

**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.

~ FINAL ~

Meeting Summary  
**Motor Vehicle Dealer Board**  
Monday, March 8, 2010

Chairman Rick Holcomb called the Dealer Board meeting to order at 10:53 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 17. Board members present. Present were members Lynn Hooper, T. K. Hughes, Henry Jones, David Lacy, Chip Lindsay, Thomas Moorehead, Pat Patrick, Frank Pohanka, Matthew Queen, Kevin Reilly, Larry Shelor, Joe Tate, Jimmy Whitten, Robert Woodall, Sally Woodson and Tommy Woodson. (Absent: Wanda Lewark). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

**PUBLIC COMMENT**

There was no public comment.

The January 11, 2010 meeting summary was approved.

**STATUTORY COMMITTEE REPORTS**

**Dealer Practices Committee:**

Chairman Kevin Reilly summarized discussions held and actions that were taken during the Committee Meeting.

- **Charlie Absher and Absher Sales.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding Charlie Absher and Absher Sales. Based on that discussion, Mr. Reilly 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 A. Absher and Absher Sales for alleged violations of VA Code Sections 46.2-1529.1(A) (failure to disclose the Federal Buyer's Guide), 46.2-1532 (odometer disclosure), 46.2-1542 (failure to properly issue temporary tags), 46.2-1543 (failure to submit fees in transferring old license plates and registration number on another vehicle), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1561 (failure to submit application for titles, plates and fees to DMV within 30 days) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning/willful failure to comply), (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices), and (14) (failure to submit to the DMV within 30 days from the date of sale, any application, tax or fee collected for DMV). Based on due consideration, the Board believes a civil penalty should be assessed against Charlie A. Absher and Absher Sales. The Board hereby assesses a \$5,000 civil penalty against Charlie A. Absher and Absher Sales and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Absher should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Absher.

Mr. Absher was not present at the Dealer Practices Committee, but was present at Full Board and spoke on his own behalf.

Matthew Queen seconded. The motion carried unanimously.

- **John H. Almstead and Motorvation.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding John H. Almstead and Motorvation. Based on that discussion, Mr. Reilly 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 John H. Almstead and Motorvation for alleged violations of VA Code Sections 46.2-1510 (failure to have an established place of business), 46.2-1510 (failure to obtain adequate office space with a minimum of 250 sq. feet), 46.2-1513 (failure to notify the Board in writing when a dealer-operator ceases to act as the dealer-operator), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1532 (failure to maintain odometer statements), 46.2-1533 (failure to maintain business hours), 46.2-1548 (failure to maintain written records of dealer's license plates), 46.2-1559 (failure to maintain permanent record of all temporary plates), 46.2-1574 (failure to be responsible for the acts of the dealers salespersons) and 46.2-1575(1) (material misstatements), (2) (failure to comply subsequent to receipt of a written warning), (3) (failure to have an establish place of business), (12) (leasing, renting, or otherwise allowing the use of dealer's plate by persons not specifically authorized under this title) and (18) (failure to maintain auto liability insurance for all dealer plates assigned). Based on due consideration, the Board believes a civil penalty should be assessed against John H. Almstead and Motorvation. The Board hereby assesses a \$2,000 civil penalty against John H. Almstead and Motorvation and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Almstead should be suspended until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative. The Board hereby suspends all licenses issued by the Board to Mr. Almstead until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Almstead in running his dealership. The Board mandates that Mr. Almstead successfully complete the dealer-operator course by June 6, 2010. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Almstead by the Board until what time Mr. Almstead has successfully completed the course.

Robert Woodall seconded. The motion carried unanimously.

### Licensing Committee

Chairman Chip Lindsay summarized discussions held and actions that were taken during the Committee Meeting.

