Repair, LLC #43391** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Advance Auto Body and Repair, LLC, Dealer #43391; 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. Perkins inquired about the change to SB 16-140 Delivery of Title in 30 days requirement.

Mr. Zulauf stated that if a reasonable attempt to deliver title is made within 30 days, the temporary will be issued.

Ms. Rouze read into record 12-6-118 (8), C.R.S. To summarize, if a dealer has satisfied the defined requirements, it could be considered as an affirmative defense that a reasonable attempt to deliver title within 30 days had been made.

- **American Auto Sales & Licensing, Inc., DL #3246** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to American Auto Sales & Licensing, Inc., Dealer #3246; 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.
- **AutoNation Chrysler Jeep Broadway, DL #4408** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Chrysler Jeep Broadway, Dealer #4408; 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.
- **AutoNation Ford Littleton, DL #4083** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Ford Littleton, Dealer #4083; 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.

- **AutoNation Hyundai 104, DL #7280** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Hyundai 104, Dealer #7280; 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.
- **Groove Chrysler Jeep Dodge Ram, DL #43363** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Groove Chrysler Jeep Dodge Ram, Dealer #43363; 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.
- **Groove Ford, DL #41478** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Groove Ford, Dealer #41478; 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.

**New Business** – None

**Public Comment** – None

Board took a 10 min. break.

Assistant Attorney General Skip Spear appears as Conflicts Counsel. A motion was made to enter Executive Session for the expressed purpose of seeking legal advice in the matter of James C. Edwards, Jr. and Jonathan M. Castillo – passed unanimously.

**The Board entered into Executive Session at 10:10 a.m. and resumed Open Session at 10:19 a.m.**

## **REVIEW OF INITIAL DECISIONS UPON FILING OF EXCEPTIONS**

**Case #BD18-0132**

*James C. Edwards, Jr., Pro Se, appearing on behalf of Licensee/Respondent*

*Bradford C. Jones, Assistant Attorney General, appearing on behalf of the State*

Oral arguments were heard pursuant to the exceptions process.

Mr. Perkins concluded oral arguments and stated that the Board will take the matter under advisement and issue a written Order in due course.

## **REVIEW OF INITIAL DECISIONS UPON FILING OF EXCEPTIONS**

**Case #BD18-0240**

*Jonathan M. Castillo, Pro Se, appearing on behalf of Licensee/Respondent*

*Bradford C. Jones, Assistant Attorney General, appearing on behalf of the State*

Oral arguments were heard pursuant to the exceptions process.

Mr. Perkins concluded oral arguments and stated that the Board will take the matter under advisement and issue a written Order in due course.

The meeting of the Motor Vehicle Dealer Board was adjourned at 11:10 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