

MOTOR VEHICLE DEALER BOARD MINUTES

February 19, 2019

The regular meeting of the Dealer Board was held at the Department of Revenue offices, Lakewood, Colorado. The following persons were present:

BOARD MEMBERS:

Carrie Baumgart
 Ramona Graves Bode
 Fletcher Flower
 John Linton
 Steven Perkins
 Matthew Porter
 Jason White
 Michael Widhalm

MEMBERS ABSENT:

Lucky Heggs

EXECUTIVE SECRETARY:

Bruce Zulauf

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

Chris Rouze
 Chris Hartman
 Gloria Breedon
 John Opeka
 Frank Agos
 Josh Dexter
 Steve Koenig
 Beth Spellerberg
 Margaret Jungmann
 Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones, General Counsel
 Skip Spear, Conflicts Counsel

VISITORS:

Ponlue Pim, Prestige Dodge
 Ricky Pim, Prestige Dodge
 Morgan Hicks, Intern, AGO
 Devon Ball, Car Guys
 Todd O'Connell, CIADA
 Matthew Groves, CADA
 Art Erwin, Christopher's Dodge Ram
 Mike McKinnon, Esq.

President, Steven Perkins, opened the meeting of February 19, 2019 at 9:00 a.m. Mr. Perkins turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no changes to the agenda as posted. Mr. Heggs will not be in attendance today.

Mr. Zulauf will present an updated fine matrix draft for the Board's review and approval. Senior Assistant Attorney General, Skip Spear will appear as Conflicts Counsel for the Board in regard to the Nez Ltd. Denial Hearing, which will be held today at 10:30 a.m.

Effective March 19, 2019, the Motor Vehicle Dealer Board monthly meetings will be held in the Red Rocks conference room located at 1707 Cole Blvd., Suite 300, Lakewood, CO 80401.

LEGISLATIVE UPDATE

SB19-062 – Limit Agency Rule-making Authority To Amend Rules – The bill was postponed indefinitely.

SB19-053 – California Motor Vehicle Emission Standards – The bill was postponed indefinitely.

HB19-1163 – Reduce Regulatory Burden Rules On Businesses – This bill could impact the Division.

The Best Practices for Boards and Commissions policy will be discussed at next month's meeting. In addition, the Board will discuss a letter received at the Attorney General's office regarding bailment issues.

MINUTES

The minutes of the January 15, 2019 meeting were approved 6-1 (Bode abstains).

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Car Guys #44408** – Motion to grant the license – approved unanimously.
- **Eddie Auto Sales #44391** – Motion to grant the license – approved unanimously.
- **U-Transit #44408** – Motion to grant the license – approved unanimously.
- **U-Transit #44409** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Barrios, Jesse Andrew #163197** – Motion to deny the license based on unfitness of criminal character – approved unanimously.

- **Durica, Derek Wayne #656989** – Motion was made 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.
- **Pim, Ponlue #662351** – Motion to grant the license – approved unanimously.
- **Pim, Ricky Ponlork #662227** – Motion to grant the license – approved unanimously.
- **Wiggins, Derrick L. #664297** – Application pulled for further review.

EXECUTIVE SECRETARY REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Monte Vista Cooperative #5002** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Mike Maroone Honda #43892** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Woodmen Nissan #38911** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Cross Country Motors, LLC #39763** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 290 cases, 126 new cases were opened and 151 cases were closed for the month, giving the Division a balance of 265 open cases. There were 324 background inquiries performed.

Affidavits of Probable Cause:

- **Camping World RV Sales, DL #38063** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Camping World RV Sales, Dealer #38063; 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. 44-20-104 – approved unanimously.
- **Lazydays RV, DL #43441** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Lazydays RV, Dealer #43441; 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. 44-20-104 – approved unanimously.

- **McManus Motors, DL #42901** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to McManus Motors, Dealer #42901; 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. 44-20-104 – approved unanimously.
- **Shortline Automotive Inc., DL #216** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Shortline Automotive Inc., Dealer #216; 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. 44-20-104 – approved unanimously.
- **Tynans Kia, DL #41551** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Tynans Kia, Dealer #41551; 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. 44-20-104 – approved unanimously.
- **Western Equipment & Truck, Inc., DL #1238** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Western Equipment & Truck, Inc., Dealer #1238; 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. 44-20-104 – approved unanimously.
- **YSC Motors, DL #43820** – Affidavit pulled until next month.

Mr. Jones introduced intern, Morgan Hicks, who will be working in the Attorney General’s office.

Board took a 10 minute break.

Board Discussion – *Matrix of “Stipulation” Levels & Factors for Disciplinary Considerations*

Mr. Zulauf distributed a new draft of a Matrix of Stipulation Levels and Factors for Disciplinary Consideration and a brief discussion followed.

A motion was made to accept the new fine matrix – passed unanimously.

Public Comment – Mr. O’Connell is currently engaged in the process to obtain permission for a “late bill” in regard to the wholesale license matter. He will keep the Board updated.

New Business – None

Board took a 5 minute break. Mr. Widhalm recused himself and left the meeting.

**HEARING ON DENIAL OF APPLICATION FOR WHOLESALER’S LICENSE FOR NEZ, LTD, LLC,
D/B/A “NEZ, LTD,” APPLICANT, LICENSE #44255**

Case #DLD 18-0876 – Nez, Ltd - Applicant

Michael G. McKinnon, appearing on behalf of Applicant/Nez, Ltd

Bradford C. Jones, Senior Assistant Attorney General, appearing on behalf of the State

Oral arguments, board discussion and ruling on final order were heard pursuant to the denial process.

Motion was made to deny the license – passed 5-2 (Baumgart and Linton opposed).

Mr. Zulauf requested Conflicts Counsel prepare final order for Board’s review and approval.

The 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