

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 9, 2007

Chairman D.B. Smit called the Dealer Board meeting to order at 12:55 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 14 Board members present. Present were members Jonathan Blank, Lynn Hooper, Todd Hyman, David Lacy, Wanda Lewark, Hugh McCreight, Pat Patrick, Kevin Reilly, Vince Sheehy, Larry Shelor, Jimmy Whitten, Robert Woodall and Thomas Woodson. (Absent: Chip Lindsay, Thomas Moorehead, Frank Pohanka). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Don Boswell, Jim Gurney and Joe Owsiak represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The May 14, 2007 meeting summary was approved.

PUBLIC COMMENT

- **Print on Demand Demonstration.** Jim Gurney introduced Lynn DuBar from Virginia Interactive and Sandy Miller from Montana Interactive and they both gave a presentation on printing 30 temporary tags on a computer.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

- **Saleem Khan and Tri State Auto.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Saleem Khan and Tri State Auto. Based on that discussion, Mr. Patrick 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 Saleem Khan and Tri State Auto for alleged violations of Va. Code §§46.2-1529, 46.2-1533, 46.2-1535, 46.2-1537, and 46.2-1575(2). Based on due consideration, the Board believes a civil penalty should be assessed against Saleem Khan and Tri State Auto and that the Board hereby assesses a \$1,000 civil penalty against Saleem Khan and Tri State Auto and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Saleem Khan should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Saleem Khan.

Robert Woodall seconded. The motion carried unanimously.

- **Kenneth L. Pope and Ken's Chrysler-Plymouth-Dodge.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Kenneth L. Pope and Ken's Chrysler-Plymouth-Dodge. Based on that discussion, Mr. Patrick 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 Kenneth L. Pope and Ken's Chrysler-Plymouth-Dodge for alleged violations of Va. Code §§46.2-1575(4) and 46.2-1575(6). Based on due consideration, the Board believes no further action should be taken against Kenneth L. Pope and Ken's Chrysler-Plymouth-Dodge. The Board hereby takes no further action against Kenneth L. Pope and Ken's Chrysler-Plymouth-Dodge.

Jonathan Blank seconded. All in favor: 12 (Blank, Hooper, Hyman, Lacy, Lewark, McCreight, Patrick, Reilly, Sheehy, Shelor, Whitten, Woodall) Opposed: 1 (Woodson) The motion carried.

- **Kevin B. Hall and West Broad Auto Wholesale, Inc.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Kevin B. Hall and West Broad Auto Wholesale, Inc.. Based on that discussion, Mr. Patrick 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 Kevin B. Hall and West Broad Auto Wholesale, Inc. for alleged violations of Va. Code §§46.2-1515, 46.2-1516, 46.2-1529, 46.2-1537, 46.2-1550, 46.2-1559 and 46.2-1575(2). Based on due consideration, the Board believes a civil penalty should be assessed against Kevin B. Hall and West Broad Auto Wholesale, Inc. The Board hereby assesses a \$ 1,750 civil penalty against Kevin B. Hall and West Broad Auto Wholesale, Inc. and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit both Mr. Kevin B. Hall and Mr. Howard M. Awad (Dealer-Operator) in running this dealership. The Board mandates that both Mr. Kevin B. Hall and Mr. Howard M. Awad successfully complete the dealer-operator course by September 1, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Hall and Mr. Awad by the Board until what time Mr. Hall and Mr. Awad have successfully completed the course.

Hugh McCreight seconded. The motion carried unanimously.

- **Sikander H. Mirza and DC Metro Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Sikander H. Mirza and DC Metro Auto Sales. Based on that discussion, Mr. Patrick 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 Sikander H. Mirza and DC Metro Auto Sales for alleged violations of Va. Code §§46.2-1533 and 46.2-1575(2). Based on due consideration, the Board believes a civil penalty should be assessed against Sikander H. Mirza and DC Metro Auto Sales. The Board hereby assesses a \$ 1,000 civil penalty against Sikander H. Mirza and DC Metro Auto Sales and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Sikander H. Mirza should be suspended and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Sikander H. Mirza in running his dealership. The Board hereby suspends all licenses and certificates issued by the Board to Mr. Sikander H. Mirza and DC Metro Auto Sales for a minimum of 60 days or until what time Mr. Mirza successfully completed the dealer-operator class, which ever is longer.

Jonathan Blank seconded. The motion carried unanimously.

