

BEFORE THE MOTOR VEHICLE DEALER BOARD
STATE OF COLORADO

Case Nos. BD11-029

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF: **CHROME DOME MOTORS, INC.,**
LICENSE NUMBER 40075

Respondent.

IT IS HEREBY STIPULATED & AGREED by and between the Colorado Department of Revenue, Auto Industry Division ("Division"), Motor Vehicle Dealer Board ("Board") and Chrome Dome Motors, Inc., ("Respondent") (collectively the "Parties") in lieu of further legal action:

1. The Board has jurisdiction over the Respondent and the subject matter of this Stipulation and Final Agency Order as set forth in article 6 of Title 12, C.R.S. and the Administrative Procedure Act, article 4 of Title 24, C.R.S.

2. The Respondent has been licensed as a motor vehicle dealer in the State of Colorado at all times relevant herein.

3. The Board has alleged that the Respondent violated the following:

A. Section 12-6-118(3)(i), C.R.S. for failure to disclose through whatsoever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer;

Regulation 12-6-118(3)(i), C.R.S. A dealer...shall disclose on the contract form when a motor vehicle is known to the dealer...to have sustained material damage at any one time from any one incident.

4. The Respondent understands that:

A. The Respondent has the right to be represented by an attorney of the Respondent's choice, at the Respondent's expense;

B. The Respondent has the right to a formal hearing in accordance with article 6 of Title 12, C.R.S.;

C. By entering into this Stipulation and Final Agency Order, the Respondent is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Stipulation and Final Agency Order, and relieves the Board of its burden of proving such facts;

- D. The Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Board; and,
- E. The Respondent is knowingly and voluntarily giving up the right to judicial review of this matter.

5. The Respondent acknowledges receipt of sufficient notice, sufficient advisement of rights, and sufficient process in the proceedings of this case, and desires to resolve all issues, which were the subject of the investigation, by entering into this Stipulation and Final Agency Order.

6. The Respondent admits to violation of section 12-6-118(3)(i), C.R.S., failure to disclose through whatsoever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to the buyer as alleged in paragraph 3, above. Based upon this admission, the Board is authorized to impose the sanctions set forth in this Stipulation and Final Agency Order.

7. The Respondent agrees, in lieu of subsequent administrative proceedings, to submit to the following sanctions:

- A. Respondent's license administratively expired on December 31, 2010.
- B. Respondent shall pay a fine of ten thousand dollars (\$10,000.00) for the one count of failure to disclose admitted in paragraph 6. The Respondent agrees that one thousand dollars (\$1,000.00) shall be due and payable within sixty (60) days from the date this Stipulation is approved by the Board. The remaining nine thousand dollars (\$9,000.00) shall be deferred and payable only if the Respondent applies for an original dealer license to be issued by the Board in the future.
- C. Within sixty (60) days from the date this Stipulation is approved by the Board, Respondent shall issue certified funds in the amount of ten thousand dollars (\$10,000.00) payable to [REDACTED] in payment to "buy back" the 2002 Mini Cooper VIN No. [REDACTED], previously sold by Respondent.
- D. If the Respondent or any owner thereof applies for a new dealer license issued by the Board at any time in the future, the Respondent shall comply with all requirements for licensure.
- E. The Respondent shall not engage in any act that would require licensure by the State of Colorado unless the Respondent first obtains the appropriate licensure.

F. The Respondent shall cooperate with the Division in closing any and all outstanding sales.

8. The Respondent agrees to strictly adhere to and to completely fulfill all requirements established in this Stipulation and Final Agency Order.

9. The Respondent is aware that this Stipulation and Final Agency Order will not become an order of the Board unless and until the Board approves it. If this Stipulation and Final Agency Order is not approved by the Board, it is void, and the Respondent shall not be bound by any provisions hereof or admissions herein.

10. Each Party shall bear its own costs and fees incurred in this action.

11. This Stipulation and Final Agency Order is the complete integration of all understandings between the parties. No addition, deletion, or amendment, except as mutually agreed to in a writing signed by both Parties, shall have any force or effect whatsoever.

12. The Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Stipulation and Final Agency Order and which are not inconsistent with its terms.

13. The provisions of this Stipulation and Final Agency Order shall be enforceable by the Parties before the Colorado Motor Vehicle Dealer Board, by any lawful remedy.

14. The Respondent expressly acknowledges having read and understood completely the terms of this Stipulation and Final Agency Order. The Respondent enters this Stipulation and Final Agency Order knowingly and voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Stipulation and Final Agency Order. The Respondent expressly states that the Respondent believes the terms of this Stipulation and Final Agency Order are lawful, fair, conscionable and appropriate to reach a full and final resolution of this disciplinary matter.

