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NOTE: We make every effort to ensure information in *Dealer Talk* is accurate, but it is not a substitute for legal advice.

Motor Vehicle Dealer Board Mission Statement

The Motor Vehicle Dealer Board will administer sections of the Commonwealth's Motor Vehicle Dealer Laws and regulations as charged; while providing a high level of customer service for the automotive consumer and dealer community.

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AUTOMOTIVE YOUTH EDUCATIONAL SYSTEMS (AYES)

AYES is a partnership among participating automotive manufacturers, the National Automobile Dealers Association, Automotive Trade Association Executives, State Departments of Education and Labor, local dealerships and select high schools and technical and prep schools across the country. AYES' goal is to encourage quality students with a good mechanical aptitude to pursue careers in the fields of automotive technology and prepare them for entry-level positions in dealerships.

Recently, (AYES) and Automotive Service Excellence (ASE) announced that they were joining forces. With this new partnership, it appears that the AYES Headquarters will be moving from Troy, Michigan to ASE headquarters in Leesburg, Virginia.

"ASE will manage ongoing AYES program operations," said Tim Zilke, ASE President & CEO. "In the current automotive environment, both organizations believe joining AYES with the ASE family will result in an effective model for all stakeholders and students."

The AYES Executive Board is meeting this month. Chuck Roberts, ASE Executive Director, Industry Relations will be presenting his business plan to the Executive Board at the meeting. More details of the agreement and how it will affect the program will become clearer after the March board meeting.

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Calendar of Events

All Meetings held at DMV
Headquarters
2300 W. Broad Street, Room
702 Richmond, VA

Monday, May 11, 2009
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, May 11, 2009
Time: Immediately following
Dealer Practices
Licensing Committee Meeting

Monday, May 11, 2009
Time: 9:30 a.m.
Advertising Committee Meeting

Monday, May 11, 2009
Time: Immediately following
Advertising
Transaction Recovery Fund
Committee Meeting

Monday, May 11, 2009
Time: 10:00 a.m.
Full Board Meeting

NOTE: Meetings may begin later,
but not earlier than
scheduled.

BOARD ACTIONS

Bradley R. Mowry and Auto Outlet of Manassas, Inc. A December 3, 2008 inspection of this dealer revealed serious record-keeping problems and salespersons who were not employees. An inspection conducted on February 12, 2009 revealed similar problems. On January 21, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1537 (failure to have salespersons properly licensed), 46.2-1542 (improper issuance of 30 day tags), 46.2-1548/1550 (use of dealer's license plates, generally), 46.2-1559 (Records to be kept by dealers; inspection) and 46.2-1561 (to whom temporary plates shall not be issued). Based on the hearing officer's report and the evidence, the Board assessed a \$1,000 civil penalty against Mr. Mowry and Auto Outlet of Manassas, Inc.; and directed the Board Staff to conduct a re-inspection of the dealership. If the re-inspection is not satisfactory, the Board will suspend all licenses and certificates issued by the Board to Mr. Mowry for a minimum of 30 days or until what time Mr. Mowry has a successful inspection, whichever is longer.

Michael H. Margulies and MLX Corporation. Five attempts to inspect this Richmond dealership in under five months time were unsuccessful as the dealership was not opened during its posted business hours. After the second attempt – the dealer wrote a letter to the MVDB stating that he had resolved all issues and was ready for an inspection. However, three days after writing that letter, he was not at the dealership when field representative Winderweedle arrived for an inspection. This failed inspection resulted in a December 8, 2008 letter to the dealer, assessing a \$250 civil penalty. Mr. Margulies appealed the civil penalty and requested a hearing. Winderweedle attempted another inspection on December 23, and once again the dealership was closed. On February 9, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1533 (failure to maintain posted business hours and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning). The Board voted to assess a \$500 civil penalty and revoked all licenses issued by the Board to Mr. Margulies.

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HOLIDAYS HOURS

In observance of the upcoming holidays, all state agencies, including the Dealer Board, will be closed on the following date:

Monday
MEMORIAL DAY
May 25, 2009



BOARD ACTIONS

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Motor Vehicle Transaction Recovery Fund. At the March Board meeting, the Transaction Recovery Fund Committee and the Board considered and approved the following claims:

Romulo B. Garcia & K J Auto Group, Inc. In August of 2008, a judgment in the amount of \$75,000 in actual damages; \$25,000 in punitive damages; \$6,837.15 in attorney fees; and \$163 in court costs was entered against this dealer in Fairfax County Circuit Court. The dealer did not pay this judgment, and therefore the consumer filed a claim against the Fund. The Board approved a \$20,000 payment (Maximum allowed by law.) from the Fund. This is the second payment made from the Fund on behalf of this dealer.