- **Mary A. Kelly and EMotors, Ltd.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Mary A. Kelly and EMotors, Ltd. Based on that discussion, Mr. Patrick 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 Mary A. Kelly and EMotors, Ltd. for alleged violations of Va. Code §§46.2-1510(2), 46.2-1518, 46.2-1529, 46.2-1530(c), 46.2-1532, 46.2-1533, 46.2-1537, 46.2-1542 and 46.2-1548. Based on due consideration, the Board believes a civil penalty should be assessed against Mary A. Kelly and EMotors, Ltd. The Board hereby assesses a \$ 1,400 civil penalty against Mary A. Kelly and EMotors, Ltd. and based on due consideration, the Board believes that all licenses issued by the Board to Ms. Mary A. Kelly should be suspended and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit both Ms. Mary A. Kelly and Mr. Steven N. Kendall (Dealer-Operator) in running the dealership and based on due consideration, the Board mandates that the dealership meet all of the established place of business requirements as set-out in Va. Code Section 46.2-1510. The Board hereby suspends all licenses and certificates issued by the Board to Ms. Mary A. Kelly and Mr. Steven N. Kendall for a minimum of 60 days or until what time both Ms. Kelly and Mr. Kendall has successfully completed the dealer-operator class, and until what time all of the requirements of Va. Code Section 46.2-1510 are satisfied, which ever is longer.

Robert Woodall seconded. The motion carried unanimously.

- **Adjudicated Case: Determination to Convene an Informal Fact-Finding Conference.** Pat Patrick made a motion for staff to convene an Informal Fact-Finding Conference.

Jonathan Blank seconded. The motion carried unanimously.

Licensing Committee:

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **Reconsideration: Esmatullah Ali & Nations Auto Group, LLC.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Esmatullah Ali & Nations Auto Group, LLC. Based on that discussion, Mr. Hyman 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 Esmatullah Ali; Dealer-Operator for Nations Auto Group, LLC for alleged violations of Va. Code Section 46.2-1575(9) (convicted of criminal act involving the sale of vehicles). Based on due consideration, and a verbal offer made to the Board by Mr. Ali's attorney, the Board believes a civil penalty should be assessed against Esmatullah Ali and that Mr. Ali should pay the \$6,000 civil penalty assessed by the Board at its May meeting against Amanullah Abbasi, owner of Nations Auto Group. The Board hereby assesses a \$1,000 civil penalty against Mr. Esmatullah Ali and mandates that Mr. Ali pay the \$6000 civil penalty assessed against Mr. Amanullah Abbasi and based on due consideration, the Board believes that

successfully completing the dealer-operator course would benefit Mr. Esmatullah Ali. The Board mandates that Mr. Esmatullah Ali successfully complete the dealer-operator course by September 1, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Ali by the Board until what time Mr. Ali has successfully completed the course.

Pat Patrick seconded. The motion carried unanimously.

- **Joseph P. Battista and Auto Express of Manassas, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Joseph P. Battista and Auto Express of Manassas, Inc. Based on that discussion, Mr. Hyman 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 Joseph P. Battista and Auto Express of Manassas, Inc for alleged violations of Va. Code §§46.2-1518, 46.2-1529, 46.2-1537, 46.2-1548 and 46.2-1559. Based on due consideration, the Board believes a civil penalty should be assessed against Joseph P. Battista and Auto Express of Manassas, Inc. The Board hereby assesses a \$2,150 civil penalty against Joseph P. Battista and Auto Express of Manassas, Inc; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Joseph P. Battista in running his dealership. The Board mandates that Mr. Joseph P. Battista successfully complete the dealer-operator course by September 1, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Battista by the Board until what time Mr. Battista has successfully complete the course.

Hugh McCreight seconded. The motion carried unanimously.

- **Iqbal A. Haidar and Pinnacle Motors, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Iqbal A. Hai8dar and Pinnacle Motors, Inc. Based on that discussion, Mr. Patrick 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 Iqbal A. Haidar and Pinnacle Motors, Inc. for alleged violations of Va. Code §§46.2-1537, 46.2-1508, 46.2-1529, 46.2-1550 and 46.2-1559. Based on due consideration, the Board believes a civil penalty should be assessed against Iqbal A. Haidar and Pinnacle Motors, Inc. The Board hereby assesses a \$5,000 civil penalty against Iqbal A. Haidar and Pinnacle Motors, Inc. and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Iqbal A. Haidar in running his dealership. The Board mandates that Mr. Iqbal A. Haidar successfully complete the dealer-operator course by September 1, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Iqbal A. Haidar by the Board until what time Mr. Haidar has successfully completed the course.

