

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ 1ST DRAFT ~

Meeting Summary **Motor Vehicle Dealer Board** Monday, January 8, 2007

Chairman D.B. Smit called the Dealer Board meeting to order at 10:35 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 15 Board members present. Present were members Jonathan Blank, Lynn Hooper, Todd Hyman, David Lacy, Wanda Lewark, Chip Lindsay, Hugh McCreight, Jim Mercer, Thomas Moorehead, Pat Patrick, Frank Pohanka, Kevin Reilly, Vince Sheehy, Larry Shelor and Thomas Woodson. (Absent: Jimmy Whitten and Robert Woodall). Executive Director Bruce Gould and Debbie Allison represented the Dealer Board. Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The November 13, 2006 meeting summary was approved.

PUBLIC COMMENT

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee

- **Pawan K. Saini and Auto King.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Pawan K. Saini. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Pawan K. Saini t/a Auto King for alleged violations of Va. Code §46.2-1537 which prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson and employed by the dealer; based on due consideration, the Board believes a civil penalty should be assessed against Pawan K. Saini t/a Auto King. The Board hereby assesses a \$500 civil penalty against Pawan K. Saini t/a Auto King. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Saini in running his dealership. The Board mandates that Mr. Saini successfully complete the dealer-operator course by June 13, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Saini by the Board until what time Mr. Saini has successfully completed the course.

Hugh McCreight seconded. The motion carried unanimously.

- **Charlie M. Banks and M M Banks & Son Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Charlie M. Banks and M M Banks & Son Auto Sales. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Charlie M. Banks and M M Banks & Son Auto Sales for alleged violations of Va. Code §46.2-1533, failing to maintain business hours. Based on due consideration, the Board believes no action should be taken against Charlie M. Banks and M M Banks & Son Auto Sales pending Mr. Bank's successful completion of the dealer operator course. The Board hereby takes no further action against Charlie M. Banks and M M Banks & Son Auto Sales pending Mr. Bank's successful completion of the dealer operator course by January 25, 2007.

David Lacy seconded. The motion carried unanimously.

Licensing Committee

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

Advertising Committee

Chairman Frank Pohanka summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee

Chairman David Lacy summarized discussions held and actions that were taken during the Committee Meeting.

- **Eric Goodman, King Street Auto Sales and Al's Cars, Inc.** Chairman David Lacy summarized for the Board the discussion held in the Committee meeting regarding Eric Goodman, King Street Auto Sales and Al's Cars, Inc. Based on that discussion and the recommendation in the case, Mr. Lacy made the following motions: Pursuant to §46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

Eric Goodman, King Street Auto Sales and Al's Cars, Inc. \$15,078.00

Jonathan Blank seconded. The motion carried unanimously.

OLD BUSINESS

Don Boswell, Chief of Investigations for DMV, gave a brief update on ISO investigations relating to curbstoning since the November Board meeting. Lynn Hooper requested that Mr. Boswell's report be included in future Board Meeting books. Mr. Boswell agreed.

- **Update: General Assembly.** Bruce Gould reviewed the following bills: HB 1983: Dealers License Plates, it would appeal the prohibition on dealers license plates on trailers, SB 746: relating to all- terrain vehicles dealers be licensed as motor cycle dealers, HB 1848: affords the buyer of a motor vehicle dealership the means to contest the failure of a manufacturer to approve the transfer of a dealership.
- **HB 1779:** This proposal was originally drafted by a subcommittee of the Board. It was not made part of the Governor's legislative package. VADA urged the Board members support this bill. This bill Provides criteria for the awarding of attorney fees from the Fund. The bill also excludes from the amount of any unpaid final judgment on which a claim against the Fund is based any sums for "noneconomic damages," which is defined as "any loss or damage for pain, suffering, mental anguish, emotional pain and suffering, physical injury or impairment, comfort, counseling, or other nonpecuniary injury."

Motion was made by Frank Pohanka to support HB 1779. Tommy Moorehead seconded. The motion carried unanimously.

- **Salesperson Resolution.** WHEREAS the Motor Vehicle Dealer Board ("Board") feels strongly that persons acting as salespersons as defined in §46.2-1500 be licensed by the Board so as have their interactions with consumers in the Commonwealth subject to review by the Board; and

WHEREAS, the Board recognizes the need for dealerships from time to time to have temporary staffing assistance for the sale of products and services in connection with vehicle sales negotiated by the salespersons employed by the dealer, such products and services to include but not limited to providing payment, financing and leasing alternatives and offering and selling extended service agreements, prepaid maintenance agreements, GAP contracts, and similar products and services that are sold in connection with the sale of a vehicle provided however that such persons do not negotiate for the sale of the vehicle, but may complete the required paperwork for the sale of the vehicle in addition to the other products and services being offered; and

