

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.

Meeting Summary
Dealer Licensing Committee
Monday, July 10, 2023

Committee Chair Maurice Slaughter called the Dealer Licensing Committee meeting to order at 9:47 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: Jeff Ballard, Tom Bates, Trevor Coley, Rob Fisher, David Lynn and R.J. Robinson. Those absent included Gardner Britt, Dennis Ellmer and Ron Kody. Other Board members present: Gerald Lackey, Dan Banister, Chris Maher, Geoff Malloy, Nick Rush, Don Sullivan and Andrew Wiley. 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 – No public comment.

OLD BUSINESS – No old business.

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

NEW BUSINESS – No new business.

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

NEXT MEETING – September 11, 2023

The Licensing Committee meeting adjourned at 9:49 a.m.

Meeting Summary
Advertising Committee
Monday, July 10, 2023

Committee Chair Andrew Wiley called the Advertising Committee meeting to order at 9:49 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: Jeff Ballard, Dan Banister, Tom Bates, Trevor Coley, David Lynn, Geoff Malloy, R.J. Robinson and Nick Rush. Those absent included Michael Bor and Dennis Ellmer. Other Board members present: Gerald Lackey, Rob Fisher, Chris Maher, Maurice Slaughter and Don Sullivan. 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 – No public comment.

OLD BUSINESS – No old business.

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

NEW BUSINESS – No new business.

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

NEXT MEETING – September 11, 2023

The Advertising committee meeting adjourned at 9:50 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, July 10, 2023

Committee Chair Chris Maher called the Transaction Recovery Fund Committee meeting to order at 9:50 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: Jeff Ballard, Dan Banister, Rob Fisher, Geoff Malloy, Nick Rush, Maurice Slaughter, Don Sullivan and Andrew Wiley. Those absent include Dennis Ellmer and Ron Kody. Other Board members present: Gerald Lackey, Thomas Bates, Trevor Coley, David Lynn and R. J. Robinson. 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

OLD BUSINESS – No old business.

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

NEW BUSINESS – No new business.

NEW BUSINESS FROM THE FLOOR

Review and Action: Informal Fact-Finding Conferences:

Joseph and Lisa Marie Imperato vs Triple Z Motors, Inc. and Salim Zamani #41456. On June 26, 2023, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1527.3 against Triple Z Motors, Inc. and Salim Zamani. Based on the information provided at the conference, the hearing officer recommended approval of payment to Joseph and Lisa Marie Imperato in the amount of \$25,000.00 from the Recovery Fund.

Andrew Wiley moved to accept the hearing officer's recommendation to approve payment in the amount of \$25,000.00 to Joseph and Lisa Marie Imperato. Rob Fisher seconded. The motion carried unanimously.

NEXT MEETING – September 11, 2023

The Transaction Recovery Fund committee meeting adjourned at 10:08 a.m.

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.