

**MOTOR VEHICLE DEALER BOARD
MINUTES
November 21, 2023**

The regular meeting of the Dealer Board was held via video conference with Cisco Webex. The following persons were present:

BOARD MEMBERS:

Charla Berens
Matthew Gebhardt
David Guttenberg
Kevin Shaughnessy
Seth Wong

MEMBERS ABSENT:

Kathleen Chandler
Fletcher Flower
Amanda Gordon

SENIOR DIRECTOR OF SBG:

Michael Phibbs

EXECUTIVE SECRETARY:

Chris Rouze

DEPT. OF REVENUE SBG/AID STAFF:

John Opeka
Frank Agos
Gloria Breeden
Joshua Dexter
Billy Maestas
James Osborn
Rob Urbach
Neal Robinson
San Trieu
Lisa Garcia
Cheryl Morrison
Jason Stern
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Sarah Killeen

VISITORS:

Eric LaRlowe
Ahmed Alfa
Devin Saunders
Art Erwin
David Cardella

1st Vice-President, Kevin Shaughnessy, opened the meeting of November 21, 2023, at 9:03 a.m. Mr. Shaughnessy turned the floor over to Executive Secretary, Chris Rouze.

AGENDA REVIEW AND ANNOUNCEMENTS

Ms. Rouze stated that meetings of the Colorado Motor Vehicle Dealer Board are opened to the public and are recorded. Members of the press may be in attendance and all comments, contributions, videos, images, and documents presented during the public session of the Colorado Motor Vehicle Dealer Board are considered public open records. Members of the media should direct any inquiries about this meeting and or open records to the Division's public information officer, Shannon Gray.

Ms. Rouze informed the Board that Mr. Flower would not be in attendance today and Mr. Wong will join the meeting later.

MINUTES

The minutes of the October 17, 2023, meeting was approved unanimously (Mr. Shaughnessy as Chair voted).

BACKGROUND INVESTIGATIONS REPORT

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Corbett Pawn #44715** - Motion to grant the license - passed unanimously (Mr. Shaughnessy as Chair voted).
- **Eridu Auto #45167** - Motion to grant the license - passed 3-1 (Mr. Shaughnessy as Chair voted, Mr. Guttenberg opposed).

Motion was made to authorize the Executive Secretary to sign the Order to remove the summary suspension - passed unanimously (Mr. Shaughnessy as Chair voted).

- **Five Brothers & T #46125** - Motion to grant the license - passed unanimously (Mr. Shaughnessy as Chair voted).
- **Next Step Pro Sales #46231** - Motion to grant the license - passed unanimously (Mr. Shaughnessy as Chair voted).

EXECUTIVE SECRETARY REPORT

Ms. Rouze presented the following to the Board:

- **Initial Decision - Luke Austin King, Motor Vehicle Salesperson License #166235** - Motion was made to accept the Findings of Fact, Conclusions of Law, order suspension of the salesperson license until such time tax obligations have been satisfied and impose a fine of \$500.00 - passed unanimously (Mr. Shaughnessy as Chair voted).

Delegations of Authority - The Board expressed the desire to have the Executive Secretary make denial decisions on incomplete applications. The Division and the Attorney General's office reviewed the current Delegations of Authority and determined that the Executive Secretary can make those denial decisions.

A proposed revision of the Delegations of Authority was provided to the Board for their consideration.

A motion was made to adopt the revised Delegations of Authority - passed unanimously (Mr. Shaughnessy as Chair voted).

COMPLAINT INVESTIGATIONS REPORT

Mr. Opeka presented the following to the Board:

Statistical Reporting - Mr. Opeka informed the Board that we started with 436 cases, 159 new cases were opened, and 112 cases were closed, giving the Division a balance of 483 open cases. There were 380 background inquiries performed.

Affidavits of Probable Cause:

- **Destination Auto Sales, DL #44287** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Destination Auto Sales, Dealer License #44287; 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 - passed unanimously (Mr. Shaughnessy as Chair voted).

- **Flower Motor Company, Inc., DL #3265** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Flower Motor Company, Inc., Dealer License #3265; 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 - passed unanimously (Mr. Shaughnessy as Chair voted, Mr. Wong abstained).
- **Hellman Motor Company, DL #190** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Hellman Motor Company, Dealer License #190; 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 - passed unanimously.
- **Hellman Toyota, Inc., DL #945** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Hellman Toyota, Inc., Dealer License #945; 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 - passed unanimously.
- **Penske Truck Leasing Company, LP, DL #44736** - Motion that the Board find probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Penske Truck Leasing Company, LP, Dealer License #44736; 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 - passed unanimously.

Public Comment - Mr. Cardella asked for an update regarding the appointment of a Used Motor Vehicle Dealer to the vacant post on the Board. Ms. Rouze advised that the Governor's office is working to fill the opening.

Mr. Cardella asked if it would be possible to receive applicant information that will be brought before the Board prior to the business meeting. Ms. Rouze stated that the Division and the Attorney General's office will discuss if this would be appropriate and will inform all if there are any legal ramifications at a future date.

Mr. Cardella announced that Board member, David Guttenberg's dealership, Automotive Imports, was named the 2023 Quality Dealer of the Year.

Mr. Cardella asked if the Division could provide information which would provide clarity for dealers regarding the overly broad definition of material particulars. Ms. Killeen stated that any revision to the definition of material particulars would require formal rulemaking.

Mr. Cardella asked that material particulars be added to the Division's Rulemaking Agenda for the next calendar year. Ms. Rouze stated that she will include the regulation for the coming year.

New Business - None

The meeting of the Motor Vehicle Dealer Board was adjourned at 10:14 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 J. Rouze
Executive Secretary