

Meeting Summary
Motor Vehicle Dealer Board
Monday, September 11, 2023

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, Thomas Bates, Gardner Britt, Trevor Coley, Ron Kody, Chris Maher, Geoff Malloy, R.J. Robinson, Don Sullivan and Andrew Wiley. Those absent included Michael Bor, Dennis Ellmer, Rob Fisher, David Lynn, Nick Rush 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. Alice Weedon was the recording secretary.

Board Chair Gerald Lackey called the Dealer Board meeting to order at 10:21 a.m. and promptly asked all in attendance to observe a moment of silence for those who lost their lives during terroristic attacks against the United States on September 11, 2001.

The July 10, 2023 meeting summary was approved.

PUBLIC COMMENT – No public comment.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee

Committee Chair Ron Kody reported that a quorum was present and summarized discussions held and actions taken during the Committee Meeting.

Review and Action: Informal Fact-Finding Conferences:

Bavarian Auto Sales and Mohammad Stwodah #26184. Committee Chair Ron Kody 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 Bavarian Auto Sales and Mohammad Stwodah 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 Bavarian Auto Sales and Mohammad Stwodah: 1. Assessed a civil penalty of \$750.00; and 2. Bavarian Auto Sales shall be inspected by a Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory. The Board mandates that Mohammad Stwodah hereby be assessed a civil penalty of \$750.00, and the Bavarian Auto Sales dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before December 11, 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 Bavarian Auto Sales dealership and Mohammad Stwodah successfully complies with the Board's mandates.

Chris Maher seconded. The motion carried unanimously.

Carisma Motors, LLC and Husan Abdelaziz #52939. Committee Chair Ron Kody 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 Carisma Motors and Husan Abdelaziz alleged violations of Va. Code sections §46.2-1529, 46.2-1533 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Carisma Motors and Husan Abdelaziz: Assessed a civil penalty of \$1,000.00; and Carisma Motors shall be inspected by a Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory; and Husan Abdelaziz shall successfully complete the 2-day dealer-operator course by March 11, 2024. The Board mandates that Husan Abdelaziz hereby be assessed a civil penalty of \$1,000.00 and issued a written warning regarding 46.2-1575 (2); and the Carisma Motors dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before December 11, 2023, and Husan Abdelaziz shall successfully complete the dealer-operator course on or before March 11, 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 the Carisma Motors dealership and Husan Abdelaziz successfully complies with the Board's mandates.

Jeff Ballard seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

ESR Auto and Kevin Johnson #56331. Committee Chair Ron Kody 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 \$750.00 civil penalty against Kevin Johnson and required a satisfactory inspection of the ESR Auto dealership. Kevin Johnson appealed the Board's decision and requested a formal hearing that was conducted on August 10, 2023. The Board has reviewed and considered the facts and evidence and the report of a Formal hearing 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 have a satisfactory inspection conducted by a Motor Vehicle Dealer Board field representative. The Board mandates that Kevin Johnson hereby be assessed a civil penalty of \$750.00; and ESR Auto shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before November 11, 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.

Mr. Johnson spoke on his behalf.

Thomas Bates seconded. The motion carried unanimously.

Licensing Committee

Board Vice-Chair Ron Kody informed the Board that the Licensing Committee did not have a quorum present. Therefore, the committee was unable to conduct business. After consulting with Christian Parrish (AG representative), the Board Chair decided the Board would review the Committee's Informal Fact-Finding Conferences;

Matthew Marscheider, Phoenix Auto Sales, LLC #53523. Chris Maher 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 Matthew Marscheider and Phoenix Auto Sales for alleged violations of Va. Code sections §46.2-1575 (1) and (13). Based on due consideration, the Board believes that the following actions should be taken against Matthew Marscheider and Phoenix Auto Sales: Assessed a civil penalty of \$250.00. The Board mandates that Matthew Marscheider hereby be assessed a civil penalty of \$250.00 which is due on or before October 16, 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 Phoenix Auto Sales dealership and Matthew Marscheider successfully complies with the Board's mandates.

Trevor Coley seconded. The motion carried unanimously.

Kasey Strosnider, BK Motors, LLC #54390. Ron Kody 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 Kasey Strosnider (BK Motors) for alleged violations of Va. Code sections §46.2-1575(8), (9) and (13). Based on due consideration, the Board believes that the following actions should be taken against Kasey Strosnider: Revoke all licenses and qualifications issued by the Board to Kasey Strosnider.

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

Gardner Britt moved to accept the hearing officer's recommendation of revocation of all licenses. Ron Kody seconded. All in favor: 7 (Ballard, Banister, Bates, Britt, Kody, Malloy, Wiley). Opposed: 5 (Coley, Maher, Robinson, Sullivan, Lackey). The motion carried.

