

**MOTOR VEHICLE DEALER BOARD
MINUTES
November 18, 2014**

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
Chris Hefty
Michael Jorgensen
Stan Martin
Jason Wagner

MEMBERS ABSENT:

Deborah Thompson

**SENIOR DIRECTOR OF
ENFORCEMENT:**

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

Leland Bebee
Chris Rouze

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

Matt Heap
Martin Kenney
John Opeka
Eric Teklu
Josh Dexter
Gloria Breeden
Dave Heinrich
Kaye Kopecky
Joe Scalabrini
Erika Garcia
JoAnn Saenz
Arleen Criddell-Tapanen

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott
Skip Spear
Randall Cherry

VISITORS:

Jason Colson, AMF Industries, LLC
Shirleen Ratliff, AMF Industries, LLC
Suzann Bacon, BBB
Michael Dommermuth, CADA – F&W
Pat Watson, TrueCar
Jim Bode, J. Bode Use Cars
Jerry Abboud, PDAC

Todd O'Connell, CIADA
Tammi McCoy, CADA
Mary Marvin, CAPSS
Art Erwin, Christopher's Dodge World
Cortez Rocker
Landis Wheeler, DA Auto Group/Drive 1 Again
Karl Herz, DA Auto Group
Rafal Kozak, Colorado Chrysler Jeep (Sales)
Zach Lewis, AutoNation Honda

President, Jason Wagner, opened the meeting of November 18, 2014, 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 there were no additions or corrections. There will be one hearing today, a *Default Motion* and Mr. Skip Spear, Conflicts Counsel, will guide the Board through this process. Ms. Deborah Thompson will not be in attendance today.

Calendar –

- There will be a regular meeting of the Board on December 16, 2014. There will be a formal rulemaking hearing today at 1p.m. There will be no rulemaking in December.
- Mr. Zulauf informed the Board that there will be a Division staff meeting the first week of December to set the 2015 rulemaking agenda. Mr. Zulauf encouraged Board members to reserve the third Tuesday of each month and the fourth Thursday of each month, starting March 2015.

MINUTES

The minutes of the October 21, 2014 meeting were amended to include Board member, Anthony Brownlee, in attendance and on page 3, under Dealer applications, third bullet, second sentence change the word “approve” to “issue” – approved unanimously.

ATTORNEY GENERAL’S OFFICE REPORT

Ms. Scott presented the following to the Board:

Jeffrey M. Freeman Case, Salesperson License #152596 Decision from Colorado Court of Appeals Case #MSD12-189

A motion was made to enter into Executive Session to discuss with counsel pending or imminent court action involving the Board as a party pursuant to C.R.S. 24-6-402 (3)(a)(II); specifically, the Freeman Case – passed unanimously.

The Board went into Executive Session at 9:13 a.m. and Resumed Open Session at 9:27 a.m.

A motion was made to recommend to the Executive Director that the Supreme Court review the decision of the Colorado Motor Vehicle Dealer Board vs. Jeffrey M. Freeman and file the appropriate request – passed unanimously.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

1. **Proposed Stipulation and Final Agency Order – Nations Auto, Inc., Dealer #4655** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
2. **Proposed Stipulation and Final Agency Order – Drive Time, Dealer #41474** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
3. **Proposed Stipulation and Final Agency Order – Christopher's Dodge World, Inc., Dealer #2366** – Motion to approve the Proposed Stipulation and Final Agency Order – approved 6 – 1 (Hefty opposed).
4. **Proposed Stipulation and Final Agency Order – Weld County Classics LLC, Dealer #41685** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
5. **Proposed Stipulation and Final Agency Order – Greeley Subaru, Dealer #42928** – Motion to approve the Proposed Stipulation and Final Agency Order – approved 6 – 1 (Hefty opposed).
6. **Proposed Stipulation and Final Agency Order – Weld County Garage, Inc., Dealer #75** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
7. **Proposed Stipulation and Final Agency Order – Ghent Chevrolet Cadillac, Dealer #142** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
8. **Proposed Stipulation and Final Agency Order – About Time, Inc., Dealer #38386** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
9. **Proposed Stipulation and Final Agency Order – STS Automotive, Inc., Dealer #41151** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott recused herself and left the room.

