

MOTOR VEHICLE DEALER BOARD MINUTES

September 19, 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:

Lisa Freimann
Ramona Graves Bode
Michael Jorgensen
Chris Langley
Stan Martin
Steven Perkins
Dominic Scrivner
Jason White

MEMBERS ABSENT:

Lucky Heggs

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

Leland Bebee

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

Chris Rouze
Chris Hartman
Gloria Breedon
John Opeka
Frank Agos
Cheryl Morrison
Erica Garcia
Eric Teklu
Mike Harlost
Annamarie Steenbock
Helen Hayden
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Brad Jones
Skip Spear

VISITORS:

Eric Hartsough, Dealer Services
Art Erwin, Christopher's Dodge World
Chris Brodeur, Loveland Ford
Matthew Groves, CADA
Nathaniel Maxey, Quad Z Auto Sales
Beatrice Morrison, Quad Z Auto Sales
Zshawn Amyad, The Kar Kompany
Brittany Wirth, CDOR
Jami McCoy, CIADA

President, Stan Martin, opened the meeting of September 19, 2017 at 9:03 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. Lucky Heggs will not be in attendance today. Mr. Skip Spear, Conflicts Counsel, has two proposed Orders for Board review and discussion. There will be a rulemaking stakeholder session this afternoon at 1:00 p.m. Mr. Zulauf introduced Mr. Matthew Groves of CADA.

CALENDAR

Upcoming rulemaking stakeholder meeting dates:

- Thursday, September 28th – Full day rulemaking stakeholder meeting
- Tuesday, October 17, 2017 – Rulemaking stakeholder meeting beginning at 1:00 p.m.
- Thursday, October 26th – Full day rulemaking stakeholder meeting

MINUTES

The minutes of the August 15, 2017 meeting were approved 6-0-1 (White abstains).

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Quad Z Auto Sales #43958** – 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.
- **Sky 1 United Auto LLC #43952** – Motion to grant the license – approved unanimously.
- **The Kar Kompany #41650** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Brodeur, Christopher Jude #188337** – Motion to grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions – approved 5-2 (White/Freimann opposed).
- **Gutierrez, Eric #178827** – 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.
- **Kropelnicki, Nicholas #151640** – Motion to grant the license – approved unanimously.

Ms. Freimann asked General Counsel to provide legal advice on Colorado's Sex Offender Registry. Mr. Jones advised he will provide same during next month's meeting in an Executive session.

- **Mayerchek, David #184309** – 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.

- **Stratton, Danae Marie #600950** – Motion to grant the license – approved 5-2 (Freimann/White opposed).
- **Wilson, Daniela #196211** – Motion to grant the license – approved unanimously.
- **Woldeyohanes, Blene #183767** – Motion to deny the license based on unfitness of criminal character – approved 5-2 (Jorgensen/Langley opposed).

INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 273 cases, 186 new cases were opened and 158 cases were closed for the month, giving the Division a balance of 301 open cases. There were 364 background inquiries performed.

Affidavits of Probable Cause:

- **All-Terrain Motorsports, Inc., DL #8937** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to All-Terrain Motorsports, Inc., Dealer #8937; 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.
- **All-Terrain Motorsports, Inc., DL #40262** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to All-Terrain Motorsports, Inc., Dealer #40262; 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.
- **Altitude Auto, DL #42463** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Altitude Auto, Dealer #42463; 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.
- **Bergland LLC, DL #37529** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Bergland LLC, Dealer #37529; 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.

Board took a 10 min. break.

Mr. Jorgensen suggested the Board agenda an in-depth discussion regarding the privileges of a sales license and clarification of what that entails. Mr. Zulauf added that the United Buying Service case, and how the Board has applied this case, will be incorporated during future discussion.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Final Order – Scott Wayne Nisbeth d/b/a Scott's Cars, Applicant, Dealer #43848 –**

A motion was made to enter Executive session for the expressed purpose of seeking legal advice in the matter of Scott Wayne Nisbeth d/b/a Scott's Cars – passed unanimously

The Board entered into Executive session at 10:35 a.m. and resumed Open session at 10:52 a.m.

A motion was made to amend the Final Order to add the word “dissention” and delegate authority to the Executive Secretary to execute the Order – passed unanimously.

- **Proposed Final Order – Century Auto, Inc., Dealer #40220 –**

A motion was made to enter Executive session for the expressed purpose of seeking legal advice in the matter of Century Auto, Inc. – passed unanimously.

The Board entered into Executive session at 10:55 a.m. and resumed Open session at 11:29 a.m.

A motion was made to amend the Final Order to expand clarification of findings – passed unanimously.

A motion was made to re-agenda board discussion of self-reported violations and mitigation considerations to the October meeting agenda – passed unanimously.

ATTORNEY GENERAL'S REPORT

Mr. Jones presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Payless Financial Group, LLC, Dealer #41575 –**
Motion to accept the Proposed Stipulation and Final Agency Order – approved 6-0-1 (Freimann abstains).

New Business – None

Public Comment – None

The meeting of the Motor Vehicle Dealer Board was adjourned at 11:44 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