- **Update: Continuing Education Regulations.** Chairman Chip Lindsay summarized for the Board the discussion held in the committee meeting regarding Continuing Education Regulations.
- **Martin D. Mongillo, Salesperson.** Chairman Chip Lindsay summarized for the Board the discussion held in the committee meeting regarding Mongillo. Based on that discussion, Mr. Lindsay 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 Mr. Mr. Martin D. Mongillo and based on due consideration, the Board believes that Mr. Mongillo's motor vehicle salesperson's license should not be revoked.

The Board hereby declares that Mr. Martin D. Mongillo may retain his salesperson's license and the Board believes that all future employers who employ Mr. Mongillo as a salesperson must be made aware of his criminal background. The Board mandates that Mr. Mongillo contact Motor Vehicle Dealer Board staff if he decides to transfer his license and provide evidence that his new employer has been made aware of all of his criminal convictions. Failure to do so will result in the denial of the transfer/revocation of Mr. Mongillo's salesperson's license.

Joe Tate seconded. The motion carried unanimously.

- **Kenneth C. Baker.** Chairman Chip Lindsay summarized for the Board the discussion held in the committee meeting regarding Kenneth C. Baker. Based on that discussion, Mr. Lindsay made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied the application for a salesperson's license submitted by Mr. Kenneth C. Baker. Mr. Baker appealed the denial and requested a formal hearing and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Kenneth C. Baker and based on due consideration, the Board believes that Mr. Baker's motor vehicle salesperson's license should be denied. The Board hereby denies the application for a salespersons license submitted by Mr. Kenneth C. Baker.

Thomas Moorehead seconded. The motion carried unanimously.

#### Advertising Committee

Chairman Lynn Hooper summarized discussions that were held during the Committee Meeting.

#### Transaction Recovery Fund Committee:

Chairman Rick Holcomb took this time to introduce Sean T. Connaughton, Secretary of Transportation. Each member introduced themselves. Mr. Connaughton thanked the members and opened the meeting to any questions they may have. The main topic was the budget and the possibility of funds being transferred from the Transaction Recovery Fund to the General Fund. The Board determined that at the May meeting, they may need to examine alternatives to replenish the Fund.

Chairman Larry Shelor summarized discussions held and actions that were taken during the Committee Meeting.

- **Angela M. Harris and Rivera Motors, Inc.** Chairman Larry Shelor summarized for the Board the discussion held in the committee meeting regarding Angela M. Harris and Rivera Motors, Inc. Based on that discussion and the recommendations in these cases, Mr. Shelor made the following motion: 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 a claim 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 claim and payment amount subject to compliance by the claimant with statutory requirements:

**Angela M. Harris and Rivera Motors, Inc.**

**\$10,703.07**

Thomas Moorehead seconded. The motion carried unanimously.

- **Akwasi Amponsah and Rivera Motors, LLC and Evangeline Wright and Vertex Auto Sales.** Chairman Larry Shelor summarized for the Board the discussion held in the committee meeting regarding Akwasi Amponsah and Rivera Motors, LLC and Evangeline Wright and Vertex Auto Sales. Based on that discussion and the recommendations in these cases, Mr. Shelor made the following motion: 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 the claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the claims should not be payable from the Fund.

Joe Tate seconded. The motion carried unanimously.

## **OLD BUSINESS**

### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

## **NEW BUSINESS**

### **NEW BUSINESS FROM THE FLOOR**

Rick Holcomb indicated that the Governor’s request to have all State Board and Commission meetings broadcasted via streaming video that if there were no objections, the May Board meeting would be broadcasted. It could be as early as the May meeting when it will be broadcasted. There were no objections by the members.

The next meeting will be scheduled for May 10, 2010.

- **Executive Director’s Report.** Bruce Gould indicated that the Commissioner of Agriculture and Consumer Services position has not been appointed yet. He will keep you posted on this. Also, other than moving Board funds to the General Fund, the General Assembly did not pass any bills that would have a significant impact on the Dealer Board as an Agency. There was some legislation that would delete language from the buyers order. This language would have been obsolete by July anyway.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 11:46 a.m.