Lynn Hooper seconded. The motion carried unanimously.

- **Joseph P. Battista and Auto Express of Woodbridge, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Joseph P. Battista and Auto Express of Woodbridge, Inc. Based on that discussion, Mr. Hyman 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 Joseph P. Battista and Auto Express of Woodbridge, Inc for alleged violations of Va. Code §§46.2-1518, 46.2-1529, 46.2-1532, 46.2-1533, 46.2-1537, 46.2-1548, and 46.2-1559. Based on due consideration, the Board believes a civil penalty should be assessed against Joseph P. Battista and Auto Express of Woodbridge, Inc. The Board hereby assesses a \$2,500 civil penalty against Joseph P. Battista and Auto Express of Woodbridge, Inc.

Tommy Woodson seconded. The motion carried unanimously.

Advertising Committee:

Vice-Chairman Lynn Hooper summarized discussions that were held during the Committee Meeting.

- **Recent VA Supreme Court Ruling Concerning the Advertising Regulations.** Lynn Hooper indicated that Bruce Gould will provide recommended changes to the regulations for the September Board meeting.

Transaction Recovery Fund Committee:

Chairman David Lacy summarized discussions held and actions that were taken during the Committee Meeting.

- **Christine Lewis and Michael Fields and Field Auto City.** Chairman David Lacy summarized for the Board the discussion held in the Committee meeting regarding Christine Lewis and Michael Fields and Field Auto City. Based on that discussion and the recommendation in the case, Mr. Lacy made the following motions: Pursuant to §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 hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

Christine Lewis and Michael Fields and Field Auto City. \$20,000.00

Jonathan Blank seconded. Wanda Lewark abstained because of a business dispute with Mr. Fields. The motion carried.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

- Don Boswell, Chief of Investigations for DMV, gave a brief update on ISO investigations relating to curbstoning since the May Board meeting.

NEW BUSINESS

- **Executive Director's Report.** Bruce Gould indicated that Frank McCormick has been promoted to the position of Field Representative Supervisor. His former position of field representative has been posted. He congratulated the members who have been reappointed. The regulations to adjust the Board's fees have been approved by Planning and Budget and the next step is approval by the Secretary of Transportation and then the Governor's Office. He anticipates no problems. If approved soon, they could go into effective as early as December 2007. He introduced the Dealer Board's new logo and it will be hung on the wall with the other state agency logos in the Secretary's Office and at DMV. The website has been cleaned up and it is now compliant with all the requirements. The continuing education of dealers will be discussed at the next Board meeting.

The next meeting will be scheduled for September 10, 2007.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 1:20 p.m.

Meeting Summary
Dealer Practices Committee
Monday, July 9, 2007

Chairman Pat Patrick called the Dealer Practices Committee meeting to order at 8:32 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Jonathan Blank, Lynn Hooper, David Lacy, Hugh McCreight, Kevin Reilly, Jimmy Whitten and Robert Woodall. (Absent: Thomas Moorehead and Frank Pohanka). Other board members present: Todd Hyman, Larry Shelor, Wanda Lewark, Vince Sheehy, D.B. Smit, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Jim Gurney, Joe Owsiak represented DMV. Eric Fiske was present from the Attorney General's Office.

The May 14, 2007 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: May Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on May 14, 2007.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Saleem Khan and Tri State Auto.** On May 21, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1533 (failure to maintain posted business hours), 46.2-1535 (Advertisements), 46.2-1537 (Prohibited solicitation and compensation) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board). Based on the information provided at the conference, the hearing officer recommended that Mr. Khan and Tri State Auto be assessed a civil penalty of \$1,000 and that all issued licensing and certificates dealing with the motor vehicle operations be revoked.

Mr. Khan was present and spoke on his own behalf. General discussion followed.

Motion was made by Robert Woodall to accept the hearing officer's recommendation. Hugh McCreight seconded. The motion carried unanimously.

- **Kenneth L. Pope and Ken's Chrysler-Plymouth-Dodge.** On February 1, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575(4) (Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business and 46.2-1575(6) (Having used deceptive acts or practices). Based on the information provided at the conference, the hearing officer indicated that he found the evidence insufficient to conclude that Ken's is guilty of a violation, but remains concerned about the origination of the signature in question. He also indicated that Ken's would be advised to take precautions in order to guarantee the security of its procedures.

