

MOTOR VEHICLE DEALER BOARD  
STATE OF COLORADO

CASE NUMBER: 22A005/BD 22-0001

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IN THE MATTER OF:

JACOB LEE MARQUEZ,  
Motor Vehicle Salesperson License No. 166091,

Respondent.

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**FINAL AGENCY ORDER**

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This license discipline matter is before the Colorado Motor Vehicle Dealer Board to review the Initial Decision issued by the Hearing Officer and duly served upon the parties on August 9, 2022. The Initial Decision is attached as Exhibit 1 and is incorporated as set forth herein.

Neither party filed exceptions. Having timely initiated its own review of the Initial Decision in accordance with § 24-4-105(14)(a)(II), C.R.S., the Board considered the Initial Decision and the administrative record. Being fully informed of the premises, the Board now enters this Final Agency Order to impose seven days' suspension and \$1500 administrative fine as final discipline against Respondent's license for conviction of a crime against the person, unfitness because of criminal character or record, and failure to timely report as required by Board rule.

The Board regulates motor vehicle dealer salespersons and is authorized to impose appropriate discipline upon such licenses. §§ 44-20-101(1)(c), 44-20-104(3)(e)(I), (m), C.R.S. In determining the final sanction after due notice and

hearing, the Board is afforded great discretion to be exercised in accordance with factors prescribed by regulation. *See* § 44-20-104(4); 1 Code Colo. Regs. § 205-1, Regulation 44-20-104(4); *Davis v. Bd. of Psychologist Exam'rs*, 791 P.2d 1198, 1202 (Colo. App. 1989). Unlike hearing officers' limited authority, the Board's disciplinary authority is broad and includes revocation of a license, suspension, probation, and an administrative fine up to \$10,000 per offense. § 44-20-104(3)(e)(I), (m); *cf.* § 44-20-104(3)(m)(I)(A) (setting maximum discipline hearing officers may recommend).

As found by the Hearing Officer, Respondent violated three provisions of the licensing law:

- Conviction of misdemeanor assault and misdemeanor reckless endangerment under §§ 18-3-204(1)(a) and 18-3-208, C.R.S., crimes pursuant to article 3 of title 18 of the Colorado Revised Statutes, in violation of § 44-20-121(6)(h), C.R.S.;
- Failure to timely report the 2021 convictions as required under Board Regulation 44-20-121, in violation of § 44-20-121(6)(b), C.R.S.;
- Unfitness because of criminal character or record, for multiple criminal offenses, in violation of § 44-20-121(7)(b), C.R.S.

As the disciplinary sanction therefor, the Hearing Officer recommended a 12-month probationary period and a \$350 fine, with potential suspension upon the Board's review.

Considering the factors under Regulations 44-20-104(4), 44-20-121(7), and applicable law, the Board observes that Respondent's 2021 guilty pleas were for offenses against a person, and involved acts of force that resulted in harm both to the person and to property. *See* Initial Decision, Finding of Fact ¶9. At the time of

the hearing, Respondent's deferred judgment and probation were pending and rehabilitation, if any, was incomplete. *See id.* ¶10.

The Board finds that the circumstances of Respondent's 2013 driving under the influence offense—including high blood alcohol content and high rate of speed—are serious and that Respondent's driving a car with a dealership sticker is directly related to the profession. *See id.* ¶14. In view of Respondent's 2008 driving while ability impaired, all of Respondent's criminal offenses, over the range of 13 years, involved alcohol and constitutes a pattern, which the Board finds is an aggravating circumstance concerning Respondent's criminal record.

The Board finds that Respondent's successful completion of all sentencing terms and conditions for the 2008 and 2013 convictions, and their remoteness in time, are mitigating circumstances. *See id.* ¶¶15, 18. Based on these circumstances, for Respondent's violation of § 44-20-121(6)(b), (6)(h), and (7)(b), the Board imposes a \$500 administrative fine for each of the three violations of the licensing laws, totaling \$1,500.

Additionally, the Board expects all licensees, including Respondent, to heed and comply with reporting requirements to the Board as the regulating body. Instead, here, Respondent's reportable conduct became known to the Division because of Respondent's change of employer. *See id.* ¶2. Respondent's failure to timely report the misdemeanor convictions has direct bearing on Respondent's accountability to the Board as the licensing authority and impacts the industry, consumers, and the public. Thus, for violation of Board Regulation 44-20-121 and

§ 44-20-121(6)(b), in addition to the administrative fine imposed, the Board imposes seven consecutive days' suspension.

The Board finds that, for the violations and under the circumstances established in the Findings of Fact and Conclusions of Law, these sanctions protect the public and are proportional to Respondent's conduct. The Board thus declines to order probation.

For the reasons stated above and subject to the discussion herein, the Board adopts and incorporates all Findings of Fact and Conclusions of Law. In conformity with §§ 24-4-105(15)(b), 44-20-104, 44-20-121, C.R.S., and based on substantial record evidence for Respondent's violation of § 44-20-121(6)(b), (6)(h), and (7)(b), C.R.S., the Board orders as final discipline against Respondent's motor vehicle sales license:

- Administrative fine in the amount of \$500 for each of Respondent's three violations, for a total of \$1,500, to be paid within thirty (30) days of this Order; and
- Suspension of Respondent's license for a period of seven (7) days, to be served consecutively within thirty (30) days of this Order. Within thirty (30) days of this Order, Respondent shall submit a document to the Division at [DOR\\_MVDB@state.co.us](mailto:DOR_MVDB@state.co.us):
  - Identifying the dates of the seven consecutive days that Respondent served the suspension; and
  - Affirming that Respondent has served the suspension in compliance with this Order.

DONE and ORDERED this 21<sup>st</sup> day of November, 2022.

MOTOR VEHICLE DEALER BOARD

  
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Kevin Shaughnessy, First Vice President

This decision becomes final upon mailing. Any party adversely affected or aggrieved by any agency action may commence an action for judicial review before the Court of Appeals within forty-nine (49) days after the date of the service of this order. §§ 44-20-122(5) and 24-4-106(11), C.R.S.

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this FINAL AGENCY ORDER was served on the following parties via United States Mail, first class, postage prepaid, this 23 day of November, 2022, and with courtesy copy by electronic mail to the electronic mail addresses as follows

### Respondent:

Jacob Lee Marquez  
[REDACTED]  
[REDACTED]  
[REDACTED]


### Attorneys for Board:

Sarah Killeen  
Bradford C. Jones  
Colorado Attorney General's Office  
1300 Broadway, 8<sup>th</sup> Floor  
Denver, CO 80203  
[sarah.killeen@coag.gov](mailto:sarah.killeen@coag.gov)  
[bradford.jones@coag.gov](mailto:bradford.jones@coag.gov)

### Courtesy Copy to:

Peak Kia  
Attn: General Manager  
5770 S Wadsworth  
Littleton, CO 80123

Courtesy Copy to Adjudicatory Counsel (via email only): [sue.kim@coag.gov](mailto:sue.kim@coag.gov)

  
JOHN OPEKA  
DEPUTY DIRECTOR