

**MOTOR VEHICLE DEALER BOARD
MINUTES**

November 15, 2016

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

BOARD MEMBERS:

Robert Endter
Joseph Gebhardt
Lucky Heggs
Michael Jorgensen
Chris Langley
Stan Martin
Steven Perkins
Dominic Scrivner

MEMBERS ABSENT:

Justin Franks

SENIOR DIRECTOR OF ENFORCEMENT:

Ron Kammerzell

**SENIOR DEPUTY DIRECTOR OF
ENFORCEMENT:**

Lewis Koski

EXECUTIVE SECRETARY:

Bruce Zulauf

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

Chris Rouze
Chris Hartman
Gloria Breedon
Martin Kenney
John Opeka
Cheryl Morrison
Michael Harlost
Nit Hamby
Melissa Muniz
Meghan Tanis
Wendy Spaulding
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott

VISITORS:

Lori Churen, John Elway Dealerships
Todd O'Connell, CIADA
Eric Hartsough, Dealer Services
Tammi McCoy, CADA
Art Erwin, Christopher's Dodge World
Jason Colson, Coloradomotive

President, Joseph Gebhardt, opened the meeting of November 15, 2016 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 changes to the agenda as posted. Mr. Franks will not be in attendance today. Sunset review recommendations will be discussed and Mr. Kammerzell will advise the Board of the next steps in the process. There will be no rulemaking for the Division until the Sunset Review is complete.

MINUTES

The minutes of the October 18, 2016 meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Toney Auto Sales #43701** – Motion to table until more information is received about unencumbered inventory – approved unanimously.
- **Tri-State Used Auto, LLC #43611** – Motion to deny based on incomplete application – approved unanimously.

Salesperson Applications:

- **Betts, Gregory Kieth #194328** – Motion to deny the license based on mandatory disqualifier – approved unanimously.
- **Hilgers, Rodney Ray #28646** – Motion to deny the license based on unfitness of criminal character – fails 3-4 (Martin, Jorgensen, Perkins and Endter opposed).

Motion to grant a conditional license based on compliance with work release and providing the standard letter from the employing dealer which includes the normal terms and conditions – approved 4-3 (Heggs, Scrivner and Langley opposed).

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Mile High Honda, Dealer #765** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Medved Chevrolet Buick GMC, Dealer #4579** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Coloradomotive, LLC, Dealer #43140** – Motion to accept the Proposed Stipulation and Final Agency Order – approved 6-1 (Perkins opposed).

- **Proposed Stipulation and Final Agency Order – Marks Auto Sales, Inc., Dealer #2679** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Accurate Auto Sales, Dealer #41129** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott recused herself and left the room.

- **Initial Decision – Kevin Joseph Calderon, Salesperson License #192686** – Motion was made to accept the Findings of Fact, Conclusions of Law and to accept the recommended Order to issue a conditional license with specific conditions – approved 6-1 (Langley opposed).

Ms. Scott returned to the room.

INVESTIGATIONS REPORT

Ms. Rouze presented the following to the Board:

Statistical Reporting – Ms. Rouze informed the Board that we started with 310 cases, 164 new cases were opened and 174 cases were closed for the month, giving the Division a balance of 300 open cases. There were 208 background inquiries performed.

Affidavits of Probable Cause:

- **AutoNation Chrysler Dodge Jeep Ram Southwest, DL #41510** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Chrysler Dodge Jeep Ram Southwest, Dealer #41510; 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.
- **Steadfast Motors, DL #42479** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Steadfast Motors, Dealer #42479; 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.
- **Tams #1 Auto Recycling & Repair, Inc., DL #36317** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Tams #1 Auto Recycling & Repair, Inc., Dealer #36317; 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.
- **Tio Charlies, Inc., DL #4679** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Tio Charlies, Inc., Dealer #4679; 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.

Mr. Endter recused himself and left the room.

- **Wangerow, Michael J., SP #166942** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Wangerow, Michael J., Salesperson #166942; and that the case be assigned to the Colorado Department of Revenue, Hearings Division for a hearing on the merits – approved unanimously.

Mr. Endter returned to the room. Board took a 10 minute break.

BOARD DISCUSSION – 2016 DORA SUNSET REVIEW

Mr. Kammerzell gave the Board an overview of how the process will go forward. He further stated that usually the first recommendation is reasonably assured, which in this case is that the Division and the Board continue for the next seven years. All other recommendations are subject to the legislative process. There are thirteen (13) recommendations in total.

It was determined that each recommendation should be discussed and the position of the Board reduced to writing in the form of a resolution or memorandum. The Executive Secretary agreed to prepare the written document for the next Board meeting for review and further Discussion.

The Board discussed each recommendation at length.

Sunset Review Recommendations:

- 1- Continue the Motor Vehicle Dealer Board and the regulation of the motor vehicles industry for seven years, until 2024 – **Board supportive**;
- 2- Continue Part 5 of the statute for seven years, until 2024, and remove the repealer in Part 5 of the statute – **Board supportive**;
- 3- Amalgamate Parts 1 and 5 of the statute – **Board supportive with concerns**;
- 4- Repeal the prohibition on Sunday sales – **Board opposed**;
- 5- Repeal the Board’s authority to propose adjustments to licensing fees – **Board opposed**;
- 6- Require a licensing application when an ownership change of a new or used motor or powersports vehicle dealer license occurs – **Board supportive**;
- 7- Allow the Board to impose discipline on owners of motor or powersports vehicle dealerships and wholesalers for violations of the statute while working as a salesperson – **Board supportive**;
- 8- Codify the Auto Industry Division in statute – **Board supportive**;
- 9- Remove the dependent nature of a salesperson’s license – **No position – more information needed**;
- 10- Require a fingerprint-based criminal history background check for all applicants licensure – **Board supportive**;
- 11- Require motor and powersports licensees who have their licenses revoked or who surrender their licenses in lieu of discipline to wait two years before applying for a new license – **Board supportive**;
- 12- Make technical changes to the statute – **Board took no position on this recommendation**;
- 13- Administrative Recommendation 1 – **Board supportive**.

New Business – No new business.

Public Comment – Mr. Hartsough advised Board that Mr. Todd O’Connell of CIADA, was presently meeting with state representative in support of closing on Sundays.

Mr. Hartsough is in support of Recommendation #8 of the Sunset Review.

Ms. Tammi McCoy, CADA, would be in support of ten years for Sunset review and in support of separating motor vehicle and powersports. CADA is opposed to Sunday sales and undecided about salesperson license and would like further discussion.

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:42 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