

MOTOR VEHICLE DEALER BOARD MINUTES

August 21, 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 Baumgart
Fletcher Flower
Ramona Graves Bode
Lucky Heggs
John Linton
Steven Perkins
Matthew Porter
Jason White
Michael Widhalm

MEMBERS ABSENT:

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANTS:

Leland Bebee
Beth Spellerberg

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

Chris Rouze
Chris Hartman
John Opeka
Frank Agos
Josh Dexter
Cheryl Morrison
Erika Garcia
Eric Teklu
Hunter Helton
Chris Clements
Steve Koenig
Jim Osborn
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones
Skip Spear

VISITORS:

Todd O'Connell, CIADA
Matthew Groves, CADA
Art Erwin, Christopher's Dodge World
William Peck

President, Steve Perkins, opened the meeting of August 21, 2018 at 9:00 a.m. Mr. Perkins 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. Conflicts Counsel, Skip Spear will be here to advise the Board in regards to a pending case. A rulemaking hearing is scheduled for September 18, 2018 at 1:00 p.m. The first rulemaking meeting of Group 2 is scheduled for Thursday, August 23, 2018.

Friday, September 28, 2018, the Auto Industry staff will temporarily move to 143 Union Blvd, 3rd Floor, Suite 350, Lakewood, CO 80228. The office will be closed for business Friday, September 28, 2018 and Monday, October 1, 2018. The permanent move to the Cole business center will take place sometime mid-November to mid-December.

Board meetings will continue to be held monthly through the end of the year at the Pierce Street location.

MINUTES

The minutes of the July 17, 2018 meeting were approved unanimously with a correction made on page 1 in the "Visitors" section, the name was corrected to read "Matthew Groves" and the organization modified to read "CADA".

BACKGROUND INVESTIGATIONS TEAM

Ms. Morrison presented the following to the Board:

Salesperson Applications:

- **Bagashlooy-Afshar, Beijan #200521** – Motion was made 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.
- **Williams, Bobby Joe #636841**– Motion to table for 30 days – approved unanimously.

EXECUTIVE SECRETARY REPORT

Mr. Zulauf presented the following to the Board:

Mr. Heggs recused himself and left the room.

- **Proposed Stipulation and Final Agency Order – Mike Shaw Subaru #36554** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Heggs returned to the room.

- **Proposed Stipulation and Final Agency Order – O'Meara Ford Center, Inc. #90** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Larry H. Miller Toyota Colorado Springs #36219** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

- **Proposed Stipulation and Final Agency Order – J&H Auto, LLC #42867** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

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

A motion was made to enter Executive Session for the expressed purpose of seeking legal advice in the matter of William Alan Peck, Jr. – passed unanimously.

Board entered into Executive Session at 9:45 a.m. and Resumed Open Session at 10:10 a.m.

- **Initial Decision – William Alan Peck, Jr., Salesperson License #138757** – Motion to grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions and to report probation violations to the Motor Vehicle Dealer Board – approved 6-2 (Heggs and White opposed).

Mr. Jones returned to the room.

- **Subsequent Board Discussion – Nissan of Durango #43522**

After a lengthy discussion, a motion was made to set aside the letter of reprimand – approved 6-2 (Porter and Flower opposed).

A motion was made to have Executive Secretary amend stipulation with no fine imposed – approved unanimously.

Board took a 10 min. break. Mr. Porter left the meeting.

INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 282 cases, 138 new cases were opened and 131 cases were closed for the month, giving the Division a balance of 289 open cases. There were 434 background inquiries performed.

Affidavits of Probable Cause:

- **Angels Auto Sales #43282** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Angels Auto Sales, Dealer #43282; 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.
- **Auto Budget Group LLC, DL #43277** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Auto Budget Group LLC, Dealer #43277; 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.

- **Car Connection Inc., DL #4597** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Heuberger Motors Inc., Dealer #230; 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.
- **RKR Auto Sales LLC., DL #43629** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to RKR Auto Sales LLC., Dealer #43629; 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.
- **Smart Choice Auto, DL #40340** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Smart Choice Auto, Dealer #40340; 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.

- **Spradley Ford Lincoln, Inc., DL #40230** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Spradley Ford Lincoln, Inc., Dealer #40230; 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.

- **Supreme Auto LLC., DL #41506** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Supreme Auto LLC., Dealer #41506; 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.
- **Daniel Joseph DePorte, SL #190007** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Daniel Joseph DePorte, Salesperson #190007; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits – approved unanimously.
- **Kevin Neal Pinkham, SL #26397** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Kevin Neal Pinkham, Salesperson #26397; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits– approved unanimously.

ATTORNEY GENERAL’S REPORT

Mr. Jones announced that Board training will likely occur in October or November.

New Business – Mr. Perkins suggested the Division inquire if DMV would have someone address the Board with information regarding the new DRIVES system. Ms. Rouze will investigate and follow up with the Board during next month’s meeting.

Public Comment – None

The meeting of the Motor Vehicle Dealer Board was adjourned at 11:22 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