

MOTOR VEHICLE DEALER BOARD MINUTES

April 20, 2021

The regular meeting of the Dealer Board was held via video conference with Cisco Webex. The following persons were virtually present:

BOARD MEMBERS:

Carrie Ann Baumgart
Charla Berens
Ramona Graves Bode
Fletcher Flower
John Linton
Matthew Porter
Kevin Shaughnessy
Michael Widhalm

MEMBERS ABSENT:

Luke Walch

**SENIOR DIRECTOR, SPECIALIZED
BUSINESS GROUP:**

Cory Amend

EXECUTIVE SECRETARY:

Chris Rouze

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

Chris Hartman
Gloria Breeden
Erika Garcia
Cheryl Morrison
John Opeka
Frank Agos
Josh Dexter
Dale Sundeen
Doug Knox
Beth Spellerberg
Arleen Criddell Tapanen
Suzi Karrer

ATTORNEY GENERAL'S OFFICE:

Brad Jones
Sarah Killeen

VISITORS:

Kollman Gearhart, Built To Be Motors
David Cardella, CIADA
Matthew Groves, CADA
Art Erwin, Christopher Dodge Ram

President, John Linton, opened the meeting of April 20, 2021 at 9:04 a.m. Mr. Linton turned the floor over to Executive Secretary, Chris Rouze.

AGENDA REVIEW AND ANNOUNCEMENTS

Ms. Rouze informed the Board that there are no changes to the agenda as posted. Mr. Walch will not be in attendance today. Ms. Rouze introduced Ryan Reather and Kristi Piazza of Financial Services, who will facilitate fee setting with the Board. Ms. Killeen is with the AG's office and Mr. Jones will be introducing her during his presentation. Ms. Rouze informed the Board that there will be an Exceptions Hearing next month.

MINUTES

The minutes of the March 16, 2021 meeting were approved 5-1 (Ms. Baumgart and Ms. Bode abstained) with the following modification to the opening paragraph:

President, John Linton, opened the Emergency Rulemaking hearing in accordance with Section 24-4-103(6)(a), C.R.S. on March 16, 2021 at 9:01 a.m. During the public emergency rulemaking hearing, the Board repealed motor vehicle rule 44-20-102(22) COVID DIAL and powersports vehicle rule 44-20-402(17) COVID DIAL. The Board also adopted emergency rule 44-20-102(22) COVID DIAL 2nd Edition and powersports vehicle rule 44-20-402(17) COVID DIAL 2nd Edition.

FEE SETTING

Kristi Piazza, Budget Manager, informed the Board that since the industry market did not experience the decline that was anticipated due to the COVID 19 pandemic, our current fund balance is projected to be around 40% by the end of this fiscal year (FY). We are in year one of exceeding 16.5% and will need to get that under 16.5% by the end of FY23, which is statutorily required.

The consensus is that the industry is expecting a flat or small growth and we will continue to maintain the current level of expenditures to operate. Ms. Piazza proposed a 35% reduction in fees to help get the Division closer to the 16.5% fund balance. This reduction will enable the Division to have flexibility this year within its operating expenditures while still addressing the concerns of the 16.5% and working to get into compliance by the end of year three. This puts the Division in a better position without making drastic fee changes. There may still be a need for another small reduction in fees before end of year three. Based on expected industry growth, a 35% fee reduction and the current projection of realistic expenditures, there is a projection anywhere from \$900K to \$1M fund balance, which equates to 24%-25%.

Ms. Rouze stated that historically, the Board has voted on which scenario they would like to give to the Executive Director of the Department of Revenue. The 35% fee reduction would not include the late fee, off-premise permit and reprint fee. Mr. Jones stated that the Board is required by law to conduct fee setting annually as outlined under C.R.S. 44-20-111.

Mr. Widhalm made a motion to accept the proposed fee reduction – passed 6-1 (Ms. Bode abstained).

EXECUTIVE SECRETARY REPORT

Mr. Jones and Ms. Killeen recused themselves and left the meeting.

Ms. Rouze presented the following to the Board:

- **Initial Decision – Yoana Balderas-Garcia, Motor Vehicle Salesperson License #200801** – Motion was made to accept the Findings of Fact, Conclusions of Law, set aside the hearing officer’s recommendation and revoke the license as respondent has a mandatory disqualifying conviction – passed unanimously.
- **Initial Decision – Aaron Jacob Dicamillo, Motor Vehicle Salesperson License #206873** – Motion was made to accept the Findings of Fact, Conclusions of Law, and uphold the denial of the license as applicant has a mandatory disqualifying conviction – passed unanimously.

Mr. Jones and Ms. Killeen returned to the meeting.

BACKGROUND INVESTIGATIONS REPORT

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Built To Be Motors #44904** – Motion to grant the license – passed unanimously.
- **Oliva Auto Sales LLC #39455** – Motion to grant the license – passed 6-1 (Mr. Widhalm opposed).

Salesperson Applications:

- **Burnett, Ryan Jon #207217** – Table until receipt of certified court documents – passed unanimously.
- **Gaitan, Estevan, Jr. #188383** – Motion to grant the license – passed unanimously.

ATTORNEY GENERAL’S REPORT

Mr. Jones informed the Board that he has accepted the General Counsel position with the Gaming Division. He introduced his replacement, Ms. Sarah Killeen. Mr. Jones thanked the Board and the Division for the opportunity to work with them the last four years.

COMPLAINT INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 240 cases, 80 new cases were opened and 93 cases were closed for the month, giving the Division a balance of 227 open cases. There were 323 background inquiries performed.

Affidavit of Probable Cause:

- **Carhop #41405** – Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Carhop, Dealer License #41405; 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.

- **Red Rock Nissan #43715** – Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Red Rock Nissan, Dealer License #43715; 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.
- **Marcus Chaney #192851** – Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Marcus Chaney, Salesperson License #192851; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits – approved unanimously.

New Business – None

Public Comment – None

The meeting of the Motor Vehicle Dealer Board was adjourned at 10:13 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.)

Chris J. Rouze
Executive Secretary