

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 Dealer Practices Committee Monday, July 14, 2008

Chairman Hugh McCreight 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 Committee members Jonathan Blank, Wanda Lewark, David Lacy, Kevin Reilly, Vince Sheehy Robert Woodall and Thomas Woodson. (Absent: Chip Lindsay, Thomas Moorehead, Larry Shelor). Other board members present: Frank Pohanka, Lynn Hooper, Pat Patrick, D.B. Smit, Jimmy Whitten. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. No one was present from the Attorney General's Office.

The May 12, 2008 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 12, 2008.

OLD BUSINESS FROM THE FLOOR

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

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

- **James R. Little and St. Clair Motors.** On April 17, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1516 (Allowing his vehicles to be exhibited for sale at a location not listed as part of his dealership location), 46.2-1529 (not having the required records, failure to keep records, failure to keep record of temporary tag issuance, etc), 46.2-1537 (failure to have salesperson on W-32, even after being verbally warned about this violation), 46.2-1550 (improper use of dealer license plates) and 46.2-1575(1) (material misstatement) and (2) (failure to comply subsequent to receipt of a written warning from the Board or any willful failure to comply with the dealer laws). Based on the information provided at the conference, the hearing officer recommended that Mr. Little be assessed a civil penalty of \$750, attend the Dealer-Operator Course and have a Board Representative visit Mr. Little to ensure he is conducting his business in accordance with the rules and regulations.

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

- **Variance Request: Jerry's Auto Service and Sales.** Bruce Gould reported that for the past 10 years, Jerry Farmer has requested a variance in hours for his dealership, Jerry's Automotive Sales and Service, because of his teaching schedule.

Motion was made David Lacy to accept Jerry's Auto Service and Sales variance request. Thomas Woodson seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

Bruce Gould indicated that staff is currently preparing a hearing for a licensed salesperson resulting in their conviction of a crime involving the automobile business. Unfortunately, it was about a month or so "after" he renewed his license. Staff would not have known about the felony charges until someone contacted the Dealer Board. On the initial application, a criminal background check is conducted and most felonies are discovered. However, it is not done on a renewal of a salespersons license, therefore, any felony charges, after the fact, oftentimes slips through the cracks. Bruce suggested that the Board pursue developing a legislative proposal that would require salespersons to notify the Board if they are convicted of a felony or any crime related to the automobile business. If the salesperson fails to disclose this information, the Board would have the authority to revoke the salespersons license without first conducting a hearing. General discussion followed. Consensus of the Committee was that a legislative proposal should not be pursued at this time.

The next meeting was scheduled for September 8, 2008.

The meeting adjourned at 9:11 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, July 14, 2008

Vice-Chairman Lynn Hooper called the Dealer Licensing Committee meeting to order at 9:12 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Frank Pohanka, Hugh McCreight, Pat Patrick, Robert Woodall and Jimmy Whitten. (Absent: Chip Lindsay, Henry Jones) Other Board members present: Vince Sheehy, David Lacy, D.B. Smit, Wanda Lewark, Kevin Reilly, Jonathan blank, Thomas Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The May 12, 2008 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 12, 2008.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 8, 2008

The meeting adjourned at 9:15 a.m.

Meeting Summary
Advertising Committee
Monday, July 14, 2008

Chairman Lynn Hooper called the Advertising Committee meeting to order at 9:16 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Kevin Reilly, Thomas Woodson, Vince Sheehy and Jimmy Whitten (Absent: Larry Shelor and Todd Haymore). Other Board members present: Pat Patrick, David Lacy, Chip Lindsay (came in late), Hugh McCreight, Frank Pohanka, D.B. Smit, Wanda Lewark, Robert Woodall, Thomas Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The May 12, 2008 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Consumer Cash Rewards.** At the May Full Board meeting, the Board heard from two consumers who had purchased vehicles from two different dealerships that had participated in the "Consumer Cash Back Rewards Program". In both cases the consumers did not receive the expected rebate. After listening and questioning the consumers and after discussing the situation, the consensus of the Board was that a report and recommendations from staff be presented at the July meeting. Bruce Gould reviewed various statutory provisions, and documents, and have discussed this situation with counsel. Based on that review and based on discussion with counsel, Bruce recommended to the Board, absent any further evidence, there is no further action available at this time to the Board in assisting consumers who participated in the Consumer Cash Rewards Program. Consensus of the Committee agreed with Bruce.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

The next meeting was scheduled for September 8, 2008.