WHEREAS, the Board recognizes the need for dealerships from time to time to have training for the salespersons employed by the dealer; and

WHEREAS, the Board recognizes that dealerships may wish to contract with third parties to provide these services; now Therefore, be it

RESOLVED, that the Board support legislation to be introduced by Delegate Adam Ebbin at the 2007 Virginia General Assembly to provide that the Board may issue salesperson licenses to persons who work for a company that contracts with a dealer to provide personnel on a temporary basis for the sale of products and services in connection with vehicle sales negotiated by the salespersons employed by the dealer or who train salespersons employed by the dealer in their interactions with customers without the requirement that they be employed by a particular dealer and where the name of the salesperson so licensed is listed on the buyers order for any transaction in which they participate.

Motion was made by Frank Pohanka to support the above resolution. Jonathan Blank seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

D.B. Smit recognized Tommy Woodson as being Quality Dealer of the year.

NEW BUSINESS

The next meeting will be scheduled for March 12, 2007.

NEW BUSINESS FROM THE FLOOR

- **Executive Director's Report.** Bruce Gould introduced the Dealer Board's newest employee Pam Williams, who will be working as a Consumer and Advertising Analyst. He also indicated that 2 more employees were hired recently and they will be introduced at the March Meeting. Bruce also spoke briefly about the Top 100 Curbstoners. He indicated that one curbstoner, in particular, wrote him a letter and thanked him for the educational letter and said he is now going through the process of becoming a licensed dealer. Finally, everything is going smoothly with the Regulations to adjust the dealer fees. It is anticipated that the new fee structure would go into effect with the January 2008 renewals. The charge for doing a criminal history check has decreased from \$15.00 to \$8.50.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 11:17 a.m.

Meeting Summary
Dealer Practices Committee
Monday, January 8, 2007

Chairman Pat Patrick called the Dealer Practices Committee meeting to order at 8:35 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Jonathan Blank, Lynn Hooper, David Lacy, Hugh McCreight, Jim Mercer, Thomas Moorehead, Frank Pohanka, Kevin Reilly. (Absent: Jimmy Whitten and Robert Woodall) Board members present: D. B. Smit, Todd Hyman, Tommy Woodson, Wanda Lewark, Chip Lindsay, Vince Sheehy and Larry Shelor. Executive Director Bruce Gould, Pam Williams and Debbie Allison represented the Dealer Board. Eric Fiske was present from the Attorney General's Office.

The November 13, 2006 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: November Actions. Bruce Gould reported on the actions taken at the Dealer Practices Committee meeting on November 13, 2006.

- **Sebghatullah Nassiri and Export Car Connection, Inc. Reconsideration.** Khalid Shekib, attorney for Mr. Nassiri spoke on Mr. Nassiri's behalf and requested that the Committee reconsider its November decision to revoke Mr. Nassiri's dealer and salesperson licenses. Mr. Shekib stated that Mr. Nassiri would be willing to pay additional civil penalties in lieu of revocation. Mr. Nassiri has appealed the Board's November decision and the court date is set for January 9, 2007. The Committee took no action at this time.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Pawan K. Saini and Auto King.** On November 20, 2006, an informal fact-finding conference was conducted to address the alleged violation of VA Code Section 46.2-1537 (Prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson and employed by the dealer). Based on the information provided at the conference, the hearing officer recommended that a \$250 civil penalty be imposed against Mr. Pawan Saini and the Auto King dealership and \$250 civil penalty be imposed against Mr. Eladlani Hicham (the unlicensed salesperson that worked for Auto King) for his actions in violating §35.2-1537, also for Mr. Saini to take the Dealer-Operator Course.

Motion was made by Kevin Reilly to modify the hearing officer's recommendation and assess a civil penalty of \$500 against Mr. Saini as well as require Mr. Saini to successfully take the Dealer-Operator Course. Lynn Hooper seconded. The motion carried unanimously.

- **Charlie M. Banks and M M Banks & Son Auto Sales.** On November 15, 2006, an informal fact-finding conference was conducted to address the alleged violation of Virginia Code Section 46.2-1533 (Failing to maintain business hours). Based on the information provided at the conference, the hearing officer recommended that Mr. Charlie Banks attend one of the Dealer-Operator Courses, a field representative perform follow-up inspections to ensure that all rules and regulations are being followed and no penalties should be imposed at this time.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Thomas Moorehead seconded. The motion carried unanimously.

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould reported that there were 4 requests for on-line, all were approved, 2 dealers request to keep their records in automated form, all were approved, 6 dealers who asked that their records be kept in a supplemental location, all were approved.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for March 12, 2007.

