

**NOTE:** Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ FINAL ~

Meeting Summary  
**Motor Vehicle Dealer Board**  
Monday, July 14, 2003

Chairman D. B. Smit called the Dealer Board meeting to order at 11:21 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 members present. Present were members Vice-Chairman Steve Farmer, Vice-Chairman Larry Matthews, Tom Barton, Carlton Courter, Bruce Farrell, Chris Schroeder, Rick Hunt, Pete Iaricci, Al Lacy, Joel Lyles, Mike Martin, Karen Radley, Ted Robertson, Vince Sheehy and Leo Trenor (Absent: Clyde King, Bobby Joe Dotson and Max Pearson). Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The May 12, 2003 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**STATUTORY COMMITTEE REPORTS:**

**Dealer Practices Committee:**

Chairman Steve Farmer summarized discussions held and actions that were taken during the Committee Meeting.

- **Jerry Farmer and Jerry's Automotive Services.** The following resolution was made by Steve Farmer (**NOTE:** Steve and Jerry are not related in any way) in the form of a motion: Be it resolved that in accordance with the authority given to the Board to modify the minimum hours requirements as set-out in § 46.2-1533, that Jerry Farmer, Inc T/A Jerry's Automotive Sales and Service (dealer # 833) be granted a variance from the requirement of being opened for business at least 10 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday provided that the dealership be open a minimum of 5 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday. This variance shall be in effect through September 30, 2004.

Leo Trenor seconded. The motion passed unanimously.

**Licensing Committee:**

Chairman Bruce Farrell summarized discussions held and actions that were taken during the Committee Meeting.

**Review and Action: Informal Fact-Finding Conferences:**

- **James W. Whitten, Sr. and Whitten Lincoln Mercury.** Chairman Bruce Farrell summarized for the Board the discussion held in the Committee meeting regarding James W. Whitten, Sr. and Whitten Lincoln Mercury. Based on that discussion and the recommendation in the case, Bruce Farrell made a motion to accept the hearing officer's recommendation. Steve Farmer seconded. Discussion followed.

Larry Matthews made the following substitute 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 Mr. James W. Whitten, Sr. t/a Whitten Lincoln Mercury, for alleged violations of Va. Code §46.2-1537, compensating an individual, who is not licensed by the dealership, in the connection of the sale of a motor vehicle. Based on due consideration, and the report of a hearing officer the Board believes a civil penalty should be levied against Mr. James W. Whitten, Sr. t/a Whitten Lincoln Mercury. The Board hereby assess a civil penalty in the amount of \$3,400 on Mr. James W. Whitten, Sr. t/a Whitten Lincoln Mercury violations of Va. Code §46.2-1537.

Mike Martin seconded. All in favor: 10 (Barton, Courter, Farmer, Hunt, Lacy, Martin, Matthews, Radley, Robertson, Schroeder). Opposed: 5 (Farrell, Iaricci, Lyles, Sheehy, Trenor). Abstained: 1 (Smit, because Mr. Smit was not at the Committee meeting and was unfamiliar with the issue). The motion passed.

### **Advertising Committee:**

Chairman Vince Sheehy summarized discussions that were held during the Committee Meeting.

### **Transaction Recovery Fund Committee:**

Chairman Joel Lyles summarized discussions held and actions that were taken during the Committee Meeting.

- Chairman Lyles summarized for the Board the discussion held in the Committee meeting regarding Lester E. Williams and Selective Auto, Jennifer M. Melton and Exchange Auto Repair & Sales and reported that the Committee voted to accept the hearing officer's recommendation. Discussion followed and based on that discussion, Joel Lyles 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 submitted for payment from the Fund, and based on due consideration and recommendation of the agency representative, the Board believes the following claims should be approved. The Board hereby reaffirms the approval of the following claims and amount:

<b>CLAIMANT:</b>	<b>JUDGMENT AMOUNT</b>	<b>AMOUNT OF CLAIM APPROVED FOR PAYMENT:</b>
Lester E. Williams	\$42,285.04	\$9,065.04
Jennifer M. Melton	\$7,149.41	\$7,149.41

Shanique L. Eason and Diamond Kar Kare has been tabled until the September meeting to determine if the two cars she purchased will be considered two separate transactions.