NEW BUSINESS FROM THE FLOOR

The meeting adjourned at 9:28 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, July 14, 2008

Full Board Vice-Chairperson Wanda Lewark called the Transaction Recovery Fund Committee meeting to order at 9:30 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, David Lacy, Pat Patrick and Frank Pohanka. (Absent: Larry Shelor, Henry Jones, Todd Haymore). Other Board members present: Vince Sheehy, Jimmy Whitten, Hugh McCreight, D.B. Smit, Chip Lindsay, Lynn Hooper, Kevin Reilly, Robert Woodall, Thomas Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The May 12, 2008 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:

Myron A. Spriggs and Mustafa S. Hashimi & Sequoia Auto Mart, Inc. On September 8, 2007, Mr. Spriggs purchased a 2000 Lincoln LS for the total purchase price of \$7,087.00. Prior to the purchase, Mr. Spriggs asked the salesperson/manager Mr. Wafi Akbary about the status of the vehicle title. Mr. Akbary indicated that the dealership had possession of the title and if Mr. Spriggs paid in cash he would receive the title within 3 days, if he would pay by check, he would receive the title within 10 days. Mr. Spriggs paid the full purchase price of the vehicle that same day by check and Mr. Akbary issued a 30-day temporary certificate with an expiration date of October 8, 2007. On October 8, 2007, Mr. Akbary sent a second set of 30-day temporary tags with a letter to Mr. Spriggs indicating they had signed the title incorrectly and that a corrected title would be forwarded in 2 weeks. On October 25, 2007, Mr. Spriggs still had not received title to the vehicle. He then sent a letter to Sequoia Auto Mart, inc. requesting the status of his title, in which he never received any response.

On November 7, 2007, Mr. Spriggs received a third set of 30-day temporary tags with a note at the bottom of the certificate promising the title within 15 days. On November 13, 2007, Mr. Spriggs sent a letter to Sequoia Auto Mart stated that if he didn't receive his title by November 16, 2007, he would return the vehicle and expected a refund of his money. On November 16, Mr. Spriggs still had not received a response from Sequoia. In speaking with Mr. Akbary regarding the return or refund of his money, Mr. Akbary indicated that Mr. Spriggs would have to speak with David Mahdavi, who has power of attorney for Sequoia, about obtaining his title. Mr. Spriggs left David Mahdavi several messages over a two week period, in which none of them were returned. After speaking with Mr. Mahdavi's assistant, Mr. Spriggs found out that the vehicle he had purchased had a lien with Automotive Finance Corporation (AFC) and that they were holding the title upon receipt of their money.

On November 28, 2007, Mr. Spriggs filed a complaint with the Motor Vehicle Dealer Board, which forwarded his complaint to the DMV, Investigative Services. Special Investigator, Richard Nick stayed in contact with Mr. Spriggs throughout this whole process. On December 7, 2007, Mr. Akbary told Mr. Spriggs to contact AFC and that they would tell him how to obtain his title. In turn, AFC told Mr. Spriggs they had floor-planned numerous vehicles for Sequoia and they had not been paid.

On December 14, 2007, Mr. Spriggs received a letter from Sequoia stating that they were filing bankruptcy and going out of business and for him to request the title from AFC in writing and to forward them a copy of his Bill of Sale. On December 19, 2007, Mr. Spriggs filed a Warrant in Debt against Mustafa Hashimi t/a Sequoia Auto Mart, Inc. for failure to provide title for the vehicle he had purchased in the amount of \$10,000.00. On December 22, 2007, Mr. Spriggs returned the vehicle and keys to Mr. Hashimi, the registered owner of Sequoia Auto Mart with a letter stating he was returning the vehicle for failure to provide title, transfer ownership and demanded a full refund of the moneys.

