

Meeting Summary
Dealer Practices Committee
Monday July 10, 2023

Note: Prior to the start of the Dealer Practices Committee meeting, William Childress requested a moment of silence for Michael Charapp (VADA and legal dealer counsel) who passed away unexpectedly on June 13, 2023. William also introduced DMV Commissioner Gerald Lackey (new Board Chair) and Donald Sullivan (new Board Member -Independent) to the Board Members.

Committee Vice-Chair Andrew Wiley called the Dealer Practices Committee meeting to order at 9:17 a.m. This meeting was conducted at the Department of Motor Vehicles, 2300 W. Broad Street, Executive Conference Room 702, Richmond, Virginia. Roll call confirmed the following Committee members being present: Dan Banister, Rob Fisher, David Lynn, Chris Maher, Geoff Malloy, R.J. Robinson, Nick Rush and Don Sullivan. Those absent included Michael Bor, Gardner Britt and Ron Kody. Other Board members present: Gerald Lackey, Jeff Ballard, Thomas Bates, Trevor Coley and Maurice Slaughter. Executive Director William Childress, Lisa Mack-Nelson, Ann Majors and Micah Bailey represented the Dealer Board. Christian Parrish represented the Attorney General's office.

The March 13, 2023 meeting summary was approved.

PUBLIC COMMENT – There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR – No old business from the floor.

NEW BUSINESS

Variance Request in Hours:

Variance in Hours: Jerry's Auto Service and Sales and Jerry E Farmer. William Childress reported that for the past 20-plus years, Jerry Farmer has requested a variance in hours for his dealership, Jerry's Automotive Service and Sales, because of his teaching schedule. Mr. Farmer is now retired. He is required to be available to substitute teach at his former high school or as needed throughout the county per his contract. Mr. Farmer wishes to continue working from 4 p.m. to 8 p.m., Monday – Friday. Staff recommended approving Mr. Farmer's request.

Nick Rush moved to approve the requested variance. Rob Fisher seconded. The motion carried unanimously.

Review and Action: Informal Fact-Finding Conferences:

Alpha Auto & Cycle, LLC and Robert J. Fluellen #51321. On April 3, 2023, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1533, 46.2-1537, 46.2-1542 (B) and 46.2-1575 (2). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,400.00 (\$1,000 for 46.2-1533, \$500 for 46.2-1537 \$250 x2 and \$900 for 46.2-1542 (B) \$50 x18), satisfactory inspection of the dealership within 30 days and revocation if that inspection is unsatisfactory.

Nick Rush moved to accept the hearing officer's recommendation of assessing a civil penalty of \$2,400, satisfactory inspection of the dealership within 30 days and revocation of all licenses issued by the Board if that inspection is unsatisfactory. Rob Fisher seconded. The motion carried unanimously.

ESR Auto and Kevin Johnson #56331. On May 9, 2023, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1533 and 46.2-1575 (2). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$750 for violations of VA Code Section 46.2-1533 and a successful inspection within 30 days.

Nick Rush moved to accept the hearing officer's recommendation of assessing a civil penalty of \$750 and a satisfactory inspection of the dealership within 30 days. Rob Fisher seconded. The motion carried unanimously.

Valley View Motors, LLC and Karen Munns #28768. On May 19, 2023, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1510 (4), 46.2-1533 and 46.2-1575 (2). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000.00 (\$250.00 for 46.2-1510 (4), \$250 for 46.2-1533 (failure to post hours of operation, \$250.00 for 46.2-1533 (failure to maintain hours of operation and \$250 for 46.2-1575 (2)) and because Ms. Munns' license is currently expired, a recommendation against Ms. Munns to renew unless she has had a satisfactory inspection.

NOTE: During the Committee meeting, Board staff was notified that Ms. Munns had car issues and would arrive later. She wasn't present during the committee meeting. She would have opportunity to speak to her case during the Board meeting.

Rob Fisher moved to accept the hearing officer's recommendation of assessing a civil penalty of \$1,000. Don Sullivan seconded. The motion carried unanimously.

2K Automotive, LLC and Anthony Bivins #53936. On May 16, 2023, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1533, 46.2-1542 (B) and 46.2-1575 (2). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,500.00 (\$750 for violations of 46.2-1533 and \$750 for violations of 46.2-1575 (2)) and a satisfactory inspection to be conducted within the next 90 days.

Chris Maher moved to accept the hearing officer's recommendation of assessing a civil penalty of \$1,500 and satisfactory inspection of the dealership to be conducted within the next 90 days. Dan Banister seconded. The motion passed unanimously.

Review and Action: Formal Hearing:

Maraton Group, LLC and Martin U. Onyirimba #49343. Historical Overview leading up to the Formal Hearing: On December 20, 2022, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529, 46.2-1539, 46.2-1542 (B) and 46.2-1575 (6). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$27,800.00 and a satisfactory inspection of the by June 13, 2023 and to successfully complete the 2-day Dealer-Operator course. At the March 13, 2023 Board meeting, the Board adopted a resolution to assess a civil penalty of \$27,800, a satisfactory inspection on or before June 13, 2023 and to successfully complete the 2-day Dealer-Operator course on or before September 13, 2023. The dealer had until April 17, 2023 to accept or appeal the Decision. On April 17, 2023, Martin U. Onyirimba appealed the Decision and requested a Formal Hearing. On May 23, 2023, a formal hearing was conducted to address the alleged violations of VA Code Sections 46.2-1529, 46.2-1539, 46.2-1542 (B) and 46.2-1575 (6). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$28,300.00, satisfactory inspection and to successfully complete the 2-day Dealer Operator course.

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

Chris Maher moved to accept the hearing officer's recommendation of assessing a civil penalty of \$28,300, a satisfactory inspection of the dealership and to successfully complete the 2-day Dealer-Operator course. Nick Rush seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR – No new business from the floor.

NEXT MEETING – September 11, 2023

The Dealer Practices committee meeting adjourned at 9:47 a.m.