- Finance Report.** Before Larry gave his budget report, Bruce Gould announced that Larry Harrison was retiring as of July 18, 2003. He indicated that Theresa Hollins will be taking on the Board's Budget responsibilities. Larry Harrison gave the FY2004 Budget Report.

Motion was made by Mike Martin to accept the budget for fiscal year. Larry Matthews seconded. The motion passed unanimously.

### **NEW BUSINESS**

- Executive Director's Report.** Bruce Gould reported that four boards member's terms were up as of June 30 and because they have already served two full terms, they are not eligible for reappointment. However, they will continue to serve until replacements are appointed, which should be by the September meeting. He wished Joel Lyles, Tom Barton, Karen Radley and Larry Matthews best wishes and extended an invitation to the next meeting so that they can be presented with a certificate of achievement for all their hard work they've accomplished as charter members of the Motor Vehicle

Dealer Board. Also, Bruce spoke on VITA (Virginia Information Technology Agency). He indicated that the first meeting will be July 15, 2003. They will be re-evaluating the process of renewing on-line and may join DMV so that dealers will have one avenue with multiple options when renewing on-line. By the end of July, a link will be added to the Board's website allowing consumers and others to look up a dealer by either the dealer name and/or dealer number. Finally, when the new Board Members are appointed, the committees will also change.

Tom Barton took this opportunity to say that he may not be able to attend the September meeting, so he thanked all the members and indicated that he has enjoyed working with everyone.

The next meeting will be scheduled for September 8, 2003.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 12:03 p.m.

# Meeting Summary

## Dealer Practices Committee

### Monday, July 14, 2003

Chairman Steve Farmer called the Dealer Practices Committee meeting to order at 8:34 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were members: Bruce Farrell, Mike Martin, Pete Iaricci, Larry Matthews, and Vince Sheehy. (Absent: Clyde King, Chris Schroeder, Bobby Joe Dotson) Other members present: Ted Robertson, Leo Trenor, Max Pearson, Rick Hunt, Joel Lyles, Karen Radley, Tom Barton, Al Lacy. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon was present from DMV. Rick Walton was present from the Attorney General's Office.

The May 12, 2003 meeting summary was approved.

#### **PUBLIC COMMENT**

There was no public comment.

#### **OLD BUSINESS**

- **Update May Actions:** Peggy Bailey updated the Committee on the following issues that were discussed at the May meeting: (1) After an informal fact-finding conference was conducted the Board reviewed and considered the facts and evidence and passed a resolution to assess a civil penalty of \$750 against Mr. Bernard H. Voss and Auto Exports for violations of Va. Code § 46.2-1515. Mr. Voss was notified of the Board's decision in a letter dated May 15, 2003. The Board received the civil penalty on June 12, 2003. (2) Mr. Richard Beanum was convicted of a misdemeanor involving the sale of a motor vehicle, which is a violation of Va. Code § 46.2-1575(9). After conducting an informal fact-finding conference, the Board reviewed and considered the facts and evidence and passes a resolution to assess a \$300 civil penalty against Mr. Beanum for violating Va. Code § 46.2-1575(9). Mr. Beanum was notified of the Board's decision in a letter dated May 21, 2003. The Board received the civil penalty on June 13, 2003. (3) After an informal fact-finding conference was conducted the Board reviewed and considered the facts and evidence and passed a resolution to assess a civil penalty of \$250 against Mr. Charles P. Hashemy and Express Auto Sales and Service for violating Va. Code § § 46.2-1533 and 46.2-1575.2. Mr. Hashemy was notified of the Board's decision in a letter dated May 19, 2003. The Board received the civil penalty on June 20, 2003. (4) The Board passed a resolution after having considered the facts and evidence of an informal fact-finding conference involving a violation of Va. Code § § 46.2-1533 and 46.2-1575(2) by Bryan Wolfe and Harpersville Motor Company. The resolution was to assess a civil penalty of \$250 against Mr. Wolfe. Mr. Wolfe was notified of the Board's decision in a letter dated May 19, 2003. The Board received the civil penalty check on June 12, 2003. (5) After a formal hearing was conducted the Board reviewed and considered the facts and evidence and passed a resolution to assess a civil penalties of \$3,500 against Mr. Saleem A. Khan and \$1,700 against Mr. Wassim A. Warraich of Discovery Motors for violations of Va. Code § § 46.2-1518, 46.2-1529, 46.2-1530, 46.2-1531, 46.2-1532, 46.2-1542, 46.2-1548, 46.2-1550.2 and 46.2-1575(2). Mr. Khan and Mr. Warraich were notified of the Board's decision in a letter dated May 20, 2003. On June 18, 2003, the Board received a notice of appeal from Mr. Khan. Discovery's licenses expired on March 31, 2003 and the records also show that the dealership went out of business on November 7, 2002. (6) The Board passed a resolution to access a civil penalty of \$8,250 and suspend for one year all licenses and certificates issued to Mr. Mohammad R. Sohrabian and Star Motors, Inc. after having considered the facts and evidence of an informal fact-finding conference involving violations of Va. Code § § 46.2-1515, 46.2-1529, 46.2-1532, 46.2-1548, 46.2-1550.2, 46.2-1559 and 46.2-1575(2). Mr. Sohrabian was notified of the Board's decision in a letter dated May 15, 2003. On June 19, 2003, the Board received a notice of appeal and a motion to stay the Board's decision from Mr. Sohrabian's attorney.