**Meeting Summary**  
**Dealer Practices Committee**  
**Monday, March 8, 2010**

Chairman Kevin Reilly called the Dealer Practices Committee meeting to order at 9:06 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members T.K. Hughes, David Lacy, Chip Lindsay, Thomas Moorehead, Matt Queen, Larry Shelor, Robert Woodall, Sally Woodson and Tommy Woodson. (Absent: Wanda Lewark). Other Board members present: Henry Jones, Jimmy Whitten, Lynn Hooper, Rick Holcomb, Frank Pohanka, Pat Patrick and Joe Tate. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The January 11, 2010 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**Update: January Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on January 11, 2010.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conferences:**

- **Charlie A. Absher and Absher Sales.** On January 5, 2010, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1529.1(A) (failure to disclose the Federal Buyer's Guide), 46.2-1532 (odometer disclosure), 46.2-1542 (failure to properly issue temporary tags), 46.2-1543 (failure to submit fees in transferring old license plates and registration number on another vehicle), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1561 (failure to submit application for titles, plates and fees to DMV within 30 days) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply), (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices), and (14) (failure to submit to the DMV within 30 days from the date of sale, any application, tax or fee collected for DMV). Based on the information provided at the conference, the hearing officer recommended that Charlie Absher and Absher Motors have all licenses to sell motor vehicles in the Commonwealth of Virginia revoked.

Motion was made by Robert Woodall to accept the hearing officer's recommendation, as well as assess a civil penalty of \$5,000. All in favor: 9 (Reilly, Hughes, Lacy, Lindsay, Moorehead, Shelor, Woodall, S. Woodson and T. Woodson). Opposed: 1 (Queen). The motion carried.

- **John H. Almstead and Motorvation.** On February 22, 2010, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1510 (failure to have an established place of business), 46.2-1510 (failure to obtain adequate office space with a minimum of 250 sq. feet), 46.2-1513 (failure to notify the Board in writing when a dealer-operator ceases to act as the dealer-operator), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1532 (failure to maintain odometer statements), 46.2-1533 (failure to maintain business hours), 46.2-1548 (failure to maintain written records of dealer's license plates), 46.2-1559 (failure to maintain permanent record of all temporary plates), 46.2-1574 (failure to be responsible for the acts of the dealers salespersons) and 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a written warning), (3) (failure to establish place of business), (12) (leasing, renting, allowing the dealer's plate by persons not specifically authorized under this title) and (18) (failure to maintain auto liability insurance for all dealer plates assigned). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,800 and revocation of license.

Mr. Almstead was present and spoke on his own behalf.

Motion was made by Matt Queen to assess a civil penalty of \$2,000, successfully complete the dealer-operator course within 90 days and have a successful inspection. Should Mr. Almstead fail the inspection then his license would be suspended until he does pass an inspection. Tommy Woodson seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for May 10, 2010.

The meeting adjourned at 9:28 a.m.

**Meeting Summary**  
**Dealer Licensing Committee**  
**Monday, March 8, 2010**

Chairman Chip Lindsay called the Dealer Licensing Committee meeting to order at 9:28 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Lynn Hooper, T.K. Hughes, Henry Jones, Pat Patrick, Frank Pohanka, Joe Tate, Jimmy Whitten and Robert Woodall. Other Board members present: Sally Woodson, Matt Queen, Rick Holcomb, Kevin Reilly, Larry Shelor, David Lacy, Thomas Moorehead, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The January 11, 2010 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Update: January Actions.** Peggy Bailey reported on the actions taken at the Licensing Committee meeting on January 11, 2010.
- **Update: Dealer-Operator Continuing Education.** Bruce Gould indicated that the public hearing was conducted and no significant public comments came from that hearing. The final regulations were signed off by Planning and Budget and are now in the office of the Secretary of Transportation. Once that office signs, they can be submitted to the Governor's Office. Once the Governor signs off, the regulations can be published in the Virginia Register of Regulations as final regulations and will be effective 30 days after that. The next step would be to approve vendors to offer the course either in person or on-line.

