

MOTOR VEHICLE DEALER BOARD MINUTES

October 15, 2019

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 Charla Berens Fletcher Flower John Linton Luke Walch Michael Widhalm
MEMBERS ABSENT:	Ramona Graves Bode Matthew Porter Jason White
SENIOR DIRECTOR OF ENFORCEMENT:	Cory Amend
ACTING EXECUTIVE SECRETARY:	Chris Rouze
DEPT OF REVENUE, AID, ENFORCEMENT DIVISION STAFF:	Chris Hartman Gloria Breedon John Opeka Frank Agos Josh Dexter Cheryl Morrison Erika Garcia Eric Teklu Rob Urbach Beth Spellerberg Margaret Jungmann Arleen Criddell Tapanen
ATTORNEY GENERAL'S OFFICE:	Brad Jones Skip Spear Danielle Lewis
VISITORS:	Benjamin Babakhanov, Orb Enterprise LLC Todd O'Connell, CIADA Eugene Kunz Matthew Groves, CADA Ann Toll L.J. Price Suzi Karrer, SDO

President, John Linton, opened the meeting of October 15, 2019 at 9:01 a.m. Mr. Linton turned the floor over to Acting Executive Secretary, Chris Rouze.

AGENDA REVIEW AND ANNOUNCEMENTS

Ms. Rouze informed the Board there were no changes to the agenda as posted. Ms. Bode and Messrs. Porter and White will not be in attendance today. Conflicts Counsel, Skip Spear will advise the Board on three matters included in the Executive Secretary report.

Ms. Rouze stated that the new federal odometer guidelines have been published in the Federal Register as of October 2nd. If there are no challenges, the new rules will go into effect December 31, 2019. Ms. Rouze will keep the Board informed of any and all developments as they occur.

MINUTES

The minutes of the September 17, 2019 meeting were approved 4-0-2 (Ms. Baumgart and Mr. Linton abstained).

BACKGROUND INVESTIGATIONS REPORT

Ms. Breeden presented the following to the Board:

Dealer Application:

- **Orb Enterprise #44579** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Cooperstein, Andrea #204193** – Motion to table for approximately 30 days to gather additional information – approved unanimously.

A motion was made to enter Executive Session pursuant to C.R.S. 24-6-402(3)(a)(II) and C.R.S. 24-6-402(3)(a)(III); for the expressed purpose of seeking legal advice for specific legal questions regarding the Eugene Kunz matter – passed unanimously.

The Board entered into Executive Session at 9:12 a.m. and resumed Open Session at 9:37 a.m.

- **Kunz, Eugene #119601** – Motion to deny the license based on material misstatement, unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Thurston, Karl #204207** – 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 unanimously.

COMPLAINT INVESTIGATIONS REPORT

Mr. Dexter presented the following to the Board:

Statistical Reporting – Mr. Dexter informed the Board that we started with 312 cases, 139 new cases were opened and 122 cases were closed for the month, giving the Division a balance of 329 open cases. There were 417 background inquiries performed.

Affidavits of Probable Cause:

- **Affordable Auto, Inc., DL #43586** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Affordable Auto, Inc., Dealer #43586; and that the Colorado Motor Vehicle Dealer Board summarily suspend the motor vehicle dealer’s license in accordance with C.R.S. 24-4-104 as they have engaged in deliberate and willful acts and their conduct poses a threat to the public health, safety and welfare – approved unanimously.
- **Class Cars LLC, DL #39919** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Class Cars LLC, Dealer #39919; 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.
- **Jose Joselito Rodriguez, SL #192945** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Jose Joselito Rodriguez, Salesperson #192945; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits – approved unanimously.
- **EarthRoamer, DL #41404** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to EarthRoamer, Dealer #41404; 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.
- **Executive Group, DL #7022** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Executive Group, Dealer #7022; 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.
- **Two Rivers Motors, DL #43674** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Two Rivers Motors, Dealer #43674; 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.
- **Robin Samuel Anderson, SL #196473** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Robin Samuel Anderson, Salesperson #196473; and that the Colorado Motor Vehicle Dealer Board summarily suspend the motor vehicle salesperson’s license in accordance with C.R.S. 24-4-104 as he has engaged in deliberate and willful acts and his conduct poses a threat to the public health, safety and welfare – approved unanimously.

A motion was made for Delegation of Authority to be granted to the Acting Executive Secretary to execute the Order of Summary Suspension pertaining to Robin Samuel Anderson – passed unanimously.

Board took a 10 min break.

EXECUTIVE SECRETARY REPORT

Ms. Rouze presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Apex Automotive Sales #40804** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Famous Motors, Inc. #42804** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Land Rover Roaring Fork #43103** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Luxury Auto Collection, LLC #42902** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Performance Center #3242** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – TrailersPlus #42649** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Jones recused himself and left the room.

Assistant Attorney General, Skip Spear appears as Conflicts Counsel. Mr. Spear introduced Ms. Danielle Lewis who is replacing him as Conflicts Counsel to the Board.

A motion was made to enter Executive Session for the expressed purpose of seeking legal advice in the matter of Cole A. Kline, John Howard Angel, and Hi Tech Auto Care, LLC pursuant to C.R.S. 24-6-402(3)(a)(II) – passed unanimously.

The Board entered into Executive Session at 10:58 a.m. and resumed Open Session at 11:15 a.m.

- **Initial Decision – Cole A. Kline, Salesperson License #131680** – Motion was made to adopt the Findings of Fact, alter the Conclusions of Law to reflect current statutory language and for Conflicts Counsel to prepare a Final Order to revoke the license – approved unanimously.
- **Initial Decision – John Howard Angel, Salesperson License #30982** – Motion was made to accept the Findings of Fact, Conclusions of Law, set aside the Hearing officer’s recommendation and draft a Final Agency Order to be signed by the Acting Executive Secretary, on behalf of the Board, to revoke the license – approved unanimously.
- **Proposed Final Order of Default Judgment – Hi Tech Auto Care, LLC #41741** – Motion was made to accept General Counsel’s draft of Final Order and authorize the Acting Executive Secretary to sign on behalf of the Board – passed unanimously.

Mr. Jones returned to the room.

ATTORNEY GENERAL'S REPORT

Mr. Jones introduced Tori Samson who will be working on several cases for the Board and the Auto Industry Division.

New Business – None

Public Comment – None

The meeting of the Motor Vehicle Dealer Board was adjourned at 11:25 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 Rouze
Acting Executive Secretary