Motion was made by Kevin Reilly to accept the hearing officer's recommendation. Hugh McCreight seconded. The motion carried unanimously.

- **Kevin B. Hall and West Broad Auto Wholesale, Inc.** On May 8, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1515 (location to be specified, display of license and change of location), 46.2-1516 (Supplemental sales location), 46.2-1529 (Failure to maintain all dealer records on the premises of the licensed location), 46.2-1537 (Prohibited solicitation and compensation), 46.2-1550 (failure to properly limit the use of dealer license plates on vehicles in the dealer's inventory to dealers, their spouses, licensed salespersons and employees of the dealership), 46.2-1559 (failure to keep a written record of temporary license plates and have them available for inspection. Each record shall be retained for a period of one year) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board). Based on the information provided at the conference, the hearing officer recommended that follow-up inspections should be made at West Broad Auto Wholesale, especially with regards to records management, for each of the seven (7) Codes violated, he recommended a civil penalty of \$250 each for a total civil penalty of \$1,750 and Mr. Hall and Mr. Awad (Dealer-Operator) should attend the next Dealer-Operator Course.

Mr. Hall was present and spoke on his own behalf. General discussion followed.

Motion was made by Robert Woodall to accept the hearing officer's recommendation. Lynn Hooper seconded. The motion carried unanimously.

- **Sikander H. Mirza and DC Metro Auto Sales.** On May 8, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1533 (Failure to maintain posted business hours) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board). Based on the information provided at the conference, the hearing officer recommended that DC Metro Auto Sales and Mr. Mirza should be suspended from the motor vehicle sales business for a period of 60 days, Mr. Mirza should attend the next Dealer-Operator Course and if Ms. Fischer (introduced at the hearing as Mr. Mirza's friend) is going to continue as Mr. Mirza's assistant she too should attend this training and upon re-opening, Mr. Mirza must make his business available for a thorough inspection by a Board Representative.

Motion was made by Lynn Hooper to modify the hearing officer's recommendation to assess a civil penalty of \$1,000, along with the 60 day suspension and to attend the next Dealer-

Operator course, because of the severity of the violations. Jonathan Blank seconded. The motion carried unanimously.

- **Mary A. Kelly and EMotors, Ltd.** On June 14, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1510(2) (dealers required to have established place of business which has sales and service, and office space devoted exclusively to the dealership of at least 250 square feet in a permanent enclosed building not used as a residence), 46.2-1518 (Failure to display list of salesperson employed in a conspicuous place), 46.2-1529 (As it relates to dealer records), 46.2-1530(c) (Processing fee disclosure), 46.2-1532 (Failure to maintain odometer disclosure statements for a period of five years in a manner that permits systematic retrieval), 46.2-1533 (Failing to maintain posted business hours), 46.2-1537 (Prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle unless the person is licensed as a salesperson and employed by the dealer, 46.2-1542 (Failure to maintain a copy of all certificates of temporary registrations and have them available for inspection) and 46.2-1548 (Failure to keep a written record of dealer license plates and have them available for inspection). Based on the information provided at the conference, the hearing officer recommended that for the violation of 1510(2) that Ms. Kelly be required to produce a document in writing from the lessor of the property that clearly identifies that portion of the building leased exclusively to EMotors as a condition of continued licensing, for the violation of 1518, he recommends that a warning regarding this item be included in the final written disposition of this case by the Board, for the violation of 1529, he recommends a civil penalty of \$750 be assessed, for the violation of 1532, he recommends a civil penalty of \$150 be assessed, for the violation of 1533, he recommends a civil penalty of \$500 be assessed and for the violation of 1537, he indicated that there was neither testimony nor documents introduced reflecting any violation of this statute, therefore he recommended no action be taken. The total civil penalty for these violations is \$1,400.

Motion was made by Jonathan Blank to modify the hearing officer's recommendation of suspending the dealer's license for 60 days, assess the \$1,400 civil penalty, inspect all dealer records and take the Dealer-Operator Course. The rationale is the severity of the violations and the total disrespect this dealership had for the Dealer Board staff. Robert Woodall seconded. The motion carried unanimously.

