

# MOTOR VEHICLE DEALER BOARD MINUTES

**May 15, 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  
Michael Jorgensen  
Chris Langley  
John Linton  
Stan Martin  
Steven Perkins  
Jason White

**MEMBERS ABSENT:**

**EXECUTIVE SECRETARY:**

Bruce Zulauf

**LEGAL ASSISTANT:**

Beth Spellerberg

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

Chris Rouze  
Chris Hartman  
John Opeka  
Frank Agos  
Josh Dexter  
Cheryl Morrison  
Erika Garcia  
Mark Kelley  
Jim Osborn  
Hunter Helton  
Arleen Criddell Tapanen

**ATTORNEY GENERAL'S OFFICE:**

Brad Jones

**VISITORS:**

Todd O'Connell, CIADA  
Joseph Orrino, Evolve Automotive, LLC  
Gordon Beckstead, Evolve Automotive, LLC  
Joe Oltmann, Evolve Automotive, LLC  
Karner Feuay, Tripoli Auto Sales  
Hayden Alfat, Nice Car

President, Stan Martin, opened the meeting of May 15, 2018 at 9:05 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. To correct the record, there will be further discussion in regard to fee setting for off-premise permits. Since the passing of a few new bills could affect rulemaking, stakeholder meetings will probably be scheduled in June or July.

## **MINUTES**

The minutes of the April 17, 2018 meeting were approved unanimously.

## **BACKGROUND INVESTIGATIONS TEAM**

Ms. Morrison presented the following to the Board:

### **Dealer Applications:**

- **Evolve Automotive Partners #44108** – Motion to table for additional information – approved unanimously.
- **Selective Auto Group #44049** – Motion to deny the license based on unfitness of financial character – approved unanimously.
- **Universal Auto Sales #44130** – Motion to deny the license based on unfitness of financial character – approved unanimously.
- **Jones, Dean Thomas #642074** – Motion to grant the license – approved unanimously.
- **Salgado, Noel Abelino #190994** – Motion to deny the license based on unfitness of criminal character and unfitness of financial character – approved unanimously.

## **EXECUTIVE SECRETARY REPORT**

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Emich Chevrolet #39307** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Lisabi Motors, Inc. #39508** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Motorcycle Accessories Unlimited #5517** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Grand Junction Chrysler Jeep Dodge #955** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Board took a 5 min. break.

## INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

**Statistical Reporting** – Ms. Hartman informed the Board that we started with 277 cases, 129 new cases were opened and 116 cases were closed for the month, giving the Division a balance of 290 open cases. There were 360 background inquiries performed.

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

- **Alpine Buick GMC, LLC, DL #38754** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Alpine Buick GMC, LLC, Dealer #38754; 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 5 – 3 (Perkins, Baumgart and Bode opposed).
- **Famous Motors LTD, DL #42804** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Famous Motors LTD, Dealer #42804; 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.
- **Mesa Motors, DL #7118** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Mesa Motors, Dealer #7118; 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. Heggs recused himself and left the room.

- **Mike Shaw Subaru, Inc., DL #36554** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Mike Shaw Subaru, Inc., Dealer #36554; 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. Heggs returned to the room.

- **Pikes Peak Acura LTD., DL #523** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Pikes Peak Acura LTD., Dealer #523; 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.
- **Rods Cars, Inc., DL #8062** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Rods Cars, Inc., Dealer #8062; 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.

**LEGISLATIVE UPDATE** – Executive Secretary Zulauf gave the following legislative updates:

Mr. Zulauf informed Board members that training will be provided for them on legislative issues in July, August or September.

**HB18-1198** -- Best Practices for State Boards and Commissions – The bill has been signed by the Governor.

**HB18-1250** -- Analysis to Prove Compliance with Rules by Businesses – The bill has been signed by the Governor.

**SB18-102** -- Odometer Reading Physical Vehicle Identification Number Verification – The bill addresses possible electronic titling.

**HB18-1224** -- Licensee Discipline Mediation State Agency – The bill is awaiting Governor’s signature.

**Board Discussion – *Continuation of Fee-setting for Off-Premise Permits***

For the record, Mr. Zulauf stated that he misinformed the Board at last month’s meeting when he stated that the current off-premise permit was \$300, when it actually was \$342. At last month’s meeting the Board acted on this information and recommended the fee be at \$300 for both classes of permits.

Mr. Zulauf further clarified that off-premise permits are now specified by two distinct classes, a class one and class two. He suggested the Board further discuss the differences in classes and recommend two different fees. He stated the stakeholders who looked at the off-premise issues and the Board at the rulemaking hearing always envisioned two different fees.

After further Board discussion, a motion was made to withdraw last month’s motion and to make a new motion to specify that the fee for a Class One Off-Premise Permit is \$200 and the fee for a Class Two Off-Premise Permit is \$500 – passed unanimously.

**New Business** – Mr. Zulauf stated that Mr. O’Connell of CIADA inquired whether powersports dealers would have to obtain two permits for an event. This would when they have two different types of vehicles, one a powersports vehicle and one a motor vehicle. A lengthy discussion followed. Education was determined to be critical. Ultimately, the Board determined two permits would be required.

Mr. Jorgensen requested clarification in regard to the possible need for salespeople to be fingerprinted more than once. Mr. Jorgensen stated that the industry may be getting mixed messages on this issue. Ms. Rouze stated that the intent was once you had a license there was no need to be fingerprinted to get another license. Ms. Rouze will review with Division staff and inform the Board at next month’s meeting.

**Public Comment** – None

Board took a 10 min. break.

**ATTORNEY GENERAL’S REPORT**

Mr. Jones requested the Board enter into Executive Session to present settlement offer made by Manheim Denver.

A motion was made to enter Executive Session pursuant to C.R.S. section 24-6-402(3)(a)(II); for the expressed purpose of seeking legal advice regarding pending court action in the case of the *Motor Vehicle Dealer Board vs. Manheim Denver (Office of Administrative Courts Case No. MV20170006)* – passed unanimously.

**The Board entered into Executive Session at 11:16 a.m. and resumed Open Session at 12:20 p.m.**

Mr. Jones stated that the only matters discussed during Executive Session were related to privileged attorney/client information regarding the matter that was stated at the beginning of this portion of the Board meeting.

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:20 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