15. This Stipulation and Final Agency Order and all its terms shall have the same force and effect as an order entered by the Board after hearing pursuant to article 6 of Title 12, C.R.S. except that this Stipulation and Final Agency Order cannot be appealed. The Respondent agrees that any violation of this Stipulation and Final Agency Order may constitute grounds for disciplinary proceedings pursuant to article 6, Title 12, C.R.S. and if proven may constitute a basis for further disciplinary action or for any other remedy authorized by law. In the event this matter is referred to hearing for violation of this Stipulation and Final Agency Order, this Stipulation and Final Agency Order shall be admissible as evidence. In the event an alleged violation of this Stipulation and Final Agency Order is taken to

hearing and the facts that constitute the violation are determined not to be proven, the Board shall not take any disciplinary action, and this Stipulation and Final Agency Order shall remain operative and in full force and effect. The pendency of any disciplinary action pursuant to this Stipulation and Final Agency Order shall not affect the obligation of the Respondent to continue to comply with the terms of this Stipulation and Final Agency Order during the pendency of and after the conclusion of such disciplinary action.

16. This Stipulation and Final Agency Order is a public record in the Board's custody at all times.

17. Effective Date. This Stipulation and Final Agency Order shall become an order of the Board when accepted by the Board and signed by an authorized representative of the Board.

18. This Stipulation and Final Agency Order is a full and final resolution of case number BD11-029 and OAC case number MV 2012-0006. This Stipulation and Final Agency Order does not resolve any other cases, complaints or matters, known or unknown to the Parties, as of the effective date of this Stipulation and Final Agency Order.

19. The Respondent shall immediately provide in writing to the Board any change of the Respondent's legal address, in order for any notice required under this Stipulation and Final Agency Order or any necessary follow-up to this Stipulation and Final Agency Order to be made in a timely and efficient manner. Any notice required under this Stipulation and Final Agency Order shall be valid only if provided, in writing, to the Parties at their respective legal addresses, which the Parties acknowledge are currently as follows:

A. Board/Division:

Colorado Department of Revenue, Auto Industry Division
Attention: Bruce A. Zulauf, Division Director/Executive Secretary
1881 Pierce Street, Suite 112
Lakewood, Colorado 80214

B. Respondent:

Chrome Dome Motors, Inc.
Mr. Joseph E. Beavers Jr., Owner

[REDACTED]

Chrome Dome Motors Inc.,
Mr. Paul Lund, owner
1222 La Paloma Way

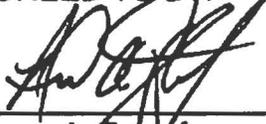
Colorado Springs, CO 80906

20. Should any term or provision of this Stipulation and Final Agency Order be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

21. This Stipulation and Final Agency Order may be signed in counterparts, each of which will have full force and effect upon execution by all Parties.

22. The Respondent warrants that it possesses the legal authority to enter into this Stipulation and Final Agency Order and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Stipulation and Final Agency Order and to bind the Respondent to its terms. The person executing this Stipulation and Final Agency Order on behalf of the Respondent warrants that such person has full authorization to execute this Stipulation and Final Agency Order.

AGREED TO BY:



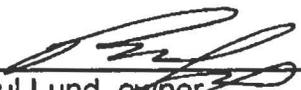
Bruce A. Zulauf
Director/Executive Secretary
Auto Industry Division

3/1/13
Date



Joseph E. Beavers Jr., owner
Chrome Dome Motors, Inc.
Respondent

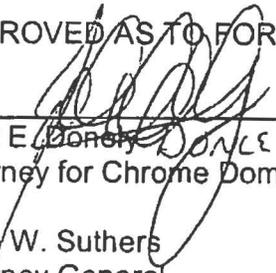
1/8/13
Date



Paul Lund, owner
Chrome Dome Motors, Inc.
Respondent

1-8-13
Date

APPROVED AS TO FORM



Jack E. Donley
Attorney for Chrome Dome Motors, Inc.

2-11-2013
Date

John W. Suthers
Attorney General



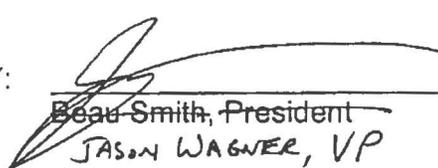
Y. E. Scott
Senior Assistant Attorney General
Attorneys for Colorado Motor
Vehicle Dealer Board

11 February 2013
Date

The Stipulation and Final Agency Order is approved and its terms are hereby adopted as an Order of this Board.

ORDERED AND ENTERED this 1 day of ^{MARCH} February, 2013.

COLORADO MOTOR VEHICLE BOARD

BY: 

~~Beau Smith, President~~
JASON WAGNER, VP

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION AND FINAL AGENCY ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, and personal service, this ~~28th~~ day of ~~February, 2011~~ *March, 2013* addressed as follows:

Jack E. Donely, Esq.
24 South Weber, No. 300
Colorado Springs, Colorado 80903

Y. E. Scott
Senior Assistant Attorney General
1300 Broadway, 8th Floor
Denver, Colorado 80203

A handwritten signature in cursive script, appearing to read "Clint Harman", is written over a solid horizontal line.