- **Adjudicated Case: Determination to Convene an Informal Fact-Finding Conference.** Per the Board's Policy adopted on May 8, 2006, the staff is seeking the Board's guidance in deciding whether or not an informal fact-finding conference should be commenced. The attorney for the plaintiff, Ms. Adkins, has brought to the staff's attention a decision by the United States District Court of Appeals, to award Ms. Adkins \$23,700 in punitive damages from Crown Auto, Inc. of Danville for "actual fraud". It was also noted that in June of 2004, an informal fact-finding conference was convened for this dealer after the staff had become aware that a federal jury found that Crown Auto had tampered with an odometer with the intent to defraud, willfully violated the consumer protection act and that all of the defendants in the matter had committed actual fraud. The hearing officer recommended civil penalties totaling \$1,300 for defrauding a buyer and deceptive acts of practices. The Board voted not to take any action.

Motion was made by Lynn Hooper to convene an informal fact-finding conference. Jonathan Blank seconded. The motion carried unanimously.

- **Review of Off-Site Records Storage Process.** Bruce Gould requested some feed back on where a dealer, that has multiple locations, permanently stores their sales records. Mike Charrapp indicated that it should be taken into consideration that some of the information is private and confidential. The Committee indicated that the records must stay at a licensed location and not at someone's home. The Committee suggested that Bruce develop recommendations to address this issue and bring them to the next meeting.
- **Legislative Concepts for 2008.** Bruce indicated that if any of the members had any suggestions, this would be a good time to let him know.

Report on Variance Requests (Dealer Hours and Storage of Dealer Records). Bruce Gould reported that there Mr. Farmer would like to continue his variance.

Motion was made and seconded to allow Mr. Farmer to continue his variance. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 10, 2007.

The meeting adjourned at 10:00 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, July 9, 2007

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 10:06 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Wanda Lewark, Kevin Reilly, Vince Sheehy, Larry Shelor, Jimmy Whitten, Tommy Woodson and Robert Woodall. (Absent: Chip Lindsay). Other Board members present: Pat Patrick, David Lacy, D.B. Smit, Lynn Hooper, Hugh McCreight, Jonathan Blank. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Jim Gurney and Joe Owsiak represented DMV. Eric Fiske represented the Attorney General's Office.

The May 14, 2007 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

- **Update: May Actions.** Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on May 14, 2007.
- **Reconsideration: Esmatullah Ali; Dealer-Operator for Nations Auto Group, LLC.**
At the May Board meeting, the Dealer Practices Committee voted and the Board agreed with the Committee's recommendation to assess a \$6,000 civil penalty and revoke all licenses issued to Mr. Amanullah Abbasi and Nations Auto Group, LLC for violations related to record keeping; use of dealer tags and temporary tags and failure to display a list of salespersons. In addition, in June and September of 2006 the owner, Mr. Abbasi was found guilty of a total of seven misdemeanors related to the sale of automobiles. In May, the Dealer Licensing Committee considered the recommendation and evidence concerning Esmatullah Ali the dealer-operator, but not an owner of Nation's Auto Group. In September of 2006, Mr. Ali was found guilty of a misdemeanor, of selling a vehicle without a title. Based on the fact that this criminal act involved the sale of a motor vehicle, an informal fact-finding conference was convened. At the May Board meeting, the Board voted to suspend all licenses issued by the Board to Mr. Esmatullah Ali for a minimum of sixty (60) days or until Mr. Ali has successfully completed the dealer-operator class, which ever is longer.

Mr. Ali's Attorney (Stephen Sheehy) intended to address the Board in May, however, through no fault of his own, he arrived at the meeting after both the Committee and Board had voted.

Mr. Sheehy has requested an opportunity to address the Board and reconsider its decision.

Mr. Sheehy was present and spoke on Mr. Ali's behalf. Mr. Sheehy requested that the Board allow Mr. Ali to pay Mr. Abbasi's civil penalty, take the Dealer-Operator Course, but not to suspend his license for the 60 days as recommended. Mr. Abbasi no longer works for Nations Auto Group and his license was revoked.

Motion was made by Wanda Lewark to accept Mr. Sheehy's proposal for Mr. Ali to pay Mr. Abbasi's civil penalty of \$6,000 and to take the Dealer-Operator Course. He has until September 1 to complete the Course. Tommy Woodson seconded. The motion carried unanimously.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Joseph P. Battista and Auto Express of Manassas, Inc.** On June 7, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1518 (Display of salesperson's license; notice of termination), 46.2-1529 (As it relates to dealer records) Sections 46.2-1537 (compensating an unlicensed salesperson), 46.2-1548 (Transferable dealer license plates) and 46.2-1559 (Records to be kept by dealers; inspection). Based on the information provided at the conference, the hearing officer recommended that for the violation of 1537 to assess a civil penalty of \$100 for each of the 19 vehicles sold for a total of \$1,900 and for the remaining four statues cited, he recommended a civil penalty of \$250 for a total civil penalty of \$2,150 and for Mr. Battista be required to attend and successfully pass the Dealer-Operator Course.

