

**MOTOR VEHICLE DEALER BOARD
MINUTES
November 19, 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
John Schenden
Jason Wagner
Deborah Thompson
Fred Wegener
Stan Martin
Chris Hefty
Lee Yoder

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

Bruce Zulauf

LEGAL ASSISTANT:

Leland BeBee

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

Chris Rouze
Matt Heap
Gloria Breeden
Margaret Jungmann
Kaye Kopecky
Brenda Fredricey
John Opeka
Cheryl Morrison
Bud Heinrich
Arlene Criddell-Tapanen
Glenville Kedie
Sherry Catalina

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott
Skip Spear
Michael Axelrod

BUDGET OFFICE:

Jill Vaughan

VISITORS:

Mary Marvin, CAPSS
Debbie Woodley, CIADA
Tami McCoy, CADA
Art Irwin, Christopher's Dodge World

Mike McKinnon
 Jay McNight, Royal Automotive
 Jose Delgado, Steve Casey Four Seasons
 Rick Samu, Ranch Motors
 Joe Bustamente, Steve Casey Four Seasons
 Cincie Paddilla, Public
 Paul Rose, Stanwood West
 Mrs. Sheridan Radcliff, Dream Cars
 Jihad E. Salameh, Dream Cars
 Pascale Breich, Dream Cars
 Jalil Salameh, Dream Cars

President of the Board, Beau Smith opened the meeting of November 19, 2013, at 9:01 a.m. Mr. Smith turned the floor over to Executive Secretary Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board that there were no additions or corrections. Mr. Zulauf announced that we do have four hearing events today. Mr. Hefty will need to leave at 11:45, and Mr. Smith will be leaving by 10:20. Mr. Wagner will step into the chair position.

Mr. Zulauf introduced Criminal Investigator Glenville Kedic. Investigator Kedic comes to us from Montana, where he was a Deputy Sheriff.

Calendar - As the Board is aware, we are under a Rulemaking Agenda where we are under mandate by Statute and two Executive Orders to address 20% of our rules every year. We are going to be 100% non-compliant this first year. We just couldn't get it done. The focus group regarding advertising was started over a year ago. While it has taken longer than expected, it has proven to be very valuable. The focus group is unable to make a presentation until January. We will need to address 40% of the rules this next year. The 20% for this year should be done by March and then we will start on the 20% for next year. We are going to be in rulemaking and rulemaking workshops for a while.

We do have a Board meeting scheduled for November 26th, and by the end of this week, Mr. Zulauf will check with staff to see how prepared we are. If we can make the meeting worthwhile we will have the meeting on the 26th. He will let the Board members know if this meeting will take place.

It was determined not to have a meeting on December 10th, but to have a full day meeting on the regularly scheduled day of December 17th. We will have rulemaking after the Board meeting.

MINUTES

The minutes of the October 15, 2013 Board meeting were unanimously approved.

ATTORNEY GENERAL'S OFFICE REPORT

Ms. Scott stated she would like to introduce the new attorney who will be working with the Board, but he is not available until later in the meeting.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order & Affidavit – Five Stars Auto Sales, LLC Dealer #41610** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final agency Order & Affidavit – Intermountain Auto Sales, Dealer #39178** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final agency Order & Affidavit – Top Notch Auto Sales, Dealer #38162** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final agency Order & Affidavit – Bob Penkhus Mitsubishi, Dealer #42289** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously
- **Proposed Stipulation and Final agency Order & Affidavit – Bob Penkhus Volkswagen, Inc. Dealer #41284** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously

Ms. Scott and Mr. Opeka recused themselves and left the room. Skip Spear is available as conflicts counsel.

- **Initial Decision – Smith, David Nathaniel** – Motion to accept the Findings of Fact, and the Conclusions of Law, modify the recommendations of the Hearing Officer to require the applicant to provide proof of payment of fines and fees within 30 days completed – approved unanimously.
- **Initial Decision – Felix, Jesus A., Jr. #184045** – Motion to accept the Findings of Fact, the Conclusions of Law, and the recommendations of the Hearing Officer to grant a license – approved 7-1 (Wegener)
- **Initial Decision – Fincham, Thomas L. #175946** – Motion to accept the Findings of Fact and Conclusions of Law and set aside the recommendations of the Hearing Officer to revoke the license on the basis of unfitness of financial character and criminal character – approved unanimously.

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

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

Dealer Applications:

- **Highmark Online Auctions Inc. #42754** – Motion to deny the license on the basis of unfitness of financial character – approved unanimously.
- **Stanwood Motorsports West LLC #42753** – Motion to approve the license – approved unanimously.

Salesperson Applications:

- **Bourg, Justin #172549** – Motion to deny the license on the basis of failure to disclose – approved unanimously.
- **Brown, Peter #185034** – Motion to approve a conditional license; conditioned upon the applicant providing a letter from the owner of the employing dealership stating knowledge of the applicant's situation; upon a change of employment a letter from the new dealership owner is required. Also, the applicant is to provide proof of completion of rehabilitation from previous court cases – approved unanimously.
- **Delgado, Jose #171384** – Motion to approve a license – approved unanimously.

Mr. Smith left the meeting at 10:22 a.m. and Mr. Wagner took over the chair.