10. **Initial Decision- Wheeler, Landis Jason---** License# 185755

Motion was made to accept the Findings of Fact and Conclusions of Law and accept the recommendation of the Hearing Officer and grant a conditional license with specified conditions. Conflicts Counsel will draft the recommended order – approved 6-1 (Gebhardt opposed).

Ms. Scott returned to the room. Board took a 10 minute break.

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following to the Board:

Dealer Applications:

- **American Auto Network LLC #43011** – Motion to deny the license based on financial character and licensing character – approved unanimously.
- **AMF Industries LLC #43140** – Motion to grant the license – approved unanimously.

Bravo Motors, LLC/Respondent Motor Vehicle Dealer License #42213

Hearing on Motion to Default Judgment - Case #BD 13-020

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

A motion was made to enter Executive Session at this time to seek legal advice for a specific legal question as a party pursuant to C.R.S. 24-6-402 (3) (a) (II); specifically, the Bravo Case – passed unanimously.

The Board went into Executive Session at 11:14 a.m. and Resumed Open Session at 11:27 a.m.

Board President, Jason Wagner, asked Attorney Michael G. McKinnon if he was currently representing Bravo Motors, LLC.

Mr. McKinnon replied he originally represented Respondent, but has not had any contact in many months, even after multiple attempts to contact the owner.

A motion was made pursuant to C.R.S. 24-4-105 (2) (b) accepting the Findings of Facts, Conclusions of Law in the Notice of Charges for Board to do an *Entry of Default* and send same via certified mail to Respondent giving them ten (10) days to show good cause for lifting the *Entry of Default*. If not shown within the designated timeframe, the Executive Secretary will enter the *Default Judgment* and final order on behalf of the Board against Bravo Motors, LLC – approved unanimously.

Salesperson Applications:

- **Abbott, Brian #188291** – Motion to deny the license based on unfitness of criminal character – approved unanimously.
- **Concha, John #33517** – Motion to grant the license – approved 5-2 (Hefty, Gebhardt opposed).
- **Critchfield, Jr., John #187941** – Motion to grant a conditional license based upon applicant complying with terms of his probation and providing the standard letter from the employing dealer which includes the normal terms and conditions – approved unanimously.
- **Jaramillo, Lynard #28271** – Motion to deny the license based on unfitness of financial character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved 6-1 (Brownlee opposed).
- **Kozak, Rafal #188161** – Motion to grant conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions – approved unanimously.

- **Lambert, Drake #188305** – 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 or any felony – approved unanimously.
- **Lang, Julie #188203** – Motion to deny the license based on unfitness of financial character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved 6-1 (Franks opposed).
- **Leone, Nicholas #188610** – Motion to deny the license based on unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.

Mr. Hefty left the meeting.

- **Lewis, Zachary #188369** – Motion to grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions – approved unanimously.
- **Malekzadeh, Houshang #188443** – Motion to deny the license based on unfitness of licensing character – approved unanimously.
- **Miller, Shaun #188519** – Motion to grant the license – approved unanimously.
- **Ong, Myles #188449** – Motion to grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions – approved unanimously.
- **Patterson, Dylan #188734** – Motion to grant the license – approved unanimously.
- **Reyna, Juan #188520** – Motion to grant the license – approved 5-1 (Jorgensen opposed).
- **Cortez, Rocker #188292** – Motion to grant a conditional license based upon applicant getting back on his payment plan and providing the standard letter from the employing dealer which includes the normal terms and conditions – approved 5-1 (Franks opposed).
- **Tracy, Michael #187210** – Motion to grant the license – approved unanimously.

INVESTIGATION REPORT

Chief of Investigations Chris Rouze presented the following to the Board:

Affidavits of Probable Cause:

- **Coachworks Auto, Inc., DL #8824** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Coachworks Auto, Inc., Dealer #8824; 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.

- **Larry H. Miller Kia Lakewood, LLC, DL #41178** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Larry H. Miller Kia Lakewood, LLC, Dealer #41178; 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.
- **Spradley Ford Lincoln, DL #40230** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Spradley Ford Lincoln, Dealer #40230; 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.
- **Tynan’s Nissan, Inc., DL #57** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Tynan’s Nissan, Inc., Dealer #57; 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.

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