Mr. Wayne Biggs, attorney for Mr. Battista, spoke on his client's behalf.

Motion was made by Jimmy Whitten to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

- **Iqbal A. Haidar and Pinnacle Motors, Inc.** On June 13, 2007, an informal fact-finding conference was conducted to address the alleged violations of Virginia Code Sections 46.2-1537 (Allowing the sale of vehicles by an unlicensed individual and also compensating them), 46.2-1508 (Licenses required), 46.2-1529 (As it relates to record keeping), 46.2-1550 (Use of dealer's license plates; generally) and 46.2-1559 (Records to be kept by dealers; inspection). Based on the information provided at the conference, the hearing officer recommended to assess a civil penalty of \$100 for each of the 51 vehicles sold for a total civil penalty of \$5,100 for violating 1537, with written warning covering the remaining statues cited.

Motion was made by Robert Woodall to accept the hearing officer's recommendation. Jimmy Whitten seconded.

Amended motion was made by Kevin Reilly to assess a \$5,000 civil penalty against Iqbal A. Haidar and Pinnacle Motors, Inc. and require Mr. Haidar to successfully complete the dealer-operator course by September 1 as this would benefit him in running his dealership. Larry Shelor seconded. The motion carried unanimously. The motion carried unanimously.

- **Joseph P. Battista and Auto Express of Woodbridge, Inc.** On May 21, 2007, an informal fact-finding conference was conducted to address the alleged violations of Virginia Code Sections 46.2-1518 (Display of salesperson's license; notice on termination), 46.2-1529 (As it relates to dealer records), 46.2-1532 (Maintaining odometer disclosure statements), 46.2-1533 (Business hours posted), 46.2-1537 (Prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson employed by the dealer), 46.2-1548 (Transferable dealer license plates) and 46.2-1559 (Records to be kept by dealers; inspection). Based on the information provided at the conference, the hearing officer recommended the field representative make follow-up inspections to ensure all rules and regulations are being followed, that Mr. Battista should establish some standard operator procedures regarding record keeping, completion of paperwork, and these procedures should be known and followed by everyone in the dealership, that Mr. Battista must be vigilant as to the persons on his property acting as salespersons and that Mr. Battista should be assessed a civil penalty of \$250 for the violations described earlier in this description, except for VA Code Section 46.2-1537 and assess a civil penalty of \$1,000 for the violation of VA Code Section 46.2-1537 for a total civil penalty of \$2,500.

Motion was made by Larry Shelor to accept the hearing officer's recommendation. Robert Woodall seconded. The motion carried unanimously.

- **Legislative Concepts for 2008.** Bruce Gould indicated that a bill was recently passed by the Georgia General Assembly effective July 1, 2007 dealing with curbstoning. It cannot be determined how successful this bill will be. He asked the committee members if they would like for him to look into pursuing a similar legislative proposal that can be brought to the VA General Assembly. The bill addresses where the vehicles are displayed for sale. Current law states that individuals cannot sell or display 5 or more cars for sale in a particular location. Georgia's new law indicates that it is ok to allow 5 vehicles displayed, no more than 2 at a time. If the vehicles are displayed, then they must be properly titled and registered, the major change would allow any law enforcement official or even a member of the board and Bruce indicated that we should include zoning officials could have the vehicle towed if the vehicle is displayed more than 24 hours. Consensus of the committee was for Bruce to draft legislation.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 10, 2007.

The meeting adjourned at 11:30 a.m.