(7) The Board passed a resolution to revoke all licenses and certificates issued to Lawrence E. Coffey and Small Time Auto Sales after having considered the facts and evidence of a formal hearing involving violations of Va. Code § 46.2-1575(2), (6), (7) and (12). Mr. Coffey was notified of the Board's decision in a letter dated May 15, 2003. On June 11, 2003, Mr. Coffey faxed a notice that indicated that he would appeal the Board's decision.

- **Premier Auto and Edward Mayo.** Steve Farmer questioned the multiple complaints against Premier Auto. Debbie Allison indicated that Mr. Mayo obtained vehicles from at least one other dealer to sell over E-bay. Approximately 30 vehicles were sold over E-bay. Mr. Mayo has not paid the other dealer for the vehicles, therefore the other dealer is holding the titles in return for full payment. The other dealer has and will not commit to a dollar figure needed to gain release of individual titles. Mr. Mayo is working with the Dealer Board staff. DMV, several attorneys and the FBI are also involved in this case. Premier Motors has made every effort to stay in touch with the Dealer Board in order to resolve this issue. Staff has instructed Mr. Mayo to "not" issue any more 30 day tags, to discontinue to retail and only sell at wholesale and not to advertise on E-bay (E-bay has blacked-listed him any way.) Mike Martin requested a full report on this issue at the next meeting. Customers are from all over the country. DMV has will issue a "title held" for Virginia customers.

### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

### **NEW BUSINESS**

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould reported that every year at this time, Jerry Farmer requests a variance in hours for his dealership, Jerry's Automotive Sales and Service, because of his teaching schedule. It was the consensus of the Committee to continue his request. A resolution will be presented at the Full Board meeting. Also, 3 dealerships have requested a variance to keep their records at another location and all 3 were approved because of their good standings with the Board.

### **NEW BUSINESS FROM THE FLOOR**

- **Update: Kermit Giles.** Pete Iaricci requested an update on Kermit Giles. Rick Walton indicated that Mr. Giles tried to dismiss his bankruptcy petition, but the bankruptcy trustee has seen what Mr. Giles is trying to do, so she opposed his petition. She wants sanctions imposed against him and to barr him from ever filing again in bankruptcy court. The hearing is coming up very soon and it is the hopes of the AG's office and Board staff that the judge will grant the trustee's request.

The next meeting was scheduled for September 8, 2003.

The meeting adjourned at 8:59 a.m.

Meeting Summary  
**Dealer Licensing Committee**  
Monday, July 14, 2003

Chairman Bruce Farrell called the Dealer Licensing Committee meeting to order at 9:07 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members Steve Farmer, Pete Iaricci, Mike Martin, Vince Sheehy and Larry Matthews. (Absent: Clyde King, Bobby Joe Dotson, Chris Schroeder) Other members present: Ted Robertson, Leo Trenor, Joel Lyles, Rick Hunt, Tom Barton, Karen Radley, Max Pearson, Al Lacy. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office.