On February 4, 2008, the Stafford County General District court awarded Mr. Spriggs a Default Judgment against Mustafa Hashimi t/a Sequoia Auto Mart, Inc. in the amount of \$9,395.96 and costs in the amount of \$36.00. On February 6, 2008, Mr. Spriggs spoke with Wanda Neely, Recovery Fund Analyst requesting information on how to file a claim against the Motor Vehicle Transaction Recovery Fund (Fund). On March 10, 2008, Mr. Spriggs submitted to the Dealer Board an affidavit of facts, a Judgment Claim Request form, copy of his bill of sale, copy of canceled checks attesting to payment, copies of the 3 temporary certificates, a copy of the Warrant in Debt and a copy of the Judgment Order. On March 13, 2008, Mr. Spriggs submitted to the Dealer Board the originals of the Warrant in Debt and the Abstract of the Judgment Order. On May 20, 2008, the Dealer Board received an "Electronic Bankruptcy Notice" Chapter 7 that had been filed May 15, 2008 for Mustafa S. Hashimi d/b/a Sequoia Auto Mart, Inc. by legal counsel (Richard Stahl).

After carefully reviewing all the documentation, the total amount of Mr. Spriggs judgment of \$9,395.96 plus \$36.00 in costs, it is requested that the Recovery Fund Committee and Full Board approve Mr. Spriggs claim in the amount of \$9,431.96. On June 23, 2008, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Mr. Collins receive the total amount of \$9,431.96 as recommended by the Board staff. Please note that Judgment was awarded February 4, 2008, prior to the filing of the debtors Chapter 7, Bankruptcy on May 15, 2008.

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. Jonathan Blank seconded. The motion carried unanimously.

Nikki Renee Winston and Romulo B. Garcia & K J Auto Group, Inc. On April 7, 2007, Ms. Winston purchased a 2002 BMW for a total sales price of \$28,070.74. Ms. Winston made a deposit of \$2,000 and financed the remaining with a loan from the Fairfax County Federal Credit Union.

On or about September 26, 2007, Ms. Winston received a letter from First Bank indicating they held first lien on the vehicle and it had not been paid. Subsequently, on October 7, 2007, First Bank repossessed the vehicle from Ms. Winston. After attempting to contact K J Auto Group, but to no avail, Ms. Winston sought legal counsel in order to pursue the dealer civilly in court.

On March 6, 2008, Cary Craig, Jr., counsel for Ms. Winston, submitted to the Dealer Board the Complaint that been filed against K J Auto Group in the Circuit Court for the County of Frederick. Counsel also submitted a copy of the buyers order, a copy of the title in the name of K J Auto Group and a copy of the canceled check in the amount of \$25,925.86, a copy of a check in the amount of \$16,500 from the surety company. On March 12, 2008, the Dealer Board acknowledged receipt of Ms. Winston claim against the Fund and requested additional information. On March 21, 2008 Ms. Winston was awarded a default judgment against K J Auto Group, Inc. in the amount of \$27,825.86, plus attorney fees in the amount of \$8,347.76.

On March 24, 2008, the Dealer Board received the Attested copy of the Judgment Order. On June 6, 2008, Mr. Craig submitted to the Dealer Board the Judgment Claim Request form along with a letter, a copy of the judgment order and a copy of the engagement agreement in which the court based its award for attorney fees. Counsel requested consideration of payment for client's claim from the Fund minus the amount that has been paid by the surety bonding company.

After carefully reviewing all the documentation, staff recommended that the Recovery Fund Committee and Board approve \$19,673.14 on Ms. Loeb's claim. On June 23, 2008, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Ms. Winston receive the total amount of \$19,673.14 as recommended by the Dealer Board staff.

Motion was made Pat Patrick to accept the hearing officer's recommendation. Frank Pohanka seconded. General discussion followed involving the issue of overpaying the claim once the Surety Bond has paid. It appears that if the Surety Bond paid \$16,500.48, then the Board should only pay \$3,499.52 to complete the maximum allowed of \$20,000. If the Board voted to pay the original claim of \$19,673.14, then it would be paying over the maximum allowed which is \$20,000.00. General discussion followed.

Substitute motion was made by Frank Pohanka to pay \$3,499.52 which meets the \$20,000 maximum allowed, after the \$16,500.48 was paid by the Surety Bond. Pat Patrick seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 8, 2008.

The meeting adjourned at 10:17 a.m.

