

Meeting Summary
Motor Vehicle Dealer Board
Monday, July 10, 2023

Board Chair Gerald Lackey called the Dealer Board meeting to order at 10:28 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 members being present: Jeff Ballard, Dan Banister, Tom Bates, Trevor Coley, Rob Fisher, David Lynn, Chris Maher, Geoff Malloy, R.J. Robinson, Nick Rush, Maurice Slaughter and Andrew Wiley. Those absent included Michael Bor, Gardner Britt, Dennis Ellmer and Ron Kody. Executive Director William Childress, Lisa Mack-Nelson, Ann Majors and Micah Bailey represented the Dealer Board. Christian Parrish represented the Attorney General's Office. Alice Weedon was the recording secretary.

The March 13, 2023 meeting summary was approved.

PUBLIC COMMENT – No public comment.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee

Committee Vice-Chair Andrew Wiley summarized discussions held and actions taken during the Committee Meeting.

Request for Variance in Hours:

Jerry's Auto Service and Sales and Jerry Farmer #833. Nick Rush moved to accept Mr. Farmer's request for a Variance in Hours.

Chris Maher seconded. The motion carried unanimously.

Review and Action: Informal Fact-Finding Conferences:

Alpha Auto & Cycle, LLC and Robert J. Fluellen #51321. Committee Vice-Chair Wiley moved the following: 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 Alpha Auto & Cycle and Robert Fluellen for alleged violations of Va. Code sections §46.2-1533, 46.2-1537, 46.2-1542 B and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Alpha Auto & Cycle and Robert Fluellen: Assessed a civil penalty of \$2,400.00. The Board mandates that Robert Fluellen hereby be assessed a civil penalty of \$2,400.00.

Rob Fisher seconded. The motion carried unanimously.

ESR Auto and Kevin Johnson #56331. Committee Vice-Chair Wiley moved the following: 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 ESR Auto and Kevin Johnson for alleged violations of Va. Code sections §46.2-1533 and 46.2-1575(2). Based on due consideration, the Board believes that the following actions should be taken against ESR Auto and Kevin Johnson: Assessed a civil penalty of \$750.00; and ESR Auto shall be inspected by a Motor Vehicle Dealer Board field representative within 30 days and

that inspection shall be satisfactory. The Board mandates that Kevin Johnson hereby be assessed a civil penalty of \$750.00; and the ESR Auto dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before September 10, 2023. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the ESR Auto dealership and Kevin Johnson successfully complies with the Board's mandates.

Rob Fisher seconded. The motion carried unanimously.

Valley View Motors, LLC and Karen Munns #28768. Committee Vice-Chair Wiley moved the following: 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 Valley View Motors and Karen Munns for alleged violations of Va. Code sections §46.2-1510, 46.2-1533 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Valley View Motors and Karen Munns: Assessed a civil penalty of \$1,000.00; and waive the \$1,000.00 civil penalty if the Valley View Motors dealership receives a satisfactory inspection when inspected by a Motor Vehicle Dealer Board field representative on or before October 10, 2023. The Board mandates that Karen Munns hereby be assessed a civil penalty of \$1,000.00; and that \$1,000.00 civil penalty will be waived if the Valley View Motors dealership receives a satisfactory inspection from a Motor Vehicle Dealer Board field representative on or before October 10, 2023. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the Valley View Motors dealership and Karen Munns successfully complies with the Board's mandates.

Ms. Munns was present and spoke on her own behalf.

Nick Rush seconded. All in favor: 13 (Ballard, Banister, Bates, Coley, Fisher, Lynn, Maher, Malloy, Robinson, Rush Sullivan, Wiley and Lackey). Opposed: 1 (Slaughter). The motion carried.

2K Automotive, LLC and Anthony Bivins #53936. Committee Vice-Chair Wiley moved the following: 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 2K Automotive and Anthony Bivins for alleged violations of Va. Code sections §46.2-1533, 46.2-1542 B and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against 2K Automotive and Anthony Bivins: Assessed a civil penalty of \$1,500.00; and 2K Automotive Motors shall be inspected by a Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory. The Board mandates that Anthony Bivins hereby be assessed a civil penalty of \$1,500.00 and the 2K Automotive dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before October 10, 2023. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the 2K Automotive dealership and Anthony Bivins successfully complies with the Board's mandates.

