

**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 11, 2011**

Vice-Chairperson Wanda Lewark called the Dealer Board meeting to order at 11:01 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 Board members present. Present were members Andy Alvarez, Frank Pohanka, Lynn Hooper, T.K. Hughes, David Lacy, Chip Lindsay, Thomas Moorehead, Pat Patrick, Kevin Reilly, Larry Shelor, Joe Tate, Jimmy Whitten, Robert Woodall, Sally Woodson and Tommy Woodson. (Absent: Rick Holcomb, Henry Jones and Matt Queen). Executive Director Bruce Gould, Peggy Bailey, Wanda Neely, Ann Majors and Frank McCormick represented the Dealer Board. Jo Anne P. Maxwell represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

#### **PUBLIC COMMENT**

There was no public comment.

The May 9, 2011 meeting summary was approved.

#### **STATUTORY COMMITTEE REPORTS**

##### **Dealer Practices Committee:**

Chairman Kevin Reilly summarized discussions held and actions that were taken during the Committee Meeting.

- **Variance in Hours: Jerry Farmer and Jerry's Automotive Sales and Service.** Bruce Gould reported that Mr. Farmer has requested a variance in hours for his dealership, Jerry's Automotive Sales and Service, because of his teaching schedule and David Lacy 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 and a total of 20 hours each week. This variance shall be in effect through September 30, 2012.

Pat Patrick seconded. The motion carried unanimously.

- **Richmond Auto Sales and Earmias Y. Gutahun.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding Richmond Auto Sales and Earmias Y. Gutahun. Based on that discussion, Mr. Reilly 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 Richmond Auto Sales and Earmias Y. Gutahun for alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1532 (odometer disclosure), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Earmias Y. Gutahun. The Board hereby assesses a \$6,000 civil penalty against Earmias Y. Gutahun; and based on due consideration, the Board believes that Mr. Gutahun's dealership should be re-inspected and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Gutahun's dealership and suspends all licenses issued by the Board to Mr. Gutahun until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative and based on due consideration, the Board believes that requiring the dealer operator [Bineyam Tesfaye] to successfully complete the dealer-operator course would benefit Mr. Gutahun in running his dealership. The Board mandates that the dealer operator of record [Bineyam Tesfaye] successfully complete the dealer-operator course and that all licenses and certificates issued to Mr. Gutahun by the Board are suspended until such time as the dealer operator of record has successfully completed the course

Robert Woodall seconded. The motion carried unanimously.

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

- **M & I Auto Sales, Inc. and Issmail Alchaleh.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding M & I Auto Sales, Inc. and Issmail Alchaleh. Based on that discussion, Mr. Reilly made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the Motor Vehicle Dealer Board, assessed a \$3,000 civil penalty and revoked all licenses and certificates issued to Mr. Issmail Alchaleh; and Mr. Alchaleh appealed the Board's decision and requested a formal hearing that was conducted on June 2, 2011; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning M & I Auto Sales, Inc. and Issmail Alchaleh for alleged violations of Va. Code Sections 46.2-1510 (no working telephone listed in the name of the dealership), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failing to maintain buyer's orders), 46.2-1533 (failing to maintain business hours), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning). Based on due consideration, the Board believes a civil penalty should be assessed against Mr. Alchaleh. The Board hereby takes assesses a \$3,000 civil penalty against Mr. Alchaleh; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Alchaleh should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Alchaleh

Sally Woodson seconded. The motion carried unanimously.

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

- **Razaq Auto Sales, Inc. and Jamal A. Abdulwahab.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding Razaq Auto Sales, Inc. and Jamal A. Abdulwahab. Based on that discussion, Mr. Reilly made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the Motor Vehicle Dealer Board assessed a \$2,000 civil penalty and revoked all licenses and certificates issued to Mr. Issmail Abdulwahab; and Mr. Abdulwahab appealed the Board's decision and requested a formal hearing that was conducted on June 1, 2011; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Razaq Auto Sales, Inc. and Jamal A. Abdulwahab for alleged violations of Va. Code Section(s) 46.2-1575 (6) (having used deceptive acts or practices) and 46.2-1575 (9) (having been convicted of any criminal act involving the business of selling vehicles). Based on due consideration, the Board believes a civil penalty should be assessed against Mr. Abdulwahab. The Board hereby assesses a \$2,000 civil penalty against Mr. Abdulwahab. Based on due consideration, the Board believes that all licenses issued by the Board to Mr. Abdulwahab should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Abdulwahab

