

MOTOR VEHICLE DEALER BOARD MINUTES

November 20, 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
Lucky Heggs
John Linton
Steven Perkins
Matthew Porter
Jason White
Michael Widhalm

MEMBERS ABSENT: Ramona Graves Bode
Fletcher Flower

SENIOR DIRECTOR OF ENFORCEMENT: Cory Amend

EXECUTIVE SECRETARY: Bruce Zulauf

LEGAL ASSISTANT: Beth Spellerberg

**DEPT OF REVENUE,
AID, ENFORCEMENT
DIVISION STAFF:** Chris Rouze
Chris Hartman
Gloria Breeden
John Opeka
Frank Agos
Josh Dexter
Erika Garcia
Hunter Helton
Steve Koenig
Tim Rotter
Eric Teklu
Jim Osborn
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE: Brad Jones, General Counsel
Skip Spear, Conflicts Counsel

VISITORS: Todd O'Connell, CIADA
Matthew Groves, CADA
Art Erwin, Christopher's Dodge World
Amanda Gordon, Gojo Auto/Owner
Leila Tamdin Tahrizi, Selective Auto
Mike McKinnon, Esq.

President, Steven Perkins, opened the meeting of November 20, 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 appear to present two final orders for Board approval and advise the Board on appeal of denial hearing scheduled for today. Group 1 rules became effective November 14, 2018 and have been integrated into the Secretary of State's website. Group 2 rules will become effective December 15, 2018.

The Auto Industry Division will move to their permanent office location at 1697 Cole Blvd., Suite 200A, the first week of January 2019.

Mr. Zulauf will provide updates to fingerprinting issues as he receives them in regard to third-party providers.

The December agenda will include implementing a policy regarding Best Practices for Boards and Commissions as well as a review of a new fine matrix.

MINUTES

The minutes of the October 16, 2018 meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **GoJo #44311** – Motion to grant the license – approved unanimously.
- **ToCo Solutions #44306** – Motion to table for 30 days – approved unanimously.

Salesperson Applications:

- **Dinzik, Justin Douglas #192009** – Motion to grant the license – approved unanimously.
- **Galindo, Jose Alberto #192103** – Motion to grant the license – approved unanimously.
- **Schnase, Jeffrey Lee #652649** – 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 5-1 (Mr. White opposed).

EXECUTIVE SECRETARY REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Expo Automotive, LLC #43071** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Nissan of Durango, LLC #43522** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Widhalm recused himself and left the room.

- **Proposed Stipulation and Final Agency Order – AutoNation Chrysler Dodge Jeep Ram Southwest #41510** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Perkins as Chair voted).
- **Proposed Stipulation and Final Agency Order – AutoNation Chrysler Jeep West #4303** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Perkins as Chair voted).
- **Proposed Stipulation and Final Agency Order – AutoNation Hyundai 104 #7280** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Perkins as Chair voted).
- **Proposed Stipulation and Final Agency Order – AutoNation Ford Littleton #4083** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Perkins as Chair voted).
- **Proposed Stipulation and Final Agency Order – AutoNation Chrysler Jeep #4408** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously (Mr. Perkins as Chair voted).

Mr. Widhalm returned to the room. Mr. Jones recused himself and left the room.

- **Initial Decision – Justin R. Dalrymple, Salesperson License #151250** – Motion was made to accept the Findings of Fact, Conclusions of Law and revoke the license – approved unanimously.
- **Initial Decision – Jonathan M. Castillo, Salesperson License #189835** – Motion was made to accept the Final Order and revoke the license – approved unanimously.
- **Initial Decision – James C. Edwards, Jr., Salesperson License #166059** – Motion was made to accept the Final Order and revoke the license – approved unanimously.

Mr. Jones returned to the room. Board took a 10 min. break.

APPEAL OF DENIAL HEARING

Case #BD17-1829 – Selective Auto Group – Applicant/Owner

Leila T. Tabrizi, Applicant/Owner, appearing Pro Se (Mr. Pahlaban translator)

Bradford Jones, Esq., Assistant Attorney General, appearing on behalf of the State

Oral arguments were heard pursuant to the hearing process.

A motion was made to enter Executive session for the expressed purpose of seeking legal advice in the matter of Selective Auto Group – passed unanimously

The Board entered into Executive session at 11:05 a.m. and resumed Open session at 11:20 a.m.

Board took a 5 min break.

After deliberation and closing arguments, a motion was made to deny the license – passed unanimously.

The Board recommended the applicant complete a new application with the assistance of CIADA.

INVESTIGATIONS REPORT

Ms. Hartman presented the following to the Board:

Statistical Reporting – Ms. Hartman informed the Board that we started with 303 cases, 157 new cases were opened and 148 cases were closed for the month, giving the Division a balance of 312 open cases. There were 318 background inquiries performed.

Affidavits of Probable Cause:

- **Auto Brokers, DL #1594** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Auto Brokers, Dealer #1594; 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.
- **Choice One Motors LLC, DL #39714** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Choice One Motors LLC, Dealer #39714; 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.
- **Custom Cars West, DL #39275** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Custom Cars West, Dealer #39275; 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.
- **M Trading Company, LLC, DL #42527** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to M Trading Company, Dealer #42527; 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.
- **Precision Imports Inc., DL #14** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Precision Imports Inc., Dealer #14; 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.
- **Premier Truck and Auto Center, DL #43752** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Premier Truck and Auto Center, Dealer #43752; 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.

- **R & D Motors, LLC, DL #42529** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to R & D Motors, LLC, Dealer #42529; 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.

Messrs. Heggs and White recused themselves and left the room.

- **Schomp BMW, DL #34** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Schomp BMW, Dealer #34; 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. Perkins as Chair voted).
- **Schomp Honda, DL #718** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Schomp Honda, Dealer #718; 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. Perkins as Chair voted).
- **Shortline Hyundai, DL #44229** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Shortline Hyundai, Dealer #44229; 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. Perkins as Chair voted).
- **Shortline Subaru, DL #44230** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Shortline Subaru, Dealer #44230; 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. Perkins as Chair voted).

Messrs. Heggs and White returned to the room.

- **Steamboat Motors LLC, DL #8871** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Steamboat Motors LLC, Dealer #8871; 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.
- **Donald Boyd Schoonover, SL #159818** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Donald Boyd Schoonover, Salesperson #159818; and that the case be assigned to the Colorado Department of Revenue Hearing Division for a hearing on the merits – approved unanimously.

OPEN DISCUSSION – Pursuant to Regulation 44-20-15(2)(b)(i) – Possible change in processes related to Arbitration

Mr. O’Connell, Executive Director of CIADA, addressed the Board about the auction side of arbitration and distributed the Arbitration Policy, which is followed by the National Auto Auction Association. He stated that auctions are run separately and different variances come into play in regard to auction rules. A lengthy discussion followed.

New Business – None

Public Comment – None

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:45 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