

Meeting Summary
Motor Vehicle Dealer Board
Monday, January 8, 2024

Board Chair Gerald Lackey called the Dealer Board meeting to order at 10:03 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, Thomas Bates, Rob Fisher, Trevor Coley, Ron Kody, David Lynn, Chris Maher, R.J. Robinson, Nick Rush, Don Sullivan and Andrew Wiley. Those absent included Gardner Britt, Michael Bor, Dennis Ellmer, Geoff Malloy 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.

The November 13, 2023 meeting summary was approved.

PUBLIC COMMENT – No public comment.

STATUTORY COMMITTEE REPORTS

Old Business:

Dealer Practices Committee

Committee Chair Ron Kody summarized discussions held and actions taken during the Committee Meeting.

Review and Action: Informal Fact-Finding Conferences:

Phoenix Automotive and Conrad Holslag #28628. Committee Chair Ron Kody 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 Phoenix Automotive and Conrad Holslag for alleged violations of Va. Code sections §46.2-1529, 46.2-15337 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Phoenix Automotive and Conrad Holslag: Assessed a civil penalty of \$2,500.00, Phoenix Automotive shall be inspected by a Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory and Richard Kim shall successfully complete the 2-day dealer-operator course. The Board mandates that Conrad Holslag hereby be assessed a civil penalty of \$2,500.00 and the Phoenix Automotive dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before April 8, 2024 and Richard Kim shall successfully complete the two-day dealer-operator course on or before July 8, 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 Phoenix Automotive dealership and Conrad Holslag successfully complies with the Board's mandates.

Rob Fisher seconded. 1 opposed (Maher), 1 Abstained (Kody) and 12 in favor. The motion carried.

North Irving Motors and Elfatih E. Ali #8778. Committee Chair Ron Kody 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 North Irving Motors and Elfatih Ali 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 North Irving Motors and Elfatih Ali: Assessed a civil penalty of \$750.00 and North Irving Motors shall be inspected by a Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory. The Board mandates that Elfatih Ali hereby be assessed a civil penalty of \$750.00 and the North Irving Motors dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before April 8, 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 North Irving Motors dealership and Elfatih Ali successfully complies with the Board's mandates.

Rob Fisher seconded. The motion carried unanimously.

Elite Auto Nation of Petersburg, LLC and Syed Mudashar Shah #56038. Committee Chair Ron Kody 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 Elite Auto Nation and Syed Shah for alleged violations of Va. Code sections §46.2-1529, 46.2-1539, 46.2-1542 (B), 46.2-1548, 46.2-1550 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Elite Auto Nation and Syed Shah: Assessed a civil penalty of \$11,000.00, Elite Auto Nation shall be inspected by a Motor Vehicle Dealer Board field representative within 60 days and that inspection shall be satisfactory and Syed Shah shall successfully complete the 2-day dealer-operator course by July 8, 2024. The Board mandates that Syed Shah hereby be assessed a civil penalty of \$11,000.00 and the Elite Auto Nation dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before March 8, 2024 and Syed Shah shall successfully complete the two-day dealer-operator course on or before July 8, 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 Elite Auto Nation dealership and Syed Shah successfully complies with the Board's mandates.

Rob Fisher seconded. The motion carried unanimously.

Licensing Committee

Committee Vice-Chair Rob Fisher summarized discussions held and actions taken during the Committee Meeting.

Review and Action: Informal Fact-Finding Conferences:

James D. Hagy, Sales Applicant. Committee Vice Chair Rob Fisher 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 James Hagy for alleged violations of Va. Code section §46.2-1575 (13). Based on due consideration, the Board believes the following actions shall be taken against James Hagy: Allowed to apply for a salesperson license The Board mandates that James Hagy is hereby allowed to apply for a salesperson license.

Andrew Wiley seconded. The motion carried unanimously.

Advertising Committee

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

FTC CARS Rule – Andrew Wiley indicated that beginning in July 2024, the FTC CARS Rule will establish new regulations regarding advertising, pricing, disclosures, and requirements for new and used car dealers and potential substantial penalties. Dealers should be prepared for these new rules and how they may impact their operations.

