

MOTOR VEHICLE DEALER BOARD MINUTES

September 21, 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
Kathleen Chandler
Fletcher Flower
Amanda Gordon
John Linton
Kevin Shaughnessy
Luke Walch

**SENIOR DIRECTOR
SPECIALIZED BUSINESS GROUP:**

Cory Amend

EXECUTIVE SECRETARY:

Chris Rouze

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

Chris Hartman
John Opeka
Frank Agos
Josh Dexter
Jim Osborn
Doug Knox
Bill Maestas
Gloria Breeden
Erika Garcia
Cheryl Morrison
Suzi Karrer
Kyle Boyd
Beth Spellerberg
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Sarah Killeen
Brad Jones

VISITORS:

Art Erwin, Christopher's Dodge Ram, Inc.
David Cardella, CIADA
Jamie McCoy, CIADA
Ty Hull
William Ward

President, John Linton, opened the meeting of September 21, 2021 at 9:05 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. The Board will have their annual training presented by Assistant Attorney General, Sarah Killeen.

Ms. Rouze reminded the Board that a virtual stakeholder meeting for Rule Group 1 pertaining to Pre-Licensing Education will be held on Thursday, September 23, 2021 at 2 p.m. The Rulemaking Hearing for this set of rules will probably be held on November 16, 2021.

The stakeholder meeting(s) for Rule Group 2 pertaining to Advertising Rule #3 will be held in October with a Rulemaking hearing some time in December.

In accordance with C.R.S. 24-3.7-102 Best Practices for State Boards and Commissions, the Board entered into their required annual training.

The regular meeting of the Motor Vehicle Dealer Board resumed at 11:10 a.m.

MINUTES

The minutes of the August 17, 2021 meeting were approved 5-0-3 (Ms. Baumgart and Messrs. Flower and Shaughnessy abstained).

BACKGROUND INVESTIGATIONS REPORT

Ms. Erika Garcia presented the following to the Board:

Dealer Application:

- **J. Marvin Henderson, LLC #44962** - Motion to deny the license based on incomplete application - passed unanimously.

Salesperson Applications:

- **Hahner, Andrew #207025** - Motion to grant the license - passed 6-1 (Ms. Berens opposed).

Ms. Baumgart recused herself and left the meeting.

- **Jones, Todd Flanigan #158292** - Motion to deny the license based on unfitness of criminal character - passed unanimously.

Ms. Baumgart returned to the meeting.

EXECUTIVE SECRETARY REPORT

Ms. Rouze presented the following to the Board:

- **Initial Decision - Omar Rachid Maaliki, Motor Vehicle Salesperson License #171227** - Motion was made to accept the Findings of Fact, Conclusions of Law and to uphold the hearing officer's recommendation of a two-week suspension and a \$750.00 fine - passed unanimously.
- **Initial Decision - Arthur A. Calkins, Motor Vehicle Salesperson License #207977** - Motion was made to accept the Findings of Fact, Conclusions of Law and to uphold the hearing officer's recommendation and upheld the denial of the application - passed unanimously.

Mr. Flower recused himself and left the meeting.

- **Initial Decision - William Dean Ward, Motor Vehicle Salesperson License #120187** - Motion was made to accept the Findings of Fact, Conclusions of Law, set aside the hearing officer's recommendation and revoked the license - passed 5-1 (Mr. Shaughnessy opposed).

Mr. Flower returned to the meeting.

COMPLAINT INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting (June) - Ms. Hartman informed the Board that we started with 280 cases, 68 new cases were opened and 108 cases were closed for the month, giving the Division a balance of 240 open cases. There were 122 background inquiries performed.

Statistical Reporting (July) - Ms. Hartman informed the Board that we started with 240 cases, 125 new cases were opened and 104 cases were closed for the month, giving the Division a balance of 261 open cases. There were 406 background inquiries performed.

Statistical Reporting (August) - Ms. Hartman informed the Board that we started with 261 cases, 101 new cases were opened and 122 cases were closed for the month, giving the Division a balance of 240 open cases. There were 331 background inquiries performed.

Affidavit of Probable Cause:

- **Best Value Motors #42828** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Best Value Motors, Dealer License #42828; 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.
- **IDrive Auto Works #44532** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to IDrive Auto Works, Dealer License #44532; 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.
- **Tracker Boat Center #42258** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Tracker Boat Center, Dealer License #42258; 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.
- **Michael James Cain, SL #30568** - Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Michael James Cain, Salesperson #30568; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits - approved unanimously.
- **Isiah Quinonez #197557** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Isiah Quinonez, Salesperson License #197557; and that the Colorado Motor Vehicle Dealer Board summarily suspend his motor vehicle salesperson's license in accordance with C.R.S. 24-4-104 as he has engaged in deliberate and willful acts, and until which time the entire fine of \$2,000 is paid in full - approved unanimously.

ATTORNEY GENERAL'S REPORT

Ms. Killeen presented the following to the Board:

- **Proposed Stipulation and Final Agency Order - Nicholas Richard Serracino #188136** - Motion to accept the Proposed Stipulation and Final Agency Order - passed unanimously.

DISCUSSION ITEM

The Board revisited the topic of Tesla's removing the self-driving function from vehicles sold second hand. Tesla confirmed they remove the self-driving mode when they sell at

Auction. In this particular instance, the removal did not sync with the computer. Tesla has since changed practices to ensure this is not shown on their vehicles.

After a lengthy discussion, the Board has decided to revisit the issue and would like a meeting set with Tesla representatives during an upcoming Board meeting.

New Business - None

Public Comment - None

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:26 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.)

Chris J. Rouze
Executive Secretary