

**MOTOR VEHICLE DEALER BOARD  
MINUTES  
April 18, 2017**

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

**BOARD MEMBERS:**

Robert Endter  
Joseph Gebhardt  
Michael Jorgensen  
Justin Franks  
Chris Langley  
Stan Martin  
Steven Perkins

**MEMBERS ABSENT:**

Lucky Heggs  
Dominic Scrivner

**SENIOR DIRECTOR OF ENFORCEMENT:**

Ron Kammerzell

**EXECUTIVE SECRETARY:**

Bruce Zulauf

**LEGAL ASSISTANT:**

Leland Bebee

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

Chris Rouze  
Chris Hartman  
Gloria Breedon  
John Opeka  
Cheryl Morrison  
Michael Harlost  
Steve Koenig  
Eric Teklu  
Josh Dexter  
Meghan Tanis  
Wendy Spaulding  
Annamarie Steenbock  
Myia Gilkey-Grays  
Arleen Criddell Tapanen  
Brendon Reese

**ATTORNEY GENERAL'S OFFICE:**

Skip Spear  
Bradford Jones

**BUDGET:**

Amanda Karger  
Curtis Tremble

**VISITORS:**

Eric Hartsough, Dealer Services  
Todd O'Connell, CIADA  
Tammi McCoy, CADA  
Tim Jackson, CADA  
Art Erwin, Christopher's Dodge World  
Sally Hopper  
Monica Mendoza, Denver Business Journal  
Ramon Alvarado, OBFS  
Doug Ehrlich, Auto Buyer Protection, Inc.

President, Joe Gebhardt, opened the meeting of April 18, 2017 at 9:07 a.m. Mr. Gebhardt 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. Messrs. Heggs and Scrivner will not be in attendance today. Skip Spear, Conflicts Counsel, will advise the Board on the Eduviges Ramon Antillon case. Mr. Kammerzell will give the Board an update on legislative matters.

Today will be Brendon Reese's last day as General Counsel to the Board. He has accepted the position of Deputy Director of Taxation Policy and Legal Analysis with the Department of Taxation.

## **MINUTES**

The minutes of the March 21, 2017 meeting were approved unanimously.

## **BACKGROUND INVESTIGATIONS TEAM**

Ms. Breeden presented the following to the Board:

### **Dealer Applications:**

- **Pop's Auto #43840** – Motion to grant the license – approved 5-1 (Jorgensen opposed).

### **Salesperson Applications:**

- **Bowers, Michael Wesley #27772** – Motion to grant the license – approved 5-1 (Perkins opposed).
- **Knoll, Robert George #183085** – Motion to deny the license based on incomplete application and unfitness of financial character – approved 5-1 (Langley opposed).
- **Maaliki, Omar R. #171227** – Motion to deny the license based on unfitness of financial character – approved unanimously.
- **Smith, Alexis Marie #196066** – 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.
- **Wilson, Daniela #588347 and #588861** - Motion to deny the license based on unfitness of financial character – approved unanimously.

## **EXECUTIVE SECRETARY'S REPORT**

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Greenwood Automotive, Dealer #43269** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

## ATTORNEY GENERAL'S REPORT

Mr. Reese presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – McCloskey Motors, Inc., Dealer #1655** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Roadhouse Auto Center, LLC, Dealer #41781**– Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

**LEGISLATIVE UPDATE** – Mr. Kammerzell updated the Board on HB17-1270 Agency Discretion in Enforcing Rules for Small Businesses has moved out of the House and is now in the Senate. There may be minor impact to the Division's reporting component.

SB17-002 Compulsory Rule Review – requires all agencies to complete a full review of all rules between 2017 and 2018. The Division attached a fiscal note due to impact on the workload. SB17-186 Regulatory Burden on Businesses requires each agency to present a regulatory flexibility analysis and publish it with the Secretary of State's office. A fiscal note has been attached due to impact it would present to the Division's workload.

The decision item to add four FTEs to Division staff was approved by the Joint Budget Committee and it remains in the bill with the full funding requested and is now in Conference Committee. Finally, the Sunset Bill, SB17-240, is currently in the Senate and likely to go to the floor later this week.

## BUDGET REPORT & FEE SETTING

Mr. Tremble provided the Board with a handout of the Division's 2017-18 Projection and Fee Setting scenarios. Ms. Karger stated that the Division's FY 2017-18 fund is healthy and will exceed the target fund balance by \$323K. Some of that is related to revenues coming in higher than projected in addition to some savings related to expenditures.