Amin Kargar & Car Quest Auto Sales, Inc. In December of 2007, a consumer lawfully attempted to return a vehicle purchased from this dealer as the vehicle had previously been "totaled" and this fact was not revealed to the purchaser. In addition, the vehicle was not safe to drive. The dealer refused to rescind the contract and eventually the consumer was awarded a judgment in the amount of \$22,636.00 in Fairfax County Circuit Court. As the dealer did not pay the judgment, the consumer sought relief from the Recovery Fund. The Board approved a payment from the Fund in the amount of \$20,000, which is the maximum allowed by law.

Rodney J. Price and RSD Motors. The Board considered two claims filed against the Fund as a result of this dealer failing to pay judgments. Both claims, totaling \$13,010.60 were approved. Previously the Board had approved five claims against this dealer totaling \$21,302.06.

Helpful Tips and Reminders

Criminal History Checks: Save time and money when hiring a new salesperson by ordering your own criminal background check. *ScreeningOne* is the vendor used by the Motor Vehicle Dealer Board to check the criminal history of new salesperson applicants. With this new initiative, you will be able to run nationwide criminal background checks on not only your new salesperson applicants, but applicants for any position in your organization. You could even run periodic criminal backgrounds of any and all of your employees. The cost -- just \$8.50 for each criminal background you run.

Once you have signed up for this service, you can run a nationwide criminal background, sex offender and OFAC check before you send the salesperson application to the Board. We will be able to view the criminal background check that you ordered and if there are no problems - we will proceed to license your new salesperson. For additional information please contact Paul Craddock at *ScreeningOne* toll free at 888-327-6511; ext 109 or pcraddock@ScreeningOne.com.

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AUTOMOTIVE YOUTH EDUCATIONAL SYSTEMS (AYES)

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The 22 AYES programs in Virginia are conducting their 2nd business and education meetings of the year. These B&E meetings are essential to keeping our AYES programs on track with the immediate needs of dealerships.

Many schools conducted job shadowing over the winter break, but some will finish over Spring break. AYES programs are also conducting their AYES mentor banquets. New dealers receive an AYES plaque that shows the years they have taken an intern. Mentors are receiving the gold-plated AYES Mentor Snap-On wrench and other gifts for serving as a mentor in 2008.

If should you have any questions about VADA's AYES Partnership, please call John Jessup at 804.545.3027 or John Cates at 804.545.3010. For more information about the AYES program visit www.ayes.org.

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Helpful Tips and Reminders

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Safety Inspection: Virginia Code Section 46.2-1539 states in part that “No . . . dealer . . . shall sell at retail any motor vehicle which is intended by the buyer for use on the public highways, . . . unless between the time the vehicle comes into the possession of the dealer and the time it is sold at retail it is inspected by an official safety inspection station. In the event the vehicle is found not to be in compliance with all safety inspection requirements, the dealer shall either take steps to bring it into compliance or shall furnish any buyer intending it for use on the public highway a written disclosure, prior to sale, that the vehicle did not pass a safety inspection. Any person found guilty of violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor.”

We understand that some dealers do not safety inspect a vehicle until after it is sold, but before it is delivered. A careful reading of the law reveals that before the customer signs a buyers order, (A contract to purchase a vehicle.) the vehicle must be safety inspected. For all practical purposes this means that once you take possession of a motor vehicle and begin to actively market/display the vehicle, you must have it safety inspected. There is nothing from preventing you from subjecting a motor vehicle to another safety inspection just prior to delivering it to your customer.

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DMV ACTIONS

We like to keep Dealer Talk fresh and provide our readers with information that is educational and of interest to those in the motor vehicle dealer community.

As an agency, the MVDB does not have “police powers” and therefore can not make arrests in matters that carry a criminal sanction. Over the years, MVDB and DMV have worked very closely to investigate situations that may include alleged criminal activity.

The DMV LAW ENFORCEMENT SERVICES (LES) unit plays a significant role in enforcing criminal laws related to the sale of motor vehicles as well as titling and registration of motor vehicles

A new feature of Dealer Talk will be a summary of convictions as a result of investigations conducted by DMV Law Enforcement Services. Many of these investigations were conducted in partnership with Dealer Board staff.

