

**MOTOR VEHICLE DEALER BOARD
MINUTES
September 17, 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
MEMBERS ABSENT:	Lee Yoder
SENIOR DIRECTOR OF ENFORCEMENT:	Ron Kammerzell
EXECUTIVE SECRETARY:	Bruce Zulauf
LEGAL ASSISTANT:	Leland BeBee
DEPT OF REVENUE, AID, ENFORCEMENT DIVISION STAFF:	Chris Rouze Matt Heap Gloria Breeden Margaret Jungmann Brenda Fredricey John Opeka Cheryl Morrison Eric Hartsough Bud Heinrich Arlene Criddell-Tapanen
ATTORNEY GENERAL'S OFFICE:	Y.E. Scott
BUDGET OFFICE:	
VISITORS:	Todd O'Connell, CIADA Mary Marvin , CAPSS Carl Ruch

President of the Board, Beau Smith opened the meeting of September 17, 2013, at 9:06 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, but he was removing item #3, the Delegation of Authority discussion. The Division has some tweaks that are important to help things move more efficiently and effectively, but a legal question came up that needs to be answered. It will come back to the Board next month.

He has put on the agenda a general discussion for rulemaking. Mr. Kammerzell and Mr. BeBee will address the Board with the procedures of rulemaking, timeframes, and benchmarks.

Mr. Zulauf advised the Board that Mr. Yoder will not be in attendance. He also introduced Arlene Criddell-Tapanen as his assistant.

MINUTES

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

ATTORNEY GENERAL'S OFFICE REPORT

Ms. Scott presented the following to the Board:

Ms. Thompson recused herself and left the room.

- R2D2 Motors, LLC #39929 – Proposed Stipulation and Final Agency Order & Affidavit.
- RD Motors, Inc. #1459 – Proposed Stipulation and Final Agency Order & Affidavit.
 - Motion to approve both stipulations – approved unanimously.

Ms. Thompson returned to the room.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order & Affidavit – Filyas Auto, #38110** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously

Ms. Scott and Mr. Opeka recused themselves and left the room.

- **Initial Decision – Hanson, Scott #25893** – Motion to accept the Findings of Fact, and the Conclusions of Law, modify the recommendations of the Hearing Officer to include a fine of \$500 for failure to disclose, due and payable within 60 days. Action will be taken if the fine is not paid within 60 days and if the deferred sentence has not been successfully completed – approved unanimously.
- **Initial Decision – Miranda, Jessie #162536** – Motion to accept the Findings of Fact and Conclusions of Law, modify the recommendation to revoke the license on the basis of failure to disclose, unfitness of criminal character and criminal record, having a mandatory disqualifying conviction, and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.

- **Initial Decision – Roybal, Kenneth #148756** – Motion to accept the Findings of Fact and Conclusions of Law and modify the recommendations of the Hearing Officer to revoke the license on the basis of unfitness of financial character and criminal character – approved unanimously.
- **Initial Decision – Smith, David Nathaniel #20509** – Motion to table for 30 days to allow the Division to look into financial character and licensing character – approved unanimously.

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

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

Salesperson Applications:

- **Guster, Errol #184709** – Motion to deny the license on the basis of unfitness of criminal character – approved unanimously.
- **Kingley, Kayla #184698** – Motion to deny the license on the basis of unfitness of criminal character – approved unanimously.
- **Powell, Jacob #184388** – 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.
- **Rameriz, Ukiah #184607** – Motion to approve the license – approved 5-2 (Wegener, Thompson)
- **Ruch, Carl #28960** – Motion to approve a conditional license, conditioned upon a letter from the owner of the dealership acknowledging knowledge of the circumstances and upon change of employment a letter is required from the new dealership owner – approved 6-1 (Wegener).
- **Ruiz, Paul #27180** – Motion to deny the license on the basis of unfitness of criminal character and financial character – approved unanimously.
- **Wong, Jorge #184136** – 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 507 cases, 170 new cases were opened and 146 cases were closed for the month, giving the Division a balance of 531 open cases.

Affidavits of Probable Cause:

- **Jeffrey P. Moreland, #34104** - Motion that the Board finds probable cause for a hearing based upon the Affidavit of Probable Cause presented to the Board today respective to Jeffrey P Moreland, salesperson #34104; that the case be assigned to the Colorado Department of Revenue, Hearings Division for a hearing on the merits – approved unanimously.

General Discussion – Rulemaking

Mr. Zulauf advised the Board of what to expect at the rulemaking workshop on the 26th and in the coming months. We are required to look at 20% of our rules each year. All regulatory agencies have this requirement. Mr. Zulauf turned the floor over to Mr. BeBee.

Mr. Bebee gave a short presentation on rulemaking, rulemaking history and administrative law. The basis for rulemaking is in the Administrative Procedures Act (APA). Mr. Kammerzell informed the Board of some of the new procedures in place related to rulemaking.

Mr. Zulauf explained that he and Ms. Rouze went through the rules and put together the regulatory agenda. These are the rules (20%) that we want the Board to review. Advertising has not been touched in a long time, the rules were based on print media and don't address internet advertising. This will not be on the agenda for the September 26th rulemaking workshop as an advertising focus group report will be given to the Board at a future Board meeting.

September 26th will be a rulemaking workshop – he has invited the dealer from Colorado Springs who was using a master consignment agreement, two (2) industry attorneys, and two (2) former Board Presidents (Jeff Carlson and John Medved) to the workshop. Discussion items:

- Hearings – rule established after Sunset Review
- Disclosure issues & Carfax, how dealers are disclosing
- Off-premise Permits – structure, research done by Ms. McCoy
 - Time frame to obtain permits
 - Consecutive permits defined
 - Master consignment agreement

New Business – There was no new business.

Public Comment – There was no public comment.

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