The May 12, 2003 meeting summary was approved.

**PUBLIC COMMENT:**

There was no public comment.

**OLD BUSINESS**

**Update: May Actions:** Peggy Bailey updated the Committee on the following issues that were discussed at the May meeting: (1) After having an informal fact-finding conference Mr. Michael L. Field, Jr. and Field Auto City was found to be in violation of Va. Code § 46.2-1537 for allowing several unlicensed sales consultants to sell 81 vehicles. The Board passed a resolution to assess a civil penalty of \$8,100 against Mr. Field and the dealership. Mr. Field was notified of the Board's action in a letter dated May 20, 2003. The Board received the civil penalty check on June 2, 2003. (2) Ms. Barbara J. Shane was convicted of a misdemeanor involving the sale of a vehicle. After an informal fact-finding conference was conducted the Board reviewed and considered the facts and evidence and passed a resolution to revoke all licenses and certificates issued to Ms. Barbara J. Shane. Ms. Shane was notified of the Board's decision in a letter dated May 21, 2003. The Board received Ms. Shane's license on June 25, 2003. (3) Mr. Derrick L. Wayland was convicted of a misdemeanor involving the sale of a vehicle. After an informal fact-finding conference was conducted the Board reviewed and considered the facts and evidence and passed a resolution to revoke all licenses and certificates issued to Derrick L. Wayland. Mr. Wayland was notified of the Board's decision in a letter dated May 19, 2003. The Board received a faxed letter dated June 12, 2003, which indicates Mr. Wayland is appealing the Board's decision. The case will be assigned to a hearing officer so that a formal hearing can be scheduled.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conferences:**

Before the issue was presented, Mr. Whitten made himself available for questions.

- **James W. Whitten, Sr. and Whitten Lincoln Mercury.** An informal fact-finding conference was conducted on May 13, 2003 referencing James W. Whitten, Sr. and Whitten Lincoln Mercury for the alleged violations of allowing unlicensed individuals to sell motor vehicles (VA Code Section 46.2-1537). Based on the testimony and evidence surrounding the case, the hearing officer recommended assessing a civil penalty of \$100 for each transgression for monthly payment the dealership made as compensation to Mr. Brown. Those sanctions total \$3,000.00. Also, the hearing officer recommended assessing a civil penalty of \$75 for each transgressions for monthly payment the dealership made as

compensation to Mr. Stone. Those sanctions total \$2,250.00. Thus, it was the hearing officer's recommendation that the Board assess a civil penalty totaling \$5,250.00 against James W. Whitten, Sr. and Whitten Lincoln Mercury.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Pete Iaricci to accept the hearing officer's recommendation. Mike Martin seconded. Max Pearson indicated that a mistake was made and the dealership made the correction and he feels that the civil penalty is too harsh for a first time offense. He suggested a simple warning and assess a civil penalty of \$1,000. Pete Iaricci indicated that the Committee needs to remain consistent and he would not support a substitute motion.

Substitute motion was made by Larry Matthews to not accept the hearing officer's recommendation and assess a civil penalty of \$1,000, with the dealership receiving a warning. No second. Motion failed due to lack of a second.

Original motion stands. All in favor: 5 (Farrell, Iaricci, Farmer, Martin, Sheehy). Opposed: 1 (Matthews). The motion passed.

### **NEW BUSINESS FROM THE FLOOR**

- **Overseas Military Sales Corporation.** Tom Barton commented on his disapproval of this company selling cars to the military while they are at sea. They are traveling by helicopter to the ships and making car sales. He feels that staff needs to research these types of companies to ensure they are abiding by the regulations. VADA indicated that, unfortunately, this Board can do very little about this issue, because it is done on international waters where they have no jurisdiction. General discussion followed. No action taken at this time.
- **Confidential Information.** Karen Radley expressed her concern of personal information being included in the making of the Board books. General discussion followed. Bruce Gould indicated that this type of information has always been provided in past meetings, but doesn't mean a change is not needed. He indicated that he will work with Rick Walton and will have something prepared on this issue for the next meeting.

The next meeting was scheduled for September 8, 2003.

The meeting adjourned at 9:49 a.m.