The meeting adjourned at 9:12 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, January 8, 2007

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 9:13 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Wanda Lewark, Chip Lindsay, Kevin Reilly, Vince Sheehy, Larry Shelor and Thomas Woodson. (Absent: Jimmy Whitten and Robert Woodall) Other Board members present: D. B. Smit, Lynn Hooper, Frank Pohanka, David Lacy, Wanda Lewark, Hugh McCreight, Thomas Moorehead and Jonathan Blank. Executive Director Bruce Gould, Pam Williams and Debbie Allison represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The November 13, 2006 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Dealer-Operator Update.** David Boling, of VIADA, gave a power point presentation on how the Dealer-Operator Course is conducted and how the classes are going. Mr. Boling indicated that he has conducted 16 classes in 12 months with 428 students with a 79% pass rate. The MVDB Dealer-Operator test at DMV administered 1056 test with a passing rate of 73%.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

The next meeting was scheduled for March 12, 2007.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 9:57 a.m.

Meeting Summary
Advertising Committee
Monday, January 8, 2007

Chairman Frank Pohanka called the Advertising Committee meeting to order at 10:00 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Lynn Hooper, Chip Lindsay, Hugh McCreight, James Mercer, Thomas Moorehead, Pat Patrick and Larry Shelor. Other Board members present: Kevin Reilly, Thomas Woodson, Todd Hyman, David Lacy, Vince Sheehy, Wanda Lewark. Executive Director Bruce Gould, Pam Williams and Debbie Allison represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The November 13, 2006 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Edifice Group Presentation – Steve Dickman.** Mr. Dickman explained that they target their mailer to individuals that they believe are in the buying cycle. If their efforts result in a sale, the dealer pays them a fee. Consensus of the committee was to have Edifice present their program to the dealers individually and have them decide whether or not they want to participate, if their offer is in compliance with the Advertising Laws, Rules and Regulations.

The next meeting will be March 12, 2007.

NEW BUSINESS FROM THE FLOOR

The meeting adjourned at 10:18 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, January 8, 2007

Chairman David Lacy called the Transaction Recovery Fund Committee meeting to order at 10:19 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, Wanda Lewark, Vince Sheehy, Larry Shelor and Thomas Woodson. Other Board members present: D. B. Smit, Kevin Reilly, Todd Hyman, Frank Pohanka, Pat Patrick, Chip Lindsay, Thomas Moorehead and Hugh McCreight. Executive Director Bruce Gould, Pam Williams and Debbie Allison represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The November 13, 2006 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

- **Eric Goodman, King Street Auto Sales and Al's Cars, Inc.** On October 27, 2003, King Street Auto Sales, Inc. purchased a 2003 Hummer from Stanley Freeman, licensed salesperson for Al's Cars, for a sales price of \$45,000.00. On December 11, 2003, King Street sold the 2003 Hummer through the Fredericksburg Auto Auction. On March 25, 2004, King Street was notified by Fredericksburg Auto Auction that the 2003 Hummer was a stolen vehicle and that it was presently in the custody of the Henrico Police Department. King Street had no knowledge at the time of their purchase, that the 2003 Hummer was stolen and in order to maintain their reputation, they reimbursed Fredericksburg Auto Auction on May 12, 2004. King Street has been unsuccessful in obtaining repayment from Al's Cars, Inc. or from its salesperson, Stanley Freeman. King Street has had to proceed civilly in court for their out of pocket loss.

On January 30, 2006, Eric Goodman, owner of King Street Auto Sales contacted the Dealer Board and inquired on how to file a claim against the Transaction Recovery Fund. The staff sent a letter that provided Mr. Goodman information on how to file a claim and what documentation would be needed. On March 10, 2006, the Dealer Board received a copy of the Warrant in Debt. On April 10, 2006, the Dealer Board received an affidavit of facts from Mr. Goodman and all the documentation in order to file the claim. On April 24, 2006, the Dealer Board received a letter from Mr. Goodman indicating that the court would not award him judgment on a dealership that was no longer in business and he indicated he was going to appeal. On July 26, 2006, the Board received another Warrant in Debt against Al's Cars, Inc.

On September 28, 2006, Mr. Goodman sent the Board an attested copy of a default judgment order that was awarded against Al's Cars, Inc. in the amount of \$15,000.00. After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Mr. Goodman's claim in the amount of \$15,078.00, this amount is based on the judgment amount of \$15,000.00 plus the \$78.00 in costs. On December 5, 2006, an informal fact-finding conference was conducted and based on the information presented at the conference the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$15,078.00.

Motion was made by Jonathan Blank to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no old business from the floor.

The next meeting was scheduled for March 12, 2007.

The meeting adjourned at 10:34 a.m.