Meeting Summary
Advertising Committee
Monday, July 9, 2007

Vice-Chairman Lynn Hooper called the Advertising Committee meeting to order at 11:40 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Hugh McCreight, Pat Patrick and Larry Shelor. (Absent: Chip Lindsay, Thomas Moorehead and Frank Pohanka) Other Board members present: Kevin Reilly, Robert Woodall, Todd Hyman, David Lacy, D.B. Smit, Vince Sheehy, Wanda Lewark, Jimmy Whitten, Tommy Woodson. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Jim Gurney, Joe Owsiak, Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The May 14, 2007 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

NEW BUSINESS

- **Recent Virginia Supreme Court Ruling Concerning the Advertising Regulations.**
Below is the Section Code and Advertising Regulation in question:

Specifically, Section **§46.2-1581** states in part:

*If a specific vehicle is advertised, the seller shall be in possession of a reasonable supply of said vehicles, and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, that shall be stated in the advertisement. For purposes of this subdivision, the listing of a vehicle by stock number or vehicle identification number in the advertisement for a used vehicle is one means of satisfactorily disclosing a limitation of availability. **Stock numbers or vehicle identification numbers shall not be used in advertising a new vehicle unless the advertisement clearly and conspicuously discloses that it relates to only one vehicle.***

The Regulation states:

*The purpose of this section is to ensure that customers will be informed the vehicle is in limited quantity or availability. If a specific vehicle is advertised, the seller shall be in possession of a reasonable supply of said vehicles and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, that shall be stated in the advertisement. **The listing of vehicles by stock***

numbers or vehicle identification numbers is permissible and is one means of satisfactorily disclosing a limitation of availability, provided a separate number is used for each vehicle. For new vehicles, if the offer is limited, you will be able to say such things as "in stock" or "will order" provided you can order the vehicle just as advertised and delivery can be assured as soon as the manufacturer or distributor can confirm the order and deliver it to your dealership. If you cannot get an order confirmation within 30 days, you must refund all moneys collected from the buyer at his request. If the vehicle is available only by order then it must be clearly and conspicuously disclosed in the advertisement.

It was the opinion of the court that the statute and the regulation are in conflict as follows:

- The statute does not allow using a stock or VIN number alone to indicate the limited availability of a new motor vehicle.
- The regulation does permit the use of a stock or VIN number alone to indicate the limited availability of a new motor vehicle. [Based on the first sentence in bold.]

It is believed that the regulation quoted above was originally adopted about 20 years ago by DMV. When the Board was created, this regulation was "transferred" to the Board. The Board, and it is believed, DMV before that, have read the two bolded sentences together. By inference, the first sentence only applies to used cars and therefore the statute and the regulations are not inconsistent. Perhaps the regulation is poorly written and not as clear as it should be.

If the Board believes that stock or VIN number alone should be adequate to indicate limited availability, the statute would need to be amended. Consensus of the committee was for Bruce to create a recommended language to conform to the Supreme Courts decision and present it at the September meeting. Lynn Hooper requested that they get a copy in advance to have a chance to review it.

- **Legislative Concepts for 2008.** There were no suggestions at this time.
- **Sale End Date.** Bruce Gould stated that Brown's Nissan "Spring Sale" had no sale end date and they received a warning notification concerning this omission. The Dealer-Operator contacted the Dealer Board and indicated that other dealers, in their in-line classified advertisements, mention a sale price without a sale end date. He questioned whether or not this type of advertising be considered a violation. Examples were given to the members. Question is, should a vehicle that says "Sale Price", should this include a sale end date. Consensus was to not take any action on using the term "sale price" and it would not be classified as a violation.

The next meeting will be September 10, 2007.

NEW BUSINESS FROM THE FLOOR

The meeting adjourned at 12:30 p.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, July 9, 2007

Chairman David Lacy called the Transaction Recovery Fund Committee meeting to order at 12:33 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, Wanda Lewark, Vince Sheehy, Larry Shelor and Tommy Woodson. Other Board members present: Kevin Reilly, Robert Woodall, Todd Hyman, Pat Patrick, D.B. Smit, Hugh McCreight, Jimmy Whitten. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Jim Gurney, Joe Owsiak and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The May 14, 2007 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

- **Christine Lewis and Michael L. Fields and Field Auto City, Inc.** In January of 2002, Ms. Lewis visited Field Auto City, Inc and inquired on a Chrysler Town & Country. She filled out a credit application and provided all relevant information including the disclosure of her bankruptcy filing. She received a phone call from the dealership indicating that she could not be approved for the purchase of the Town & Country because the sales price was too high. The representative also indicated that the dealership was expecting delivery of some Ford Windstar's and that she should return to the dealership to examine some of the Windstars.