Transaction Recovery Fund Committee

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

TABLED ISSUE: Tamron James vs. Delta Motors #49701 and Austin’s Auto Service.

Committee Chair Chris Maher made the following motion: Pursuant to Section § 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 for payment from the Fund, and the recommendations of the Hearing Officer on the claims. Based on due consideration and recommendation of the Hearing Officer, the Board approves and acknowledges that Tamron James’ claim should be payable from the fund. The Board hereby approves and reaffirms the payment in the amount not to exceed \$13,716.98 from the Fund.

Trevor Coley seconded. The motion carried unanimously.

Review and Action: Informal Fact-Finding Conferences:

Katherine Carnes vs. Elite Auto Sales, LLC #28768. Committee Chair Chris Maher made the following motion: Pursuant to Section § 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 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 Katherine Carnes claim should be payable from the fund. The Board hereby approves and reaffirms the payment in the amount of \$16,776.25 to Katherine Carnes from the fund.

Rob Fisher seconded. The motion carried unanimously.

OLD BUSINESS:

Karen Munns, Valley View Motors #28768 – At the request of Ms. Munns, she appeared before the Board at the January 8, 2024 meetings. She wanted an opportunity to address the Board regarding her situation. Prior to the Board meeting, her dealership was suspended for failing to achieve a satisfactory inspection on or before October 10, 2023 and for not paying the \$1,000.00 civil penalty, which became effective once her dealership failed to achieve the mandated satisfactory inspection. After addressing the Board and answering questions, the Board voted to allow Ms. Munns’ until February 16, 2024 to achieve a satisfactory inspection; failure to do so will result in a \$1,000.00 civil penalty.

Dealer Portal Update - William Childress updated the Board about the licensing system. Systems Automation (vendor) and DMV IT (Vehicle) continue to address DMV's mainframe and the licensing system's ability to communicate with the DMV mainframe. William reminded the Board that the requirement for the licensing system to connect/communicate with DMV's mainframe was not a requirement because DMV was supposed to be off the mainframe. William also informed the Board members that the Board staff had started functional testing of the system.

Salesperson Testing in Different Languages – This discussion carried over from the November 2023 meeting. Anne Gambardella (VADA) and Alvin Melendez (VIADA) spoke to this matter on behalf of their respective memberships. The VIADA voiced concern that the tester needed to be versed or able to communicate in English as well as their native language. Several Board members expressed their opinions opposing offering the salesperson exam in another language. However, a couple of Board members, to include the Board Chair, spoke in favor of offering the test in another language.

William Childress informed the Board that the cost to convert the current salesperson test to Spanish is approximately \$1,700.00 or \$13.20 per question.

Chairman Lackey moved to table this issue indefinitely. Jeff Ballard seconded. The motion carried unanimously.

Association Updates – VADA and VIADA

VADA: Anne Gambardella informed the Board that the legislation that her association sought should not have any impact or affect the Board's operations. Otherwise, there was nothing to report.

VIADA: Nothing to report, but Alvin Melendez wanted to further comment on having the Salesperson testing in different languages. He indicted that the problem would be compliance. Alvin feels that offering the salesperson test in another language is unnecessary and eventually, the individuals will have to know and communicate in English.

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

NEW BUSINESS:

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

The next meeting will be on March 11, 2024

EXECUTIVE DIRECTOR'S REPORT – William Childress informed the Board that the first Educational Informational seminar, a joint venture with DMV's Law Enforcement Division, occurred on December 7, 2023. The online seminar, dealing with financial fraud, was attended by approximately 90 participants.

Richard "Rick" Sipe will officially retire as of February 1, 2024. William further explained to the Board that Rick as been out on retirement leave since November 2023 and that his job duties were divided up between two current staff members with compensation. With Rick's official retirement date approaching, William informed the Board that he planned to fill the vacancy and the advertisement for the position will be out by January/February. An update will be provided during the March Board meeting.

There being no further business to come before the Motor Vehicle Dealer Board, Chair Gerald Lackey adjourned the Board meeting at 11:24 a.m.