**OLD BUSINESS FROM THE FLOOR:**

There was no old business from the floor.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conferences:**

- **Mr. Martin D. Mongillo.** On January 19, 2010, an informal fact-finding conference was conducted to address the alleged violation of VA Code Section 46.2-1575 (13) (having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended that Mr. Mongillo retain his salesperson's license.

Mr. Mongillo was present and spoke on his own behalf.

Motion was made by Jimmy Whitten to accept the hearing officer's recommendation. Henry Jones seconded. The motion carried unanimously.

**Review and Action: Formal Hearing:**

- **Mr. Kenneth C. Baker.** Historical overview leading up to the formal hearing: On September 9, 2009, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (6) having used deceptive acts or practices and (13) having been convicted of a felony. Based on the information provided at the conference, the hearing officer recommended to allow Mr. Baker to have a salesperson license. In a letter dated November 16, 2009, the executive director determined that Mr. Baker's application for a motor vehicle salesperson's license should be denied based on the findings of fact, the conclusion of law, the evidence from the courts, the testimonies presented at the conference and the October 29, 2009 letter from Mr. Baker's probation officer. In a letter dated December 14, 2009, Mr. Baker appealed the executive director's decision and requested a formal hearing. On January 19, 2010, a formal hearing was conducted to address the alleged violation(s) of VA Code Sections 46.2-1575 (6) having used deceptive acts or practices and (13) having been convicted of a felony. Based on the information provided at the conference, the hearing officer recommended that Mr. Baker be granted a salesperson's license with the condition that if he were to change employment, he is to notify the MVDB within 30 days and failure to do so his license should be revoked.

Motion was made by Pat Patrick to deny Mr. Baker's application for license due to the nature of his convictions. Joe Tate seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for May 10, 2010.

The meeting adjourned at 9:51 a.m.

**Meeting Summary**  
**Advertising Committee**  
**Monday, March 8, 2010**

Chairman Lynn Hooper called the Advertising Committee meeting to order at 9:51 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Matt Queen, Larry Shelor, Kevin Reilly, Joe Tate, Jimmy Whitten, Sally Woodson and Tommy Woodson. Other Board members present: Robert Woodall, Henry Jones, Chip Lindsay, Rick Holcomb, Frank Pohanka, David Lacy, T.K. Hughes, Pat Patrick, Thomas Moorehead, Joe Tate. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The January 11, 2010 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**

Lynn Hooper reviewed and discussed the Advertising Report with the Committee members.

The next meeting was scheduled for May 10, 2010.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 10:02 a.m.

**Meeting Summary**  
**Transaction Recovery Fund Committee**  
**Monday, March 8, 2010**

Chairman Larry Shelor called the Transaction Recovery Fund Committee meeting to order at 10:02 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Henry Jones, David Lacy, Pat Patrick, Frank Pohanka, Matt Queen and Joe Tate. (Absent: Wanda Lewark). Other Board members present: Sally Woodson, Robert Woodall, Jimmy Whitten, Lynn Hooper, Chip Lindsay, Rick Holcomb, Kevin Reilly, T.K. Hughes, Thomas Moorehead, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The January 11, 2010 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.