#### **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.

- **Kimberly P. Cross and Towne Automotive Brokers, Inc. & Francis Maskia.** Chairman Larry Shelor summarized for the Board the discussion held in the committee meeting regarding Jaime Weinberg and Alexandria Buick-Pont-GMC-Saturn. Based on that discussion and the staff and the hearing officer's reports, Mr. Shelor made the following motion: 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, the Board believes a decision should be deferred to the September meeting for further discussion on whether or not Ms. Cross took her payment of \$8,453.55 and applied it to her debt obligation to USAA.

Frank Pohanka seconded. The motion carried unanimously.

- **Executor Maritza Peterson for Gregory Peterson and Heritage Chrysler and Susan Henderson and Andre P. Raven, Sr.** Chairman Larry Shelor summarized for the Board the discussion held in the committee meeting regarding Executor Maritza Peterson for Gregory Peterson and Heritage Chrysler and Susan Henderson and Andre P. Raven, Sr. Based on that discussion and the recommendations in these cases, Mr. Shelor made the following motion: Pursuant to VA Code 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 the claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the claims should be payable from the Fund.

<b>Executor Maritza Peterson for Gregory Peterson and Heritage Chrysler</b>	<b>\$8,329.51</b>
<b>Susan Henderson and Andre P. Raven, Sr.</b>	<b>\$1,737.35</b>

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**

There was no new business from the floor.

The next meeting will be scheduled for September 12, 2011.

**Executive Director’s Report.** Bruce Gould indicated that in September the National Association of Motor Vehicle Boards and Commissions will be having their annual meeting. He would like someone from the Virginia MVDB to attend that meeting. The cost is approximately is \$3,000.00.

Motion was made by Robert Woodall to approve attendance to this meeting. Kevin Reilly seconded. The motion carried unanimously.

Bruce also indicated that the office was recently audited and the outcome so far has been good. He also gave the report on civil penalties assessed for the Fiscal Year 2011. Also, hopefully the Board appointments will be in place for the September meeting. Lastly, he reported, that financially, the Board is closing the year in good shape with a plus \$57,000.00 in the agency’s special fund.

Motion was made by Thomas Moorehead to use 25% to 30% of the \$57,000 to award bonuses to staff and the Executive Director for a job well done. The Executive Director is to determine individual bonuses and the other 75%-70% of the \$57,000 is to remain in the special fund. Joe Tate seconded. The motion carried unanimously.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairperson Lewark adjourned the meeting at 11:44 a.m.

**Meeting Summary**  
**Dealer Practices Committee**  
**Monday, July 11, 2011**

Chairman Kevin Reilly called the Dealer Practices Committee meeting to order at 9:03 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members T.K. Hughes, David Lacy, Wanda Lewark, Chip Lindsay, Thomas Moorehead, Larry Shelor, Robert Woodall, Sally Woodson and Tommy Woodson. (Absent: Matt Queen). Other Board members present: Joe Tate, Pat Patrick, Frank Pohanka, Lynn Hooper, Jimmy Whitten, Andy Alvarez. Executive Director Bruce Gould, Peggy Bailey, Ann Majors, Frank McCormick and Wanda Neely represented the Dealer Board. Jo Anne P. Maxwell represented the Attorney General's office.

The May 9, 2011 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Variance Request in Hours: Jerry Farmer and Jerry's Automotive Service.** Bruce Gould reported that for the past 13 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 by David Lacy to grant Mr. Farmer his variance request in hours. Tommy Woodson seconded. The motion carried unanimously.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

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

- **Richmond Auto Sales and Earmias Y. Getahun.** On May 13, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1532 (odometer disclosure), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,000 for the violations of 1537 and a civil penalty of \$1,250 for violating 1575(2) for a total civil penalty of \$3,250. Also recommended was for Mr. Getahun to take and pass the Dealer-Operator course.