Mr. Todd O'Connell of CIADA and Mr. Tim Jackson of CADA gave their input on the health of the auto industry and their insights on the direction it is heading.

Ms. Karger explained the need to reach the fund balance of 16.5 % of spending authority. Ms. Karger stated that in order to reach the fund balance target for next year or 16.5% of our spending authority; we may need to decrease fees across the board by 1%. She explained the hand outs with the first scenario are to do nothing with fees, which would leave \$34K higher than the target fund balance. Second scenario is to decrease fees by 1% across the board, which would be \$1500 over the target fund balance. The projected four FTEs (Long Bill) are included in both scenarios. In another scenario Ms. Karger explained that if the additional FTE is approved, (Sunset bill) it would require a 2% overall increase in fee.

There was a lengthy discussion of the fee scenarios, fee options and industry growth.

Mr. Jorgensen made a motion to accept Option B (long bill and Sunset FTE) with no fee increase – passed unanimously.

Mr. Jorgensen made a motion to accept Option A (long bill FTE only) with a 2% fee decrease across the board – passed unanimously.

Mr. Zulauf stated that these proposals will go to the Executive Director's office and the outcome will be based upon what happens in the legislature.

Mr. Kammerzell made a clarification to the legislative update stating that the Sunset Bill was unanimously approved yesterday, April 17, 2017, in the Senate which means it will go to the House this week and then to the Consent Committee.

Board took a 10 min. break. Mr. Perkins recused himself from the Board roundtable and sat in the gallery.

#### **OPEN DISCUSSION - §12-6-125 C.R.S. Advertisement – inclusion of dealer name**

Ms. Sally Hopper, former legislator and primary sponsor of this legislation in 1988, along with Mr. Doug Erlich, Buyer's Agent, addressed the Board. There was a lengthy discussion related to complaints related to this statute, the legislative intent of this statute and the perceived non-enforcement of this statute. Ms. McCoy and Mr. O'Connell briefly addressed the Board on their efforts to reach out to their clients about compliance with the statute.

The Board discussed the matter, but took no action.

Mr. Perkins returned to the Board roundtable. Board took a 10 min. break.

#### **REVIEW OF INITIAL DECISIONS UPON FILING OF EXCEPTIONS**

##### **Case #SD16-2596 – *Eduviges Ramon Antillon* – Applicant/Appellant – License #155458**

A motion was made to enter Executive Session for the expressed purpose of seeking legal advice in the matter of Enduviges Ramon Antillon – passed unanimously.

##### **Board entered into Executive Session at 12:28 p.m. and Resumed Open Session at 12:35 p.m.**

Mr. Gebhardt and Mr. Jorgensen recused themselves from the vote.

A motion was made to set aside the recommendation of the Hearing officer and Revoke the license – passed unanimously.

A motion was made for Delegation of Authority to be granted to the Executive Secretary to sign the Final Order – passed unanimously.

#### **INVESTIGATIONS REPORT**

Ms. Hartman presented the following to the Board:

**Statistical Reporting** – Ms. Hartman informed the Board that we started with 253 cases, 189 new cases were opened and 172 cases were closed for the month, giving the Division a balance of 207 open cases. There were 493 background inquiries performed.

##### **Affidavits of Probable Cause:**

- **Century Auto, Inc., DL #40220** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Century Auto, Inc., Dealer #40220; and that the Colorado Motor Vehicle Dealer Board summarily suspend their motor vehicle dealer's license in

accordance with C.R.S. 24-4-104 as they have engaged in deliberate and willful acts and their conduct poses a threat to the public health, safety and welfare – approved 5-1 (Martin opposed).

A motion was made to delegate authority to Executive Secretary to sign Summary Suspension Order – passed unanimously.

- **High Tech Auto Care LLC, DL #41741** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to High Tech Auto Care LLC, Dealer #41741; and that the case be assigned to the Colorado Motor Vehicle Dealer Board 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.
- **Jose Urvano Aviles, SP #188810** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Jose Urvano Aviles, Salesperson #188810; and that the case be assigned to the Colorado Department of Revenue Hearings Division for a hearing on the merits – approved unanimously.
- **Rene A. Villa, SP #189313** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Rene A. Villa, Salesperson #189313; and that the case be assigned to the Colorado Department of Revenue Hearings Division for a hearing on the merits – approved unanimously.

**New Business** – No new business.

**Public Comment** – No public comment.

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:58 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