Richard A. Roof, Jr., Sales Applicant. Ron Kody 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 Richard A. Roof, Jr., salesperson applicant for violations of Va. Code section §46.2-1575 (13). Based on due consideration, the Board believes that the following action should be taken against Richard Roof, Jr.: 1. Allowed to apply for a salespersons license. Based on due consideration, the Board believes that Mr. Roof's license application should be approved and that he and his employer and all future employers shall complete an affidavit and submit it to the Board before a license will be issued or transferred. The Board hereby approves Richard A. Roof's application for a salesperson license and mandates that he and all future employers complete and submit an affidavit to the Board before a license will be issued or transferred.

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

Andrew Wiley moved to approve a license for Mr. Roof. Chris Maher seconded. The motion carried unanimously.

Advertising Committee

Committee Chair Andrew Wiley reported that a quorum was present; however, no discussions or actions were on the agenda for the committee to consider.

Transaction Recovery Fund Committee

Committee Chair Chris Maher reported that a quorum was present and summarized discussions held and actions taken during the committee meeting.

Review and Action: Informal Fact-Finding Conferences:

Kenneth Jackson vs. DMV Auto Finance, LLC and Fayzullo Kuvvatov #50064.

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 committee voted to table this matter to allow Mr. Jackson the opportunity to revisit court and seek a finding of fraud.

Jeff Ballard seconded. All in favor: 5 (Ballard, Banister, Bates, Kody, Malloy). Opposed: 7 (Gritt, Coley, Maher, Robinson, Sullivan, Wiley and Lackey). The motion failed.

Chris Maher presented a substitute motion to pay the claim of \$4,374.96 to Kenneth Jackson. Trevor Coley seconded. All in favor: 7 (Britt, Coley, Maher, Robinson, Sullivan, Wiley and Lackey). Opposed: 5 (Ballard, Banister, Bates, Kody, Malloy). The motion carried.

OLD BUSINESS:

Advantage Auto Sales and Mohammad Elahi-Moshassel #39039. William Childress indicated that Mr. Moshassel requested that his Board Mandated 2-day Dealer-Operator course be waived due to his chronic medical condition. Since his Board appearance in March, Mr. Moshassel had surgery to remove his gall bladder and half of his liver and is physically unable to complete the class by the September 13, 2023 mandate. Mr. Moshassel did pay the civil penalty and his dealership had a satisfactory inspection as mandated.

Andrew Wiley moved to extend Mr. Moshassel's deadline indefinitely, directing the Executive Director to work with Mr. Elahi-Moshassel and course administrators to resolve this issue. Chris Maher seconded. The motion carried unanimously.

UPDATE: Dealer Portal Update (Timeline). William Childress updated the Board regarding the dealer licensing system. William informed the Board that the DMV would remain on their current mainframe system for a few more years and that the licensing system had to be able to communicate and interact with the DMV's mainframe. Systems Automation staff, the DMV IT (vehicles) staff and Board staff are working together to ensure all interfaces and data exchanges are in place. This effort is tedious and will take some time.

Transaction Recovery Fund. William Childress recommended to the Board that the Transaction Recovery Fund maximum (\$25,000.00) should not increase. William informed the Board that the average payout for a claim is approximately \$16,000. William also recommended that loss or damages resulting from a breach of an extended service contract as defined by §59.1-435 should be added to §46.2-1527.3. Mr. Bates informed the Board that the average price of a new car is about \$45,000 and that was his rationale in exploring

whether the maximum for the recovery fund should be increased. Anne Gambardella raised the issue of attorney fees and increasing the maximum for the recovery fund may be more attractive to attorneys handling recovery fund cases since there is no cap on how much an attorney may collect on the approved amount from the fund.

Chairman Lackey directed the Transaction Recovery Fund Committee to review this matter and report their recommendations to the Board.

Association Updates – VADA and VIADA

VADA: Anne Gambardella had nothing to report; however, she committed to doing some research regarding attorney fees for the Transaction Recovery Fund.

VIADA: Alvin Melendez had nothing to report. He expressed great appreciation for the relationship VIADA has with the Motor Vehicle Dealer Board.

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

NEW BUSINESS:

NEW BUSINESS FROM THE FLOOR – Thomas Bates questioned why Franchise Law is never discussed. Mr. Bates had questions on a franchise issue involving Tesla. He is very concerned that they are not very consumer friendly. He would like to look at how a company like Tesla can become a dealer. Chairman Lackey responded that this is a DMV issue, and a study is being conducted, as directed by the 2023 General Assembly.

The next meeting will be on November 13, 2023.

EXECUTIVE DIRECTOR'S REPORT – No report.

There being no further business to come before the Motor Vehicle Dealer Board, Chair Gerald Lackey adjourned the Board meeting at 11:53 a.m.