Due to the severity of the violations, motion was made by Robert Woodall to modify the recommendation by assessing a \$6,000 civil penalty, suspend all licenses until Mr. Getahun has a satisfactory inspection and successfully takes the Dealer-Operator course. Thomas Moorehead seconded. The motion carried unanimously.

#### **Review and Action: Formal Hearings:**

- **M & I Auto Sales, Inc and Issmail Alchaleh.** Historical overview leading up to the formal hearing: On November 10, 2010, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1510 (No working telephone listed in the name of the dealership), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location) 46.2-1530 (failing to maintain buyer's orders), 46.2-1533 (failing to maintain business hours), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). The hearing officer found M & I Auto Sales, Inc. and Issmail Alchaleh in violation and recommended that a civil penalty of \$3,000 be assessed and to revoke all licenses and certificates issued by the Board to Issmail Alchaleh and M & I Auto Sales, Inc. During the March 14, 2011 Committee and Full Board meeting, the members agreed with the hearing officer and a resolution was created assessing a civil penalty of \$3,000 and to revoke all licenses and certificates issued by the Board to Issmail Alchaleh and M & I Auto Sales, Inc. On April 15, 2011, Mr. Alchaleh appealed and requested a formal hearing. On June 2, 2011, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the conference, the hearing officer indicated that assessing and paying penalties by Mr. Alchaleh has had no impact in the past and they would have no impact for the present. Therefore, he recommended revocation of all licenses, certificates and recover any plates, materials, and effects that belong to the Board. Mr. Alchaleh should never again be licensed by the Board, nor should be allowed to have any salespersons license or any permission to be in the business of selling vehicles in Virginia.

Due to the severity of the violations, motion was made by T.K. Hughes to modify the recommendation by assessing a civil penalty of \$3,000 and revocation of all licenses and certificates. Sally Woodson seconded. The motion carried unanimously.

- **Razaq Auto Sales, Inc. and Jamal A. Abdulwahab.** Historical overview leading up to the formal hearing: On November 19, 2010, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575(6) (having used deceptive acts or practices) and 46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles). The hearing officer recommended assessing a civil penalty of \$2,000 and to revoke all licenses and certificates issued by the Board to Jamal A. Abdulwahab and Razaq Auto Sales, Inc. During the March 14, 2011 Committee and Full Board meeting, the members agreed with the hearing officer and a resolution was created assessing a civil penalty of \$2,000 and to revoke all licenses and certificates issued by the Board to Jamal A. Abdulwahab and Razaq Auto Sales, Inc. On April 4, 2011, Mr. Abdulwahab appealed and requested a formal hearing. On June 1, 2011, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the conference, the hearing officer concurred with the recommendation from the informal fact-finding conference to assess a civil penalty of \$2,000 and revoke all licenses and certificates issued by the Board to Jamal A. Abdulwahab and Razaq Auto Sales, Inc.

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

Motion was made by Larry Shelor to accept the hearing officer's recommendation. Tommy Woodson 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 12, 2011.

The meeting adjourned 9:28 a.m.

**Meeting Summary**  
**Dealer Licensing Committee**  
**Monday, July 11, 2011**

Chairman Chip Lindsay called the Dealer Licensing Committee meeting to order at 9:29 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Lynn Hooper, T.K. Hughes, Pat Patrick, Frank Pohanka, Joe Tate, Jimmy Whitten and Robert Woodall. (Absent: Henry Jones). Other Board members present: Sally Woodson, Thomas Moorehead, David Lacy, Larry Shelor, Kevin Reilly, Wanda Lewark, Andy Alvarez, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Ann Majors and Wanda Neely represented the Dealer Board. Jo Anne P. Maxwell represented the Attorney General's office.

