

**MOTOR VEHICLE DEALER BOARD
MINUTES
November 23, 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:

Robert Endter
Joseph Gebhardt
Michael Jorgensen
Chris Langley
Stan Martin

MEMBERS ABSENT:

Anthony Brownlee
Justin Franks
Deborah Thompson
Jason Wagner

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

Leland Bebee

**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:

Todd O'Connell, CIADA
Tammi McCoy, CADA
Jerry Johnson, Kuni Honda
Art Erwin, Christopher's Dodge World
Mike McKinnon, CIADA
Craig Joyce, CADA

Vice President, Joseph Gebhardt, opened the meeting of November 23, 2015 at 9:14 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, Mr. Brownlee, Ms. Thompson and Mr. Franks were not in attendance.

MINUTES

The minutes of the October 22, 2015 meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Cox Automotive Vehicle Acquisition Services, LLC d/b/a CAVAS, LLC #43340** – Motion to deny the license based on incomplete application – approved unanimously (Mr. Gebhardt as chairperson voted).

Salesperson Applications:

- **Armijo, Joey #555939** – 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. Gebhardt as chairperson voted).
- **Barton, Justin Scott #191494** – 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 4-1 (Mr. Gebhardt as chairperson voted) (Mr. Langley opposed).
- **Biggs, Kory Lee #558681** – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).
- **Dyches, Jr., Charles Belton #191208** – Motion to grant the license – approved 3-2 (Mr. Gebhardt and Mr. Jorgensen opposed).
- **Fernandez, Jr., James Tony #556414** – 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 unanimously (Mr. Gebhardt as chairperson voted).
- **Gutierrez, Ronald Eugene #32989** – Motion to grant the license – approved 4-1 (Mr. Gebhardt as chairperson voted) (Mr. Langley opposed).
- **Hopkins, Brian Keith #556908** – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).
- **Jordan, Michael Timothy #556806** – Not presented.
- **McDowell, Jed Allen #165871** – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).
- **Palermo, Michael James #191429** – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).

- **Santillan, Eduardo Rutilio #191385** – Motion to deny the license based on unfitness of criminal character – approved 3-2 (Mr. Gebhardt and Mr. Martin opposed).
- **Statler, Bradley William #155214** – Motion to grant the license – approved unanimously (Mr. Gebhardt as chairperson voted).
- **Morace, Kevin Dwayne #558414** – Motion to table the application until applicant provides more information on felony conviction – approved unanimously (Mr. Gebhardt as chairperson voted).

Ms. Breeden asked Ms. Scott the status of Jerry Johnson’s application. Ms. Scott advised that she should have more information next month.

ATTORNEY GENERAL’S REPORT

Ms. Scott presented the following to the Board:

1. **Proposed Stipulation and Final Agency Order – CMC Auto LLC d/b/a CMC Auto Motor Vehicle Dealer License No. 41569** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Gebhardt as chairperson voted).
2. **Proposed Stipulation and Final Agency Order – Go Motors, Inc., Motor Vehicle Dealer License No. 3142** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Gebhardt as chairperson voted).

EXECUTIVE SECRETARY’S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Loveland Ford Lincoln, Dealer #7232** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Gebhardt as chairperson voted).
- **Proposed Stipulation and Final Agency Order – Automotive Avenues, Inc., Dealer #1173** – Motion to approve the amended Proposed Stipulation and Final Agency Order – approved 4-1 (Mr. Gebhardt opposed).
- **Proposed Stipulation and Final Agency Order – Magnum Motors of Loveland, LLC, Dealer #38660** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Gebhardt as chairperson voted).

Ms. Scott recused herself and left the room.

- **Proposed Stipulation and Final Agency Order – Rod’s Cars, Inc., Dealer#8062** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Gebhardt as chairperson voted).

Initial Decision – Oakley, Justin Ryan, Motor Vehicle Salesperson License #190431 – Motion was made to accept the Findings of Fact and Conclusions of Law, modify the recommended order to remove the last sentence of paragraph 18 – approved unanimously (Mr. Gebhardt as chairperson voted).

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

Ms. Scott informed the Board that the suit filed by Donald Fymbo in U.S. District Court involving numerous parties including the Motor Vehicle Dealer Board has been dismissed by the 10th Circuit Court of Appeals.

INVESTIGATIONS REPORT

Mr. Heap presented the following to the Board:

Statistical Reporting – Mr. Heap informed the Board that we started with 394 cases, 216 new cases were opened and 176 cases were closed for the month, giving the Division a balance of 434 open cases. There were 378 background inquiries performed.

Affidavits of Probable Cause:

- **Arapahoe Kia, DL #40899** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Arapahoe Kia, Dealer #40899; 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. Gebhardt as chairperson voted).
- **Chandler Garage and Used Cars, DL #1793** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Chandler Garage and Used Cars, Dealer #1793; 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. Gebhardt as chairperson voted).
- **Honda Greeley, Inc., DL #8935** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Honda Greeley, Inc., Dealer #8935; 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. Gebhardt as chairperson voted).
- **Johnson Auto Plaza, Inc., DL #186** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Johnson Auto Plaza, Inc., Dealer #186; 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. Gebhardt as chairperson voted).

- **Medved Chevrolet Buick GMC #4579** – Tabled for next month due to Mr. Langley needing to recuse.
- **Medved Chevrolet Cadillac, DL #209** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Medved Chevrolet Cadillac, Dealer #209; 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. Gebhardt as chairperson voted).
- **Queen Auto Sales, DL #39682** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Queen Auto Sales, Dealer #39682; 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. Gebhardt as chairperson voted).
- **Tesla Motors, Inc., DL #41454** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Tesla Motors, Inc., Dealer #41454; 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. Gebhardt as chairperson voted).
- **Wilson, April G., SP #180693** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Wilson, April G., Salesperson #180693; and that the case be assigned to the Colorado Department of Revenue, Hearings Division for a hearing on the merits – approved unanimously (Mr. Gebhardt as chairperson voted).
- **Cain, Beau G., SP #184446** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Cain, Beau G., Salesperson #184446; and that the Colorado Motor Vehicle Dealer Board summarily suspend his motor vehicle salesperson’s license in accordance with C.R.S. 24-4-104 as he has engaged in deliberate and willful acts and his conduct poses a threat to the public health, safety and welfare – approved unanimously (Mr. Gebhardt as chairperson voted).

Salesperson Application:

- **Cain, Beau G., #184446** – Motion to deny both licenses based on unfitness of criminal character, having been convicted of a misdemeanor under title 18 or any felony, and having a mandatory disqualifying conviction under §12-6-118 (7)(a)(I) – approved unanimously.

New Business – No new business.

Public Comment – Mr. Michael McKinnon, Staff Attorney for CADA, Mr. Todd O’Connell, Executive Director of CIADA, Mr. Craig Joyce, Attorney for CADA and Ms. Tammi McCoy, CADA addressed the Board about issues they have with Disclosure Form 2434. They suggested the following changes to the form:

1. Distinguish between buyers order and retail installment agreement;
2. Change language from “contract” to “finance agreement” in order to keep buyers order in tact so dealer can still charge bailment; and
3. Add Co-buyer signature line.

Motion was made for the Division to meet with interested parties in an attempt to reach a consensus in regard to Form 2434 and discuss the findings at the February 16, 2016 Board meeting – approved unanimously (Mr. Gebhardt as chairperson voted).

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 11:35 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