- **Hall, Eric #185043** – Motion to deny the license on the basis of unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony, and having been convicted of a mandatory disqualifying offense – approved unanimously.
- **Keadle, Andrew #185156** – Motion to approve the license – approved unanimously.
- **Kropelnicki, Nicholas #151640** – Motion to deny the license on the basis of unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **McNight, Jay #184938** – Motion to approve the license – approved unanimously.
- **Mentel, Eric #159339** – Motion to table this until the next meeting. Applicant is to provide proof that the alcohol treatment is completed – Approved 5-2 (Yoder, Martin)

Mr. Opeka paused his presentation to set up for the Hearings. The Board took a 10 minute break.

Camden Motors, Ltd d/b/a Camden Motors, Ltd. #40722
Motion for Judgment on the Pleadings in Disciplinary Case
Case #BD10-037

Y.E. Scott, Esq., Senior Assistant Attorney General appearing on behalf of the State.

Motion made to revoke the license of Camden Motors, Ltd on the basis of a mandatory disqualifier, unfitness of criminal character and criminal record, unfitness of licensing character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.

**Gregory Alan Ringler, Salesperson License #183518
Review of Initial Decision Upon Filing of Exceptions by the Applicant:
Case #MSD 13-010.**

Brian C. Williamson, Esq., appearing on behalf of the applicant/Appellant.
Y.E. Scott, Esq., Senior Assistant Attorney General appearing on behalf of the State.

The board took a 5 minute recess to allow Mr. Williamson to confer with his client.

The Board resumed the Review at 11:26.

A motion was made to enter Executive Session for the purpose of discussing disputes that are the subject of pending or imminent litigation pursuant to C.R.S. 24-6-402(3)(a) including discussion with counsel from the Attorney General's office regarding Gregory Ringler – approved unanimously. The Board went into Executive Session at 11:34 a.m. The Board resumed the Review at 11:40 a.m.

Mr. Williamson advised the Board that he recognized conflicts counsel's name. Skip Spear had represented him and several other attorneys and district court judges that were sued in a federal lawsuit regarding violation of civil rights. Mr. Williamson stated he did not feel there would be a conflict, Mr. Ringler stated he was aware of the situation and did not have an objection with it, Mr. Spear stated he felt he could still act as independent counsel for the Board, the Board was made aware and does not feel there is a conflict.

A motion was made to go into Executive Session – approved unanimously. The Board went into Executive Session at 11:45 a.m. The Board resumed the Review at 11:58 a.m.

Motion made to deny the license on the basis of unfitness of criminal character, material misstatement and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.

Mr. Hefty left the meeting at 12:03 p.m.

**The Cycle Connection, LLC d/b/a Rampage Performance Cycles, #39900
Review of Initial Decision Upon Filing of Exceptions by the Applicant. Case #OAC MV 2011-0017.**

Michael McKinnon, Esq., appearing on behalf of Licensee/Respondent.

Y.E. Scott, Esq., Senior Assistant Attorney General appearing on behalf of the State.

The Board went into Executive Session at 12:34 p.m. The Board resumed the Review at 12:54 p.m.

Motion made to accept the Findings of Fact and uphold the Initial Decision to revoke the license – approved unanimously.

**Dream Car Leasing & Sales, Inc., d/b/a Dream Car Leasing #42612
Appeal of Denial of License Application
Case DLD 13-062**

Y.E. Scott, Esq., Senior Assistant Attorney General appearing on behalf of the State.

Jihad Elias Salameh, Owner, pro se.

Motion to approve the license application – approved unanimously.

The Board took a 10 minute break.

Mr. Opeka resumed the **Background Investigation Team presentations**.

- **Mondragon, Mario #165533** – 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.
- **Samu, Ricky #34455** – Motion to deny the license on the basis of unfitness of licensing character – Approved 4-2 (Yoder, Martin)
- **Spradley, Tara #162491** – Motion to deny the license on the basis of unfitness of licensing character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved 5-1 (Gebhardt)
- **Sprayberry, Jonathan #177373** – Motion to approve a conditional license; conditioned upon the applicant providing a letter from the owner of the employing dealership stating knowledge of the applicant’s situation; upon a change of employment, the applicant is to provide a letter from the owner of the new dealership – approved unanimously.
- **Zuniga, Alejandro #185771** – Motion to deny the license on the basis of unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.

INVESTIGATION REPORT:

Chief of Investigations Chris Rouze presented the following:

Statistical Reporting – Ms. Rouze informed the Board that we started with a 583 cases, 166 new cases were opened and 171 cases were closed for the month, giving the Division a balance of 578 open cases. There were 486 background inquiries performed.

Affidavits of Probable Cause:

- **Greenwood Automotive, DL #39525** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Greenwood Automotive, Dealer #39525; 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.
- **Phil Long Hyundai of Motor City, LLC, DL #38161** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Phil Long Hyundai of Motor City, LLC, Dealer #38161; that the case be assigned to the Colorado Motor Vehicle Dealer Board for a hearing on the merits and that Executive Secretary

be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.

There was general discussion regarding advertising violations and possible sanctions that could be taken. The Board indicated that there may be a need for substantial fines and/or suspension days to curtail the numerous violations.

Y.E. Scott introduced Assistant Attorney General Michael Axelrod. Mr. Axelrod has been with the AG's office for three years now and practicing for over twenty years in private practice.

New Business – The question was asked by the Board; how do we go about putting a time limit on how soon a revoked or denied applicant can reapply for a license. It was answered that we may be able to address this through rulemaking.

Public Comment – There was no public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 2:30 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