

MOTOR VEHICLE DEALER BOARD MINUTES

March 20, 2018

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 Ann Baumgart Michael Jorgensen John Linton Stan Martin Steven Perkins Jason White
MEMBERS ABSENT:	Ramona Graves Bode Lucky Heggs Chris Langley
SENIOR DIRECTOR OF ENFORCEMENT:	Flavio Quintana
EXECUTIVE SECRETARY:	Bruce Zulauf
LEGAL ASSISTANT:	Leland Bebee Beth Spellerberg
DEPT OF REVENUE, AID, ENFORCEMENT DIVISION STAFF:	Chris Rouze Chris Hartman Gloria Breedon John Opeka Frank Agos Josh Dexter Cheryl Morrison Erika Garcia Frank Macias Chris Clements Stephen Koenig Arleen Criddell Tapanen
ATTORNEY GENERAL'S OFFICE:	Brad Jones Skip Spear
VISITORS:	Art Erwin, Christopher's Dodge World Todd O'Connell, CIADA Matthew Groves, CADA Michael A. Reta, Larry H. Miller Corey Pembrook Lisa McCann

President, Stan Martin, opened the meeting of March 20, 2018 at 9:00 a.m. Mr. Martin 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. Lorri Dugan, Chief Financial Officer, will present a PowerPoint presentation to the Board regarding budget basics. The presentation is timely as the Board enters the fee setting process next month. Ms. Bode and Messrs. Heggs and Langley will not be in attendance today.

There will be no Rulemaking this month. Conflicts Counsel, Skip Speer, will advise the Board on the matter tabled last month. The Division may relocate, in the fall, to the Cole Building of the Denver West Business complex. Mr. Zulauf was pleased to announce that the Division's licensing staff is seamlessly transitioning to the new fingerprinting process.

MINUTES

The minutes of the February 20, 2018 meeting were approved unanimously.

Mr. Zulauf presented the following to the Board:

- **Initial Decision – Jason Hobeiter, Motor Vehicle Salesperson License #178400 – Case #BD17-0151**

Assistant Attorney General Skip Spear appeared as Conflicts Counsel. Mr. Jones recused himself and left the room.

A motion was made to accept Conflicts Counsel Final Order to revoke the license – approved unanimously.

Mr. Jones returned to the room.

BUDGET BASICS & CASH FUND OVERVIEW – *Lorri Dugan – Chief Financial Officer – DOR*

Ms. Dugan prepared an in-depth PowerPoint presentation providing an overview of what her business unit provides for the Department of Revenue and how all moving parts (budget, accounting and procurement) work in concert with Legislature, the General Assembly and the Joint Budget Committee. Ms. Dugan stressed that budget processes are lengthy and time-consuming.

Ms. Dugan informed Board members that Cash Fund Appropriations is how the Auto Industry Division is structured. The Division is bound by:

1. Personal Services (Salaries, Temp Services, and Consultants etc.)
2. Operating Services (Normal Business Needs; Non-Salary Services)
3. Personal Services POTS (Benefits)
4. Operating Services POTS (Leased Space, Fleet Vehicles, Postage, etc.)

Cash Funds are limited by two separate assigned and prescribed amounts:

1. **Spending Authority** – the spending limit imposed by the General Assembly through the Long Bill.
2. **Revenue** – the EDO/Board must set fees adequate to generate enough revenue to support the Spending Authority.

Ms. Dugan stated that Fund Balance maximum allowed is 16.5%. If a fund has an excessive Fund Balance for three (3) consecutive years, the spending authority will be reduced equal to the amount of the Fund Balance excess.

The Auto Industry Division's (AID) Fund Balance (FB) excess is currently in the second (2nd) year.

The Board took a 10 minute break.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Golden Eagle Auto Sales, LLC #44097** – Motion to deny the license based on unfitness of criminal character – approved unanimously.
- **Jeeps Unlimited #44075** – Motion to table until more information is received – approved unanimously.

EXECUTIVE SECRETARY REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Groove Mazda #41479** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – King Chevrolet Buick GMC #38658** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

INVESTIGATIONS REPORT

Ms. Rouze presented the following to the Board:

Statistical Reporting – Ms. Rouze informed the Board that we started with 254 cases, 135 new cases were opened and 123 cases were closed for the month, giving the Division a balance of 267 open cases. There were 477 background inquiries performed.

Affidavits of Probable Cause:

- **Grand Junction Chrysler Jeep Dodge, DL #955** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Grand Junction Chrysler Jeep Dodge, Dealer #955; 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. 12-6-104 – approved unanimously.
- **Larry H. Miller Toyota Colorado Springs, DL #36219** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Larry H. Miller Toyota Colorado Springs, Dealer #36219; 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. 12-6-104 – approved unanimously.

- **Letz Go LLC, DL #41450** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Letz Go LLC, Dealer #41450; 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. 12-6-104 – approved unanimously.
- **Motorcycle Accessories Unlimited, DL #5517** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Motorcycle Accessories Unlimited, Dealer #5517; 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. 12-6-104 – approved unanimously.
- **Jonathan M. Castillo, SP #189835** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Jonathan M. Castillo, Salesperson #189835; 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 has been convicted of a mandatory disqualifying felony – approved unanimously.

ATTORNEY GENERAL’S REPORT

Mr. Jones announced the following to the Board:

1. Attorney Aaron Neptune will be working with the Division and handling some of the cases on behalf of the Board. Mr. Neptune is expected to attend next month’s meeting.
2. Robert Dodd has been promoted to 1st Assistant Attorney General, filling the vacant post left by Randall Cherry.

BOARD DISCUSSION – *Should Rulemaking be “Re-opened” Related to Disclosures of Material Particulars – Regulations 12-6-118 (3) (i) & 12-6-520 (3) (h)*

A lengthy discussion ensued. The general consensus of the Board is to not re-open the rule but re-visit discussion when deemed suitable.

LEGISLATIVE UPDATE – Sr. Director Quintana gave the following legislative updates:

SB18-128 -- Restriction on State Agency’s Authority to Increase a Fee – The bill has been postponed indefinitely.

SB18-30 --Relocate the Laws Related to Motor Vehicles and Powersports Vehicles from Title 12 to Title 44 – This bill has been passed and signed by the Governor.

HB18-1105 -- Unlicensed Sale of Vehicles – This bill has been passed by both houses and awaiting the Governor’s signature.

HB18-1250 -- Analysis to Prove Compliance with Rules by Businesses – Requires agencies to provide an enormous amount of analysis to prove compliance, which in turn could impact an agency’s workload.

SB18-193 -- Limit State Agency Occupational Regulations – Prohibits state agencies from imposing a personal qualification requirement in order to engage in a profession or occupation. An agency would have to justify why they ask certain information of applicants.

SB18-20 -- Motor Vehicle License Plate Mounting Requirements – Mounted placement of plates is permitted on motor vehicles as long as the plates are clearly visible and legible.

SB18-102 -- Odometer Reading Physical Vehicle Identification Number Verification – An odometer reading is still required but the requirement can be lifted when titling a vehicle at the Department of Revenue and a VIN inspection is also being conducted.

New Business – None

Public Comment – Mr. O’Connell, CEO of CIADA, would like the Board to consider specificity when requiring general mechanical disclosure and perhaps communicate same in the form of a Policy.

The meeting of the Motor Vehicle Dealer Board was adjourned at 11:55 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