# Meeting Summary

## Advertising Committee

### Monday, July 14, 2003

Chairman Vince Sheehy called the Advertising Committee meeting to order at 9:57 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were members Karen Radley, Rick Hunt, Joel Lyles, Ted Robertson, Tom Barton, Leo Trenor. (Absent: Chris Schroeder, Max Pearson). Other Board members present: Bruce Farrell, Al Lacy, Mike Martin, Pete Iaricci, Steve Farmer and Larry Matthews. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Rick Walton represented the Attorney General's Office.

The May 12, 2003 meeting summary was approved.

#### **PUBLIC COMMENT**

Bob Sties, Sales Manager for the Richmond Times-Dispatch, spoke on an issue regarding an advertisement they published on July 4, 2003 informing the readers that drinking and driving is not a good thing. The advertisement was sponsored by the Richmond auto community. He indicated that often automobile dealers are viewed in a negative light and this ad is an attempt to put dealers in a caring and community service light. The paper has also designed three other ads that have to do with anti drinking and driving. They are scheduled to be published Labor Day, Christmas and New Years Eve.

#### **OLD BUSINESS**

- **Update: May Actions.** Bruce Gould indicated that at the Advertising Committee meeting on May 12, 2003, the Committee considered the hearing officer's report on Mr. John Brockman and Brockman Chevrolet, Incorporated. A resolution was passed to assess the dealership a \$500 civil penalty for violations of the Advertising Laws as they relate to Truth in Lending. The dealer was notified of the Board decision in a letter dated May 15, 2003. The Board received the \$500 civil penalty on June 5, 2003.

#### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

#### **NEW BUSINESS**

#### **NEW BUSINESS FROM THE FLOOR**

- **Enterprise Car Sales.** Bruce Gould indicated that this dealer called him to discuss a section of the advertisement reading: "Member One FCU will deposit \$375 into your account with vehicle loan". The dealership indicated that this was something between the customer and the lender. They were not providing any of the \$375. They wanted the Board to take a look at it. It was expressed that the committee does not want to be put in a position of pre-approving dealer advertisements. Since the dealer had already ran the advertisement, they weren't seeking pre-approval, they just wanted to know if it's a violation and if so, they will not run the advertisement again. After some general discussion of the issue, it was the consensus of the committee that this was a violation, because in the disclaimer it indicates "See credit union/dealer for details" and because full disclosure is needed, this term is not acceptable. This will be a verbal warning to the dealer of the violation.
- **Dealer Rebate Violation.** Mike Martin indicated that he had heard two radio advertisements from two dealers indicating "Will make first payment for you". He just wanted clarification on whether or not this would be classified as a dealer rebate. After reviewing the regulations, consensus of the



committee is that it would be classified as a dealer rebate. Bruce Gould requested the information from Mike and he will have staff request scripts of the radio spots from the dealerships involved.

- **Certified Vehicles.** Karen Radley requested an investigation on what "certified vehicle" means to the consumer. She indicated that there have been several advertisements by dealers, in her area, that do not represent a franchise, yet they have huge certified cars for sale. Vince Sheehy indicated that dealers cannot make consumers believe that a certified vehicle has to be from the manufacturer. He cannot speak for other used car dealers, but he stands behind the vehicles he certifies. No action was taken on this issue.

The next meeting will be September 8, 2003.

The meeting adjourned at 10:20 a.m.

Meeting Summary  
**Transaction Recovery Fund Committee**  
Monday, July 14, 2003

Chairman Joel Lyles called the Transaction Recovery Fund Committee meeting to order at 10:21 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members Bobby Joe Dotson, Bruce Farrell, Leo Trenor, Mike Martin, Karen Radley, Rick Hunt, Al Lacy and Chris Schroeder. Other Board members present: Ted Robertson, Carlton Courter, Vince Sheehy, Tom Barton, Larry Matthews, Steve Farmer and Pete Iaricci. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office.

The May 12, 2003 summary was approved.

**PUBLIC COMMENT:**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

- **Attorney Fees.** Bruce Gould presented draft language to limit attorney fees paid from the Transaction Recovery Fund. The draft reads as follows:

Attorney and court fees shall be paid from the Fund subject to the \$20,000 maximum per single transaction. However, attorney fees shall not exceed 12½ percent of the amount that the court finds the plaintiff is entitled to recover from the dealer.