JOHN G DONOVAN and EXTREME SUZUKI, LLC (Out of Business) On January 1, 2008 Donovan was arrested for selling vehicles and not supplying titles to the purchasers. The titles were being held by a floor-planner. Donovan was charged with 15 counts under §46.2-617 of the Code of Virginia. The court fined Donovan one hundred dollars each for the 12 counts plus court cost.

SEQUOIA AUTO SALES (Out of Business) The trial of Mustafa Hashimi and Wafi Akbary for title fraud committed under Sequoia Auto Sales was held on December 3rd and 4th in Stafford County Circuit Court. Each man was charged with sixteen felony charges:

Obtain money under false pretenses; Fraudulent conversion or removal of property subject to lien or title to which is held by another (A.F.C.); Embezzlement of monies collected for remittance to Virginia DMV for title and registration and VA Vehicle Sales Tax. The Obtain money under false pretenses charges were dismissed by Judge Sharp leaving ten felony charges for court adjudication.

Helpful Tips and Reminders

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NEW GUIDELINES: We are always looking for new ways and tools to educate dealers. Our newest tool is guidelines for dealers to use to determine their responsibilities and options for titling and “plating” vehicles they have sold. These new guidelines will be particularly helpful in those situations when the dealer is not able to secure a title within 30 days after the sale. As you know, if you have agreed to title and register a vehicle for your customers, you must pay all of the required fees and apply for a title within 30 days of the sale even if you do not have the existing title.

The Guidelines are posted on our WEB site. If you go to www.mvdb.virginia.gov -- click on the last item in the “What’s Hot” box. The guidelines can also be accessed from the “Dealer and Salesperson” section of our WEB site.

Or click on this link: [Guidelines to Issue Subsequent Temporary and Metal Plates \(PDF\) | \(Word\)](#)

Send Us Your Buyers Order: Please remember that whenever you change your buyer’s order you must send a copy to the Board. Also, if you make any changes to your processing fee, you must notify us as well.

DMV ACTIONS

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Mr. Akbary pled guilty (Alford Plea) to all sixteen felony charges to include payment of restitution to all victims (except for A.F.C.). In exchange for his plea, the Commonwealth will not seek any further criminal prosecution involving other criminal cases. Judge Sharp accepted this plea and requested a pre-sentence report be prepared that Mr. Akbary will be sentenced on these sixteen felony charges in the Circuit Court in Stafford County.

Mr. Hashimi eventually pled guilty (Alford Plea) to all ten felony charges to include restitution to all victims of Sequoia Auto Mart's fraudulent transactions (except for A.F.C.). In exchange for the guilty plea, the Commonwealth will not seek any further criminal prosecution involving other criminal cases. Judge Sharp accepted this plea and requested a pre-sentence report be prepared that Hashimi will be sentenced on these ten felony charges in the Circuit Court in Stafford County.

DMV Agents will be meeting with the Commonwealth’s Attorney on a later date to calculate the total amount of restitution owed by the Suspect and the Co-defendants payable to the victims (except for A.F.C.).

EUGENE LESTER, (OPERATING A DEALERSHIP WITHOUT BEING LICENSED) Lester was charged for selling ten motor vehicles in a twelve month period. DMV subpoenaed representatives of the Motor Vehicle Dealer Board to testify that Lester was not a licensed dealer. Lester was found guilty in Prince Edward General District Court on charges of acting as a dealer without a license. He was fined \$100.00 plus cost and given a stern warning by Judge Woodson.

NATHANIEL CHILES, (OPERATING A DEALERSHIP WITHOUT BEING LICENSED) Chiles sold approximately eighteen vehicles in nine months. He was convicted of operating a dealership without a license and was fined \$100 and received 30 days suspended sentence. He noted an appeal.