Upon returning to the dealership, she examined a Ford Windstar and then spoke with Mr. Richard O'Brien, salesperson for Field Auto City. He indicated that he would call her if he could get her approved for financing. Mr. O'Brien called her later that day and informed her that she was approved for financing provided a letter from the bankruptcy trustee authorizing a payment of \$450 per month with a down payment of \$2,500. One week later, Ms. Lewis obtained a letter from the bankruptcy trustee.

On February 6, 2002, Ms. Lewis called Mr. O'Brien and informed him that she had satisfied the conditions and was prepared to tender the letter and the down payment to purchase the 2000 Ford Windstar. That same day, she returned to the dealership, completed a Buyer's Order and a Retail Installment Sales Contract for the vehicle, which reflects a sales price of \$15,500 plus \$1,234.45 (for the processing fee of \$289, dealer business license tax \$31, sales & use tax \$789.45 and registration fee of \$125) making the total delivery price of \$16,734.45. Ms. Lewis made a down payment of \$2,500 and financed the remaining balance of \$15,763.09. Ms. Lewis kept in contact with dealership, because she needed her permanent license plates and she needed to know where to make her first payment. She was advised that she would need to come in and obtain a second set of temporary tags and she was advised that she needed to have a Maryland safety inspection completed on the Windstar as well. On March 2, 2002 she returned to the dealership and obtained the second set of temporary tags.

On April 1, 2002, she went to Field Auto City to make her first payment and made the check payable to Field Auto City, along with her Maryland inspection. Field Auto accepted the payment and confirmed that all contingencies regarding her loan had been approved. Field Auto still had not transferred the title to Ms. Lewis, instead, they issued her a third set of temporary tags. On May 1, 2002, Ms. Lewis paid a second payment, made payable to Field Auto City. On May 2, 2002, the dealership called Ms. Lewis and indicated that Americredit had refused to finance her, and that they did not know why. Despite the fact Ms. Lewis had signed the RISC in which Field Auto City had agreed to finance and had accepted two payments, Field Auto City demanded that she return the vehicle to the dealership. Ms. Lewis was concerned that she would not be able to finance another vehicle and she felt her contractual rights had been violated and refused to return the vehicle to Field Auto City.

Michael Fields, owner of Field Auto City called Ms. Lewis and informed her that the contract was not valid and if she did not return the vehicle, he would report the vehicle as stolen to the police. Ms. Lewis stood her ground and refused to return the vehicle. Mr. Field then represented to Ms. Lewis that the loan was not valid. In order to resolve the issue, Mr. Fields then prepared an amended Buyers Order and the RISC indicating a down payment of \$3,378.22 and issued her a fourth set of temporary tags. This amount is derived from her original down payment and the two monthly payments she made. Field Auto did not submit to the state of Maryland the sums it collected for taxes, tags and title fees until May 2, 2002 (four months after the sale). By refusing the transfer title and submit to the MVA the sums collected, the interest on the loan had already started to accrue interest. Ms. Lewis continued making payments on the original loan contract, dated February 6, 2002. She never signed nor had any knowledge of an amended Buyers Order or that a second Retail Installment Sales Contract had been completed in her name dated May 11, 2002.

After years of attempting to vindicate her rights, Ms. Lewis obtained legal counsel (Mr. Hugo Blankingship) and ultimately received an arbitration award of \$50,240.00 Field Auto never paid the fees owed to the National Arbitration Forum, therefore Ms. Lewis then had to request that the circuit court confirm the arbitrator's award and enter judgment in her favor against Field Auto City in the amount of \$50,240.00.

On April 12, 2006, Mr. Blankingship, on behalf of his client, submitted to the Dealer Board as prior notification, a copy of the complaint that had been filed in the US District Court against Field Auto. That same month, the Board requested additional documentation in order to complete the review process. On July 31, 2006, the Dealer Board received the additional documentation as requested. On September 15, 2006, the Circuit Court of the City of Alexandria granted Ms. Lewis judgment against Field Auto City in the amount of \$50,240 and on March 9, 2006, Mr. Blankingship, on behalf of his client, submitted all the paperwork related to the judgment.

After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Ms. Lewis' judgment in the amount of \$20,000.00. On June 4, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$20,000.00.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Tommy Woodson seconded. Wanda Lewark abstained from the motion because of a business dispute with Mr. Fields. The motion was carried.

- **Legislative Concepts for 2008.** No suggestions at this time.

NEW BUSINESS FROM THE FLOOR

There was no old business from the floor.

The next meeting was scheduled for September 10, 2007.

The meeting adjourned at 12:50 p.m.