

**MOTOR VEHICLE DEALER BOARD
MINUTES
October 22, 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
Justin Franks
Joseph Gebhardt
Michael Jorgensen
Stan Martin
Deborah Thompson

MEMBERS ABSENT: Chris Langley
Jason Wagner

EXECUTIVE SECRETARY: Bruce Zulauf

**DEPT OF REVENUE,
AID, ENFORCEMENT
DIVISION STAFF:** Chris Rouze
Matt Heap
John Opeka
Gloria Breeden
Cheryl Morrison
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE: Y.E. Scott

VISITORS: Eric Hartsough, Dealer Services
Tammi McCoy, CADA
Jerry Johnson, Kuni Honda
Art Erwin, Christopher's Dodge World
Brandon M. Hayes, Medved

Vice President, Joseph Gebhardt, opened the meeting of October 22, 2015 at 9:05 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. Mr. Wagner and Mr. Langley will not be in attendance today. The Division is currently working through glitches in MYLO, the new database system. There is a new look-up feature for all active licensees on the homepage of the Division's website.

MINUTES

The minutes of the September 15, 2015 meeting were approved unanimously with a typographical correction made to page 6 of the Executive Secretary's report.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Airport Imports, LLC #43355** – Motion to deny the license based on unfitness of financial character – approved unanimously.

Salesperson Applications:

- **Barnes, Jerry Wayne #32234** – Motion to deny the license based on unfitness of licensing character, unfitness of financial character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 – approved unanimously.
- **Cusack, Jr., Lawrence Xavier #191254** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 – approved 5-1 (Jorgensen opposed).
- **Hayes, Brandon Michael #187620** – Motion to grant the license – approved unanimously.
- **Howarth, Steven Michael #135262** – Motion to deny the license based on unfitness of licensing character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 – approved unanimously.
- **Hutchinson, Lucas Vernon #182943** – Motion to deny the license based on unfitness of financial character and failure to disclose – approved unanimously.

Mr. Brownlee recused himself and left the room.

- **Johnson, Jerry Allen #26747** – Table until receipt of Attorney General's opinion on tagging license – approved unanimously.

Mr. Brownlee returned to the room.

- **Overstreet, Olivia Destiney #190997** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 – approved unanimously.

- **Renteria, Joel Andrain #190693** – Motion to deny the license based on unfitness of financial character and unfitness of criminal character – approved 5-1 (Martin opposed).
- **Talbot-Manning, Timothy Joshua #191037** – Motion to grant the Executive Secretary the ability to issue the license after he exercises informed discretion as to the criminal character issues. If there are any concerns, Executive Secretary will bring back before the Board – approved unanimously.

ATTORNEY GENERAL’S REPORT

Ms. Scott presented the following to the Board:

1. **Proposed Stipulation and Final Agency Order – Pak LLC d/b/a ABC Auto Sales Motor Vehicle Dealer License No. 37515** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott advised the Board that since there is no case pending before the Board she cannot advise on D&H charges. She advised the Board that any request for legal advice related to an overall determination of the issues related to D&H should come from the associations and/or individual dealers and directed to the Consumer Protection unit within the Attorney General’s Office.

EXECUTIVE SECRETARY’S REPORT

Mr. Zulauf informed the Board that he is withdrawing item numbers 3 and 4 from his agenda, due to legal language questions that he and the Attorney General have been discussing. He then presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Brighton Ford, Dealer #132** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Automotive Avenues, Inc., Dealer #1173** – Motion to reject the Proposed Stipulation and Final Agency Order – Executive Secretary will renegotiate and amend stipulation – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Arapahoe Hyundai, LLC, Dealer #36244** – Motion to reject the Proposed Stipulation and Final Agency Order – Executive Secretary will renegotiate and amend stipulation – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Motor Sports, Dealer #43083** – Motion to approve the Proposed Stipulation and Final Agency Order – 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 413 cases, 177 new cases were opened and 196 cases were closed for the month, giving the Division a balance of 394 open cases. There were 141 background inquiries performed.

Affidavits of Probable Cause:

- **Avalanche-Harley Davidson, DL #42222** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Avalanche-Harley Davidson, Dealer #42222; 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.
- **Barbees Freeway Ford, Inc., DL #2628** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Barbees Freeway Ford, Inc., Dealer #2628; 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.
- **Century I Chevrolet, Inc., DL #836** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Century I Chevrolet, Inc., Dealer #836; 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.
- **Charlie's Auto & Truck Sales, LLC, DL #4368** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Charlie's Auto & Truck Sales, LLC., Dealer #4368; 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.
- **Mountain States Toyota and Scion, DL #36975** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Mountain States Toyota and Scion, Dealer #36975; 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.
- **Peak Kia, DL #37330** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Peak Kia, Dealer #37330; 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.

Board Discussion – Regulation 12-6-104 (4) – Administrative Penalties

There was a general discussion of the fining matrix. Board members agreed to the following:

1. Reduce unlicensed sales fine if clerical error and self-reported;
2. Fraud – fines should be substantial;
3. Advertising and D&H – substantial fines should be considered, even for first time violations, due to this issue being properly addressed through education and Board memos.

The Board discussed continued consideration for mitigation and aggravation circumstances to be evaluated during negotiation and Board presentations.

New Business – No new business.

Public Comment – No public comment.

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