Bruce indicated that he based this on Section 38.2-807, which is SCC's section for unlicensed insurers. It was the only limitation he could find in the Code that set a specific number. Most places that talked about attorney fees used the word "reasonable". Consensus of the committee was not to go forward with legislation at this time.

**NEW BUSINESS**

- **Review and Action: Informal Fact-Finding Conference Results:**

**Lester E. Williams and Selective Auto.** Lester Williams purchased a 1997 Mercedes Benz on February 7, 2001 for \$33,220.00 from Selective Auto, in which Mr. Williams paid in full on the day of purchase. Despite repeated requests and several visits to the dealership, Mr. Williams never received the title to the vehicle. In May of 2001, Mr. Williams visited the dealership, only to find out that another dealership occupied the premises. Mr. Williams later learned that the holder of the title was an entity known as Auto Toy Store Rental, Inc. owned by Mr. Ghassem Shamrooz. Information indicated that Mr. Behdadzadeh (owner and operator of Selective Auto) had borrowed the vehicle from Mr. Shamrooz sometime in January of 2001. When he failed to return the vehicle, Mr. Shamrooz reported the vehicle stolen to the Maryland law enforcement.

On January 1, 2002, Mr. Shamrooz, with the aid of the Fairfax County law enforcement took physical possession of the vehicle from Williams. On February 22, 2002, Mr. Williams' attorney (Darrell Allen) submitted to the Dealer Board a Motion for Judgment against Nader Behdadzadeh t/a Selective Auto. On February 25, 2005, the Board referred Mr. Allen to the dealer's surety bonding company. Mr. Allen then filed an Amended Motion for Judgment to include the dealer's surety bonding company. On

November 12, 2002 a settlement was reached with the bonding company in the amount of \$13,500.00, in which Mr. Allen submitted a letter from the dealer's surety bonding company regarding the settlement and payment to Mr. Williams. After carefully reviewing the facts, staff recommended that the Recovery Fund committee and the Board approve Mr. Williams' claim in the amount of \$9,065.04, which is the attorney fees and court costs.

An informal fact-finding conference was conducted on May 27, 2003 and based on the testimony and evidence in the case, the agency representative conducting the informal fact-finding conference recommended that the Recovery Fund Committee and Board approve payment of the \$9,065.04.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Mike Martin to accept the hearing officer's recommendation. Karen Radley seconded. The motion passed unanimously.

**Jennifer M. Helton and Exchange Auto Repair & Sales.** Jennifer Helton purchased a 1987 Dodge Daytona on December 29, 2000 for \$2,695.00 from Exchange Auto Repair & Sales. Ms. Helton paid \$300 towards the down payment and financed the remaining amount on a Retail Installment Contract. Exchange Auto provided a warranty for thirty days or 1000 miles. Within a few days of the purchase, Ms. Helton took the vehicle back for warranty service because the turbo charger stopped functioning. Exchange Auto refused to repair the vehicle even though they acknowledged that the problem existed at the time of the sale. Within two weeks of the sale, the vehicle needed some other engine work done and again the dealership refused to make any of the repairs. As a result, Ms. Helton paid for the repairs herself and eventually got behind in her payments. Ms. Helton had paid \$1,475 towards the vehicle when Exchange Auto repossessed the vehicle from her on March 18, 2001. All payments had been paid except for the payment that was due March 9, 2001. At the time of the repossession, the dealership failed to allow 10 days to pass from the payment due date. On April 9, Dale Pittman (attorney for Ms. Helton) submitted to the Dealer Board a copy of the Entry of Default and the Judgment Order that was awarded on March 29, 2002 to Ms. Helton. Amounts of judgment entered in favor of Ms. Helton (1) \$832.92 for violation of Truth in Lending, (2) \$2,000 violation of Va. Consumer Protection Act and (3) \$675.96 statutory damages. Total judgment amount \$3,508.88. On April 30, 2002, Mr. Pittman submitted to the Board a copy of the Order granting Attorney's Fees and Costs in the amount of \$3,640.53. On April 21, 2003, Mr. Pittman submitted the Judgment Claim Request form, Judgment Order and the Order for Award of attorney fees in order to file a claim against the Fund. After carefully reviewing the facts, staff recommended that the Recovery Fund committee and the Board approve Ms. Helton's claim in the amount of \$7,149.41

An informal fact-finding conference was conducted on June 17, 2003 and based on the testimony and evidence in the case, the agency representative conducting the informal fact-finding conference recommended that the Recovery Fund Committee and Board approve payment of the \$7,149.41.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Karen Radley to accept the hearing officer's recommendation. Mike Martin seconded. The motion passed unanimously.