**State Budget and the Transaction Recovery Fund.** Bruce Gould indicated that as part of the budget cuts, the General Assembly is considering transferring Funds from the Transaction Recovery Fund (Fund) to the General Fund. He reminded the members that currently, only new dealers pay into the Fund for the first three years of operation. Bruce also indicated that approximately \$700,000 will be taken, leaving about \$298,000 in the Fund. The Law requires that the Fund maintain a minimum of \$250,000. Bruce noted that in FY 09 that more was paid out of the Fund than what was collected. Bruce indicated that at the May meeting, he may approach the Board to consider a special assessment on the dealers, in order to get the Fund back up to what it needs to be.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference Results:**

- **Angela M. Harris and Rivera Motors, LLC.** On March 13, 2009, Angela Harris entered into a contract to purchase a 2002 BMW from Rivera Motors, LLC for a total purchase price of \$13,285.00. As part of the transaction, Mrs. Harris traded-in her 2001 Discovery Land Rover and was given a gross allowance of \$6,200.00, with an estimated balance owed of \$10,200.00 and a net trade-in of \$3,200.00 making her total purchase price \$16,949.12. Jose Rivera, owner of Rivera Motors, indicated that he would pay off the existing loan on the 2001 Land Rover (\$10,200.00) and the negative equity (\$3,200.00) would be rolled over into the new loan.

On March 31, 2009, Rivera Motors sold the 2001 Land Rover for \$11,990.00 and DMV records indicate that a title was established on May 1, 2009 with a title held indicator for evidence of ownership. Approximately 60 days after Mrs. Harris purchased the BMW, she noticed the existing loan on the Land Rover had never been paid off. She later learned that Rivera Motors had gone out of business and the owner may have filed bankruptcy.

Jon Montagna, Esquire, counsel for Ms. Harris, filed a Warrant in Debt against Rivera Motors, LLC in the Norfolk General District Court. On August 18, 2009, the Norfolk General District Court awarded Ms. Harris a default judgment against Rivera Motors, LLC in the amount of \$10,112.07, plus \$91.00 in costs and \$500.00 in attorney fees. On October 9, 2009, Mr. Montagna submitted to the Dealer Board documentation for consideration of payment from the Motor Vehicle Transaction Recovery Fund (Fund). At the time of the transaction, the Navy Federal Credit Union statement indicates that the ending balance owed as of 03/13/09 regarding the Land Rover was \$10,206.03.

On February 10, 2010, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended payment from the Fund to Ms. Harris the amount of \$10,703.07 (\$10,112.07, \$91.00 court cost and \$500 in attorney fees).

Motion was made by Henry Jones to accept the hearing officer's recommendation. Pat Patrick seconded. The motion carried unanimously.

- **Akwasi Amponsah and Rivera Motors, LLC.** On October 31, 2008, Mr. Amponsah entered into a contract to purchase a 2003 BMW from Rivera Motors, LLC for a total purchase price of \$21,000.00. In order to purchase the BMW, Mr. Amponsah traded-in/sold his 2002 Mercedes Benz to Rivera Motors, LLC. Mr. Jose Rivera proposed that instead of crediting the value of the Mercedes towards the purchase, Rivera Motors would payoff the balance of the existing loan totaling \$14,500 and Mr. Amponsah would take out a separate loan to pay for the BMW.

On October 31, 2008, Mr. Amponsah obtained separate financing through Navy Federal Credit Union and provided a check in the amount of \$20,500.00 payable to Rivera Motors, LLC, leaving a balance owed upon delivery of \$500.00. Rivera Motors took possession of the Mercedes in agreement to pay off the existing loan with Navy Federal Credit Union. A month later, Mr. Amponsah was told that a payment plan had been set up to pay the balance on the loan for the Mercedes and then the payments stopped. Prior to the dealership going out of business, they had made a total of seven payments on the loan for the 2002 Mercedes totaling \$4,400.00 leaving an unpaid balance of \$10,320.17 as of July 7, 2009. The whereabouts of the Mercedes is unknown at this time.

On July 7, 2009, Mr. Amponsah submitted to the Dealer Board a written complaint against Rivera Motors. On August 11, 2009, Mr. Amponsah filed a Warrant in Debt against Jose A. Rivera, individually and Rivera Motors, LLC. On September 9, 2009, the registered agent for Rivera Motors, LLC and Jose A. Rivera, Mr. Brett Thompson, objected to the suit being filed against Jose Rivera, individually and Rivera Motors, LLC. He agreed the debit was owed and should be paid by Rivera Motors, LLC and that the LLC was still operating to recover the funds. November 6, 2009, the Norfolk General District Court awarded Mr. Amponsah a Default Judgment in the amount of \$10,415.83 plus \$53 in court costs against Rivera Motors, LLC.