Tom Bates seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

Maraton Group, LLC and Martin U. Onyirimba #49343. Committee Vice-Chair Wiley moved the following: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the Motor Vehicle Dealer Board assessed a \$27,800.00 civil penalty against Maraton Group and Martin Onyirimba. Martin Onyirimba appealed the Board's decision and requested a formal hearing that was conducted on May 23, 2023; 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 Maraton Group and Martin Onyirimba for alleged violations of Va. Code sections §46.2-1529; 46.2-1539; 46.2-1542 B and 46.2-1575 (6). Based on due consideration, the Board believes that the following actions should be taken against Maraton Group and Martin Onyirimba: Assessed a civil penalty of \$28,300; and Maraton Group shall be inspected by Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory; and Martin Onyirimba shall successfully complete the 2-day dealer-operator course. The Board mandates that Martin Onyirimba hereby be assessed a civil penalty of \$28,300.00; and the Maraton Group dealership shall satisfactory pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before October 10, 2023; and Martin Onyirimba shall successfully complete the 2-day dealer-operator course on or before January 10, 2024. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the Maraton Group dealership and Martin Onyirimba successfully complies with the Board's mandates.

Chris Maher seconded. The motion carried unanimously.

Licensing Committee

Committee Chair Maurice Slaughter reported a quorum in place; however, no discussions or actions were on the agenda for the committee to consider.

Advertising Committee

Committee Chair Andrew Wiley reported quorum in place; however, no discussions or actions were on the agenda for the committee to consider.

Transaction Recovery Fund Committee

Committee Chair Chris Maher summarized discussions held and actions taken during the Committee Meeting.

Review and Action: Informal Fact-Finding Conferences:

Joseph and Lisa Marie Imperato vs. Triple Z Motors, Inc. #41456. Committee Chair Chris Maher moved the following: Pursuant to Virginia Code § 46.2-1527.1 et seq. which is known as the Motor Vehicle Transaction Recovery Fund (Fund), the Board has reviewed and considered claims for payment from the Fund, and the recommendations of the Hearing Officer on the claims. Based on due consideration and the recommendation of the Hearing Officer, the Board approves and acknowledges that Joseph and Lisa Marie Imperato's claim should be payable from the fund. The Board hereby approves and reaffirms the payment in the amount of \$25,000.00 to Joseph and Lisa Marie Imperato from the fund.

Don Sullivan seconded. The motion carried unanimously.

OLD BUSINESS:

UPDATE: Dealer Portal Update (Timeline). William Childress updated the Board members that System Automation can only do one dealer plate at a time. Therefore, they are looking into programing the system that will modify this program. Gadget is a program that the Board has realized that it not needed. This program costs \$35,000, which is included in the original contract. The modification will cost \$95,000 in addition to what was originally agreed upon. He is requesting the members to approve the additional cost. One Board member suggested that the Board request a refund \$35,000 on the Gadget program and apply it against the \$95,000. General discussion followed on the responsibilities of System Automation and what further steps the Board should take. Christian Parrish indicated that this could lead to some future legal issues.

Chris Maher moved to authorize William Childress, Gerald Lackey and Christian Parrish to handle this issue until completion. Tom Bates seconded. The motion carried unanimously.

Association Updates – VADA and VIADA

VADA: Anne Gambardella indicated there was nothing to report. She thanked William for observing the moment of silence for Mike Charapp.

VIADA: Alvin Melendez indicated there was nothing to report.

OLD BUSINESS FROM THE FLOOR – There was no old business from the floor.

NEW BUSINESS:

Deficit Provision Acknowledgement Form – William Childress informed the Board that he is required to brief the Board annually regarding his responsibility to ensure that Board and staff did not spend beyond its approved appropriations. Upon briefing the Board members, William is required to submit a signed affidavit to DPB regarding the briefing to Board members.

Review/Update Board Spending Policy – Ann Majors indicated the Board is reviewing policies and over the next few months, staff will be bringing policies to the Board for authorization. The first policy reviewed is the Procurement Policy, more specifically, the spending authorization of the Executive Director as delegated by the Board. Currently the Executive Director’s authority is set at \$1,000.00 (since 1995). This topic generated much discussions, ranging between \$25,000.00 to \$100,000.00.

Chris Maher moved to increase spending authorization of the Executive Director from \$1,000 to \$50,000. Tom Bates seconded. The motion carried unanimously.

NAMVBC Fall Workshop, Madison, WI – William Childress informed the Board that the National Association of Motor Vehicle Boards and Commissions (NAMVBC) will be having its

annual Fall Workshop in Madison, Wisconsin. William is currently serving as the President of NAMVBC this year and is seeking the Board's approval to attend this workshop since the event is being held outside of Virginia.

Chris Maher moved to allow William to go to Madison, Wisconsin for the NAMVBC Fall Workshop. Tom Bates seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR – There was no new business from the floor.

The next meeting will be on September 11, 2023

EXECUTIVE DIRECTOR'S REPORT – William Childress introduced Joseph Tillar to the Board. Joseph is taking John Saul's position as MVDB's IT Manager. William also spoke of some upcoming personnel changes. He informed the Board that the Operation Manager, Rick Sipe, will be retiring in the fall and that another employee, who has 50 years of service, could retire as early as December.

There being no further business to come before the Motor Vehicle Dealer Board, Chair Gerald Lackey adjourned the Board meeting at 12:25 p.m.