**Shanique L. Eason and Diamond Kar Kare.** Shanique Eason purchased two vehicles, one being a 1998 Jeep Cherokee for \$17,155.38 and two being a 1995 Oldsmobile Aurora for \$8,293.46 from Exchange Auto Repair & Sales. After Diamond Kar Kare failed to produce title to either vehicle, Ms. Eason returned the vehicles and demanded a full refund of the purchase prices. The dealership failed to refund the purchase prices and Ms. Eason filed a lawsuit in the Newport News Circuit Court. On February 27, 2003, a default judgment was awarded to Ms. Eason in the amount of \$76,346.52. This amount was derived from tripling of the actual damages under the Consumer Protection Act. The court also awarded \$8,000.00 in attorney fees and \$180.00 in court costs. On April 4, 2003, Mr. Johnny C. Cope, attorney for Ms. Eason, submitted to the Department of Motor Vehicles the Motion for Judgment all appropriate copies of paper work and the final judgment order. DMV then forwarded to the Dealer Board. On April 30, 2003, Mr. Cope submitted to the Board all the requested documentations regarding his client's claim against the Fund in the amount of \$40,000.00 Even

though, the Board was not given a chance to intervene, there are sufficient allegations of fraud in the Motion for Judgment under the Consumer Protection Act that makes Ms. Eason's claim compensible for payment from the Fund. This case involves two transactions that took place at the same time and between the same parties. There is a limitation of \$20,000.00 payable from the Fund per every "single transaction". If Ms. Eason purchased two vehicles as a single transaction, then her claim is limited to \$20,000.00. The Motion for Judgment recites the vehicles were bought on the same (even though there are two bills of sale for the two vehicles with different dates and amounts). Ms. Eason did appear to get loans from separate financial institutions to purchase each vehicle. Ms. Eason filed one single lawsuit and combined both vehicle claims into once case. It would seem that the tripling of damages in this case by the Court was a form of exemplary or punitive types of damages and those types of damages are not compensible. Therefore, it appears Ms. Eason is limited to her actual damages, or the purchase price as well as attorney fees and court costs from the Fund. It needs to be determined at the time of the informal fact-finding conference whether this matter is a single transaction or two separate transactions, in order for the agency representative to make a recommendation to the Board.

An informal fact-finding conference was conducted on June 10, 2003 and based on the testimony and evidence in the case, the agency representative conducting the informal fact-finding conference determined that each vehicle was a separate transaction and recommended that the Recovery Fund Committee and Board approve payment of the \$20,000.00 for the 1998 Jeep Cherakee and \$12,383.46 for the 1995 Oldsmobile Aurora. Fees are as follows:

1998 Jeep Cherakee	1995 Oldsmobile Aurora
\$16,370.00 for the cost of the vehicle	\$8,293.46 for the cost of the vehicle
\$4,000.00 for attorney fees	\$4,000.00 for attorney fees
<u>\$90.00 for court costs</u>	<u>\$90.00 for court costs</u>
TOTALS: \$20,460.00 (\$20,000 maximum allowed)	\$12,383.46

The agency representative also recommended that prior to releasing any funds, the claimant be required to provide written confirmation from SunTrust and 1<sup>st</sup> Advantage Federal Credit Union of the specific amounts they are seeking and that they are continuing to hold her responsible for repayment of those amounts. Ms. Eason should also complete two Assignment of Claimants Rights, one for each vehicle.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Mike Martin to table this issue until the September to determine if the two vehicles would be considered two separate transactions. Rick Hunt seconded. The motion passed unanimously.

### **NEW BUSINESS FROM THE FLOOR**

No other new business from the floor.

The next meeting was scheduled for September 8, 2003.

The meeting adjourned at 11:12 a.m.