On December 8, 2009, Mr. Amponsah submitted to the Dealer Board documentation for consideration of payment from the Fund. Mr. Amponsah signed a Bill of Sale selling the 2002 Mercedes Benz to Rivera Motors. It appears he may have signed a consignment agreement verses a trade. If in fact, this was a consignment agreement or sale, then Mr. Amponsah's claim would not be compensable for payment from the Fund.

On February 10, 2010, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that no payments should be made to Mr. Amponsah, since the paper work showed that Mr. Amponsah completed two separate transactions. He bought a BMW and sold his Mercedes Benz to Rivera Motors. The claim against the fund was based on the dealership not paying off the loan on the Mercedes which was sold to the dealership. The Recovery Fund protects purchasers and not sellers.

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. Joe Tate seconded. All in favor: 6 (Jones, Patrick, Pohanka, Queen, Shelor, Tate). Opposed: 1 (Lacy) The motion carried.

- **Evangeline Wright and Vertex Auto Sales.** On August 19, 2005, Ms. Wright purchased a 1992 Mercedes Benz from Vertex Auto Sales for a total purchase price of \$8,500.00. At the time of the purchase, Ms. Wright paid an additional \$1,900.00 for what was represented to her to be a bumper-to-bumper warranty on the vehicle. Within several weeks, she began experiencing mechanical difficulties with the vehicle, which made the vehicle un-drivable. Vertex attempted to repair the vehicle, but was unable to do so and Ms. Wright incurred additional expenses in an unsuccessful effort to repair the vehicle. When Ms. Wright attempted to make a warranty claim, she discovered that no such warranty existed. Subsequently, she learned that the warranty that was actually on the vehicle was different and the signature on the warranty alleging to be hers was a forgery.

On August 23, 2007, the Dealer Board was served with notice of a "Complaint and Jury Demand" that had been filed in the Circuit Court for the City of Fredericksburg on behalf of Evangeline Wright against AFTAB, LLC t/a Vertex Auto Sales. Allegations of the complaint consisted of Actual Fraud, Constructive Fraud, Breach of Contract and Violation of Virginia Consumer Protection Act. The Dealer Board sent a letter to Ms. Wright's attorney, Thomas Breeden and after a careful review referred counsel to the dealer's surety bonding company (Western Surety). On October 2, 2008, the Circuit Court of Fredericksburg awarded Ms. Wright judgment against AFTAB, LLC for fraud and was granted judgment in the amount of \$16,554.91 compensatory damages, \$49,664.73 statutory treble damages \$0 punitive damages, \$11,446.00 in attorney fees and \$381.86 court costs. Counsel for the claimant submitted the judgment to the surety bonding company. November 20, 2008, Western Surety paid \$25,000.00 on the claim.

On September 29, 2009, Mr. Breeden submitted the Dealer Board documentation for consideration of the payment. He is asking the maximum amount allowable from the Fund (\$20,000.00) toward the remaining portion of the judgment. After carefully reviewing the findings of fact, the conclusion of law, it appears to the Dealer Board staff that Ms. Wright may not be compensable for any additional payment from the Fund. Ms. Wright had already received an amount that exceeds the statutory limit from Western Surety.

On February 10, 2001, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer indicated that Western Surety had already exceeded by \$5,000.00, the \$20,000.00 allowed by 46.2-1527.5 and therefore recommended that Ms. Wright's claim be denied.

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. Joe Tate seconded. The motion carried unanimously.

**NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for May 10, 2010.

The meeting adjourned at 10:41 a.m.