

MOTOR VEHICLE DEALER BOARD MINUTES

April 17, 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
Ramona Graves Bode
Lucky Heggs
Chris Langley
John Linton
Stan Martin
Steven Perkins
Jason White

MEMBERS ABSENT:

Michael Jorgensen

SENIOR DIRECTOR OF ENFORCEMENT:

Flavio Quintana

**DEPUTY SENIOR DIRECTOR OF
ENFORCEMENT:**

Cory Amend

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

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
Steve Koenig
Hunter Helton
Jim Osborn
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones
Skip Spear
Aaron Neptune

BUDGET:

Ryan Reather – Budget Director
Ramon Alvarado – Budget Manager

VISITORS:

Todd O'Connell, CIADA
Matthew Groves, CADA
Michael A. Reta, Larry H. Miller

President, Stan Martin, opened the meeting of April 17, 2018 at 9:31 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. Mr. Jorgensen will not be in attendance today. Fee setting will be presented by the budget team. Conflicts Counsel will appear to advise Board on the disciplinary hearing scheduled for today.

MINUTES

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

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Highline Listings, LLC d/b/a Jeeps Unlimited #44075** – Motion to table for additional information specifically, balance sheets, income statement and tax returns – approved unanimously.
- **Marathon Car Dealer, LLC #44065** – Motion to deny the license based on material misstatement and unfitness of financial character – approved unanimously.
- **Universal Auto Sales #44130** – Application pulled for further investigation.

Salesperson Applications:

- **Arabadjiev, Lubomir Danielov #182208** – Motion 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.
- **Cartegena, Edlin Xiomara #199690** – Motion to deny the license based on unfitness of financial character, unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Cho, Derek Alexander #190526** – Motion to grant the license – approved unanimously.
- **Reta, Michael Anthony #630629** – Motion to grant the license – approved unanimously.

EXECUTIVE SECRETARY REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Century R.V., Inc. #35835** – 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 267 cases, 163 new cases were opened and 153 cases were closed for the month, giving the Division a balance of 277 open cases. There were 304 background inquiries performed.

Affidavits of Probable Cause:

- **AutoNation Chrysler Jeep West, DL #4303** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to AutoNation Chrysler Jeep West, Dealer #4303; 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.
- **New Country Auto Center, DL #37379** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to New Country Auto Center, Dealer #37379; 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.

Mr. Jones suggested the Board agenda the discussion of issuing letters of reprimand for unlicensed sales for an upcoming meeting under the Attorney General's Report.

Mr. Zulauf recommended the Board review C.R.S. 12-6-104 during upcoming rulemaking sessions.

- **Rudy's Wholesale, DL #43388** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Rudy's Wholesale, Dealer #43388; 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 6-1 (Langley opposed).
- **Summers Auto Sales, Inc., DL #40814** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Summers Auto Sales, Inc., Dealer #40814; 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.

ATTORNEY GENERAL'S REPORT

Mr. Jones introduced Attorney Aaron Neptune and announced that Y.E. Scott has officially retired from the Attorney General's office.

Mr. Jones presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – David Philip Vondy, Motor Vehicle Salesperson License #172557** – Motion to accept the proposed Stipulation and Final Agency Order – approved unanimously.

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

SB18-18 -- 4-year Motor Vehicle Emissions Inspection Cycle – Legislature is considering expanding the emissions requirement from 2 years to 4 years for vehicles dated 1982 and older.

HB18-1354 -- Powersports Vehicle Written Warranties – The bill is being modified to clarify manufacturer’s acceptance of warranties.

HB18-1198 -- Best Practices For State Boards And Commissions – This bill is awaiting the Governor’s approval.

HB18-1237-- Sunset Continue Cost-benefit Analysis For Rules – This bill is recommending the practice continue with the addition of the Executive Director of the Department of Regulatory Agencies (DORA) having the ability to request the Auto Industry Division (AID) prepare analysis in concert with DORA and the results posted to the AID website 10-days prior to a rulemaking hearing.

Mr. Zulauf stated there is a possibility that the “dismantlers bill” may drop, which would potentially impact the Board and the Division going forward should licensure of dismantlers be required.

Board took a 10 min. break.

BUDGET REPORT & FEE SETTING – *Fee Setting Information Exchange Pursuant to 12-6-110(5) (a) C.R.S – Office of Budget and Financial Services (OBFS)*

Mr. Zulauf read into record portions of C.R.S. 12-6-110 and introduced budget team members, Ramon Alvarado, Budget Manager and Ryan Reather, Budget Director.

Mr. Zulauf distributed a copy of C.R.S. 12-6-110, a nine-year fee setting history, FY18-19 Fee Setting Summary prepared by the budget team and a License Count Comparison document from FY2017 vs. FY2018 for review.

Mr. Alvarado presented best fee analysis for FY18-19. The goal this fiscal year is to keep AID’s fund balance under 16.5% of the expenditures. Fees need to be adjusted to meet the 16.5%. We will need approximately a 12% fee increase to meet \$3.8M backing out expenses which would result in a fund balance of 11.5%.

Mr. Alvarado distributed FY2018-19 Fee Setting Summary, which included three scenarios:

- Scenario 1 – 12% Fee Increase: Ending Fund Balance \$464,863
Fund Balance % 11.5%
- Scenario 2 – 10% Fee Increase: Ending Fund Balance \$401,336
Fund Balance % 10.0%
- Scenario 3 – 14% Fee Increase: Ending Fund Balance \$517,736
Fund Balance % 12.8%

The consensus of the board is that the industry is steady and there is no considerable growth or decline expected. The budget team recommends scenario #1. Mr. Zulauf recommended leaving the current off premise permit and late fees as is.

Mr. Linton made a motion to adopt Scenario #1 – 12% Fee Increase across the board with the exception that off-premise permit fee, late fee and reprint fee remain the same – passed unanimously.

Mr. Perkins suggested tracking the number of off premise permits per class for the next fiscal year. Ms. Rouze agreed that tracking is doable.

New Business – None

Public Comment – None

The Board took a lunch break.

DISCIPLINARY HEARING SUBSEQUENT TO SUMMARY SUSPENSION OF LICENSE

Case #BD17-1858

Nations Auto, Inc. III – Licensee/Respondent

Mohammed A. Safi, Pro se, appearing on behalf of Nations Auto, Inc., III

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

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

Motion was made to revoke the license – passed unanimously.

Motion was made to have Conflicts Counsel Draft a final agency order – passed unanimously.

Motion to authorize the Board’s Executive Secretary to sign and issue the written agency order on behalf of the Board – passed unanimously.

The meeting of the Motor Vehicle Dealer Board was adjourned at 1:52 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