Meeting Summary
Motor Vehicle Dealer Board
Monday, July 14, 2008

Chairman D. B. Smit called the Dealer Board meeting to order at 10:24 a.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, David Lacy, Wanda Lewark, Chip Lindsay, Hugh McCreight, Pat Patrick, Frank Pohanka, Kevin Reilly, Vince Sheehy, Jimmy Whitten, Robert Woodall and Tommy Woodson. (Absent: Todd Haymore, Henry Jones, Thomas Moorehead and Larry Shelor). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

PUBLIC COMMENT

The May 12, 2008 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Hugh McCreight summarized discussions held and actions that were taken during the Committee Meeting.

- **James R. Little and St. Clair Motors.** Chairman Hugh McCreight summarized for the board the discussion held in the committee meeting regarding James R. Little and St. Clair Motors. Based on that discussion, Mr. McCreight made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning James R. Little and St. Clair Motors for alleged violations of Va. Code §§ 46.2-1516 (Allowing vehicles to be exhibited for sale at a location not listed as part of his dealership location), 46.2-1529 (related to record keeping), 46.2-1537 (failure to have salesperson properly employed), 46.2-1550 (Improper use of dealer license plates) and 46.2-1575(1) (Material Misstatement) and (2) (failure to comply subsequent to receipt of a written warning from the Board or any willful failure to comply with the Dealer laws). Based on due consideration, the Board believes a civil penalty should be assessed against James R. Little and St. Clair Motors; that the Board hereby assesses a \$750 civil penalty against James R. Little and St. Clair Motors; Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Little in running his dealership. The Board mandates that Mr. Little successfully complete the dealer-operator course by January 14, 2009. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Little by the Board until what time Mr. Little has successfully completed the course.

Kevin Reilly seconded. The motion carried unanimously.

- **Variance Request: Jerry's Auto Service & Sales.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding Jerry's Auto Service & Sales Variance Request. Based on that discussion, Mr. McCreight made the following 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, 2007.

Robert Woodall seconded. The motion carried unanimously.

Licensing Committee

Chairman Chip Lindsay summarized discussions held and actions that were taken during the Committee Meeting.

Advertising Committee

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

Transaction Recovery Fund Committee:

Chairman Larry Shelor summarized discussions held and actions that were taken during the Committee Meeting.

- **Myron A. Spriggs v. Sequoia Auto Mart, Inc.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding Myron A. Spriggs v. Sequoia Auto Mart. Based on that discussion and the recommendations in the case, Mr. Shelor 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 a claim submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claim should be payable from the Fund. The Board hereby approves and reaffirms the following claim and payment amount subject to compliance by the claimant with statutory requirements:

Myron A. Spriggs v. Sequoia Auto Mart, Inc.	\$9,431.96
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Frank Pohanka seconded. The motion carried unanimously.

- **Nikki Renee Winston v. K J Auto Group.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding Nikki Renee Winston v. K J Auto Group. Based on that discussion and the recommendations in the case, Mr. Shelor 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 a claim submitted for payment from the Fund and based on due consideration and the hearing

officer's report, the Board believes the following claim should be payable from the Fund. The Board hereby approves and reaffirms the following claim and payment amount subject to compliance by the claimant with statutory requirements:

Nikki Renee Winston v. K J Auto Group

\$3,499.52

Frank Pohanka seconded. The motion carried unanimously.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

- David Lacy had concerns relating to dealers and consumers purchasing vehicles from salvage dealers; therefore he made the following motion: The mission of the Motor Vehicle Dealer Board is to “promote the best interests of both the automotive consumer and dealer body;” and for the safety of unwitting buyers; and the Board believes it is in the best interest of dealers and consumers that consumers and others not properly licensed should not be allowed to purchase vehicles from a salvage pool; and allowing consumers and others who are not properly licensed to purchase vehicles from salvage pools is bad public policy; and improperly rebuilt vehicles can cause harm and even death to the consumers anywhere in the world. The Virginia Motor Vehicle Dealer Board opposes any legislative proposal where the net result from the changes would be: That a salvage dealer, rebuilder, demolisher or motor vehicle dealer would not have to be licensed in order to purchase from a salvage pool; and that any consumer, regardless of citizenship country, would be allowed to buy vehicles at a salvage pool.

Hugh McCreight seconded. The motion carried unanimously.

- **Executive Director's Report.** Bruce Gould indicated that Terry Quill, one of our original field representatives, has retired. With some luck, staff is hoping to have the position filled by the September Board meeting, if not then, definitely by the November Board meeting.

The next meeting will be scheduled for September 8, 2008.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 10:47 a.m.