Advertising and your Processing Fee

In advertisements that include the price of vehicles, you must either include your processing fee in the advertised price or in the form of a disclaimer/disclosure. This requirement applies to all advertisements - including "in-line" newspaper ads, internet advertising, mailers, specialty auto advertising publications, etc. The law states in part: *"If a processing fee or freight or destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charge must be (i) clearly and conspicuously disclosed in not less than eight-point boldface type or (ii) not smaller than the largest typeface within the advertisement. If the processing fee is not included in the advertised price, the amount of the processing fee may be omitted from any advertisement in which the largest type size is less than eight-point typeface, so long as the dealer participates in a media-provided listing of processing fees and the dealer's advertisement includes an asterisk or other such notation to refer the reader to the listing of the fees."*

DMV ACTIONS

(Continued from page 6)

JAMES KEY (OPERATING A DEALERSHIP WITHOUT BEING LICENSED) After receiving a complaint from the MVDB an investigation was launched to determine if Key was in violation of the motor vehicle dealer laws. After review of the records and interviewing Key, a warrant was obtained for operating a dealership without a license. Key was convicted and fined \$1000 with \$500 suspended. In addition, he received 12 months in jail all of which was suspended based on his good behavior over the next 12 months.

DAVID SHIFFLETT (OPERATING A DEALERSHIP WITHOUT BEING LICENSED) MVDB field representative W.T. Jackson initiated an investigation of Shifflett who was selling vehicles on Rt. 33 in Greene County. Shifflett was utilizing family member's names in order to obtain titles to circumvent the law. DMV LES charged Shifflett for engaging in business in the Commonwealth as a motor vehicle dealer without first having obtained a license. Shifflett was found guilty and sentenced to six months in jail. The sentence was suspended based on a two year unsupervised probation period. Shifflett was ordered to pay court costs.

ANTHONY KANER MULLINS, (OPERATING A DEALERSHIP WITHOUT BEING LICENSED) While conducting a title investigation DMV LES found that Mullins had bought and sold eleven vehicles in under a twelve month time frame. A warrant was obtained for operating as a dealer without a dealer's license. The Wise County General District Court found Mr. Mullins guilty and fined him \$2,500.00 with \$2,000.00 suspended; ten days in jail, with ten days suspended; twelve months inactive probation and 24 hours of community service.

JAMES NATHANIEL HUMPHRIES (OPERATING A DEALERSHIP WITHOUT BEING LICENSED) DMV was advised that Humphries was curbstoning and skipping titles for vehicles. The assigned DMV LES Special Agent went to the alleged location and discovered several vehicles displayed for sale. Further research revealed that Humphries had failed to title vehicles into his own name and then sold the vehicles. The DMV Special Agent served two summonses on Humphries for Failure to title a vehicle within 30 days. Humphries paid a \$50.00 fine and \$71.00 in court costs to Rockbridge County General District Court.

Dealer-Operator Course

The Virginia Community College System and the Virginia Independent Automobile Dealers Association (VIADA) have teamed up to present a two-day Dealer-Operator course. The following is a list of up-coming classes. The list is regularly updated on our WEB site at <http://www.mvdb.virginia.gov/licensingprocess.htm>.

2009

April 7 & 8 - Germanna Community College, Fredericksburg

Contact: Susan Brown; 540-891-3012; www.gcc.vccs.edu/workforce

April 21 & 22 – New River Community College, Dublin

Contact: Dianne Belcher; 540-674-3657; <http://www2.nr.edu/admissions/>

May 5 & 6 - Danville Community College, Danville

Contact: Registration; 434-797-6437; www.dcc.vccs.edu/workforce

May 19 & 20 – Thomas Nelson Community College, Hampton

Contact: Registration; 757-825-2934; www.tncc.edu

June 9 & 10 – Northern Virginia Community College, Reston

Contact: Claire Wynn; 703-450-2551 or 2552; www.nvcc.edu/loudoun/continuing

June 23 & 24 - Patrick Henry Community College, Martinsville Campus

Contact: Tisha McMillion; 276-656-0354; www.ph.vccs.edu

July 7 & 8 - Community College Workforce Alliance at J. Sargeant Reynolds Community College, North Run Campus, Henrico, County

Contact: Sandy or Lisa; 804-523-2292;
www.ccwa.vccs.edu

July 21 & 22 - Lord Fairfax Community College, Middletown

Contact: Registration; 540-868-7021; www.lfccworkforce.com

August 4 & 5 - Virginia Western Community College, Roanoke

Contact: Anne Koon; 540-767-6131; www.virginiawestern.edu

August 18 & 19 - Blue Ridge Community College, Weyers Cave

Contact: Registration; 540-453-2215; www.brcc.edu

Registration materials and information are available from each of the Community Colleges' WEB site or by calling the individual college.

The cost is \$300 and must be submitted by check or credit card, payable to the college, and submitted with the registration.