The May 9, 2011 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**Update: Independent Dealer-Operator (IDO) Recertification Program.** Ann Majors indicated that the First "deadline" was May 31<sup>st</sup>, with 104 Independent Dealer Operators, 79 recertified, 15 were out of business, 89% recertified, Nine "120 Day" letters were sent for the May 31<sup>st</sup> deadline. 2<sup>nd</sup> Deadline is July 31<sup>st</sup> with 69 Independent Dealer Operators, 33 have recertified thus far, 7 are out of business, 53% have recertified thus far. August will be the last mailing for 2011 for a total of approximately 1469 notifications. October will begin the mailings for 2012. Ms. Majors receives 5-35 telephone calls per day and 3-10 emails per day.

**OLD BUSINESS FROM THE FLOOR:**

There was no old business from the floor.

**NEW BUSINESS**

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for September 12, 2011.

The meeting adjourned at 9:43 a.m.



**Meeting Summary**  
**Advertising Committee**  
**Monday, July 11, 2011**

Chairman Lynn Hooper called the Advertising Committee meeting to order at 9:43 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Andy Alvarez, Kevin Reilly, Larry Shelor, Joe Tate, Jimmy Whitten, Sally Woodson and Tommy Woodson. (Absent: Matt Queen). Other Board members present: Thomas Moorehead, Pat Patrick, T.K. Hughes, David Lacy, Frank Pohanka, Wanda Lewark, Chip Lindsay, Robert Woodall. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Ann Majors and Wanda Neely represented the Dealer Board. Jo Anne P. Maxwell represented the Attorney General's office.

The May 9, 2011 meeting 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**

There was no new business.

The next meeting was scheduled for September 12, 2011.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 9:44 a.m.

**Meeting Summary**  
**Transaction Recovery Fund Committee**  
**Monday, July 11, 2011**

Chairman Larry Shelor called the Transaction Recovery Fund Committee meeting to order at 9:44 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: David Lacy, Wanda Lewark, Andy Alvarez, Pat Patrick, Frank Pohanka and Joe Tate. (Absent: Henry Jones and Matt Queen). Other Board members present: Sally Woodson, Thomas Moorehead, T.K. Hughes, Kevin Reilly, Lynn Hooper, Chip Lindsay, Jimmy Whitten, Robert Woodall, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Ann Majors and Wanda Neely represented the Dealer Board. Jo Anne P. Maxwell represented the Attorney General's office.

The May 9, 2011 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:**

- **Kimberly P. Cross and Towne Automotive Brokers, Inc. and Francis Maskia.** On May 7, 2008, after seeing an advertisement on the internet, Ms. Cross called the dealership to inquire about a black Range Rover that was for sale. She was told it was still for sale, so that same day she went to Towne Automotive, along with her Mother, to inspect a black Range Rover for possible purchase. Upon her arrival, a salesperson told her that the vehicle in question had been sold. The salesperson then advised her that the dealership had other Range Rovers she could inspect. Ms. Cross indicated that she was going to Chicago and would rather wait until after she returns to pursue the purchase of a vehicle; however, Mr. Maskia told her that they dealt with USAA and insisted that he call them immediately for "pre-approval" of a loan amount. She refused, but he kept telling her that the pre-approval created no obligation on her part and that she was definitely not buying or authorizing the purchase of any vehicle. After persistent badgering by Mr. Maskia, Ms. Cross finally agreed to get pre-approved as long as it created no obligation on her.

Ms. Cross verbally gave personal and financial information to USAA over the phone, as well as permission for USAA to check her credit for the purposes of pre-approval. Upon ending the conversation, USAA pre-approved Ms. Cross for a \$33,000.00 loan. Mr. Maskia then advised Mr. Cross that a loan of \$31,000.00 would be adequate for the purposes of shopping for a black Range Rover for her and that she needed to tell USAA to send the "pre-approved" loan funds to Towne. After calling USAA again, Ms. Cross advised the USAA employee that no

vehicle was yet involved or designated for the pre-approval transaction. Ms. Cross signed a single document, represented to her by Mr. Maskia and the USAA employee on the phone as being her authorization for a pre-approval, in which Mr. Maskia faxed to USAA. After the phone conversation, Mr. Maskia assured Ms. Cross that she was not yet obligated for a purchase and what had just transpired was merely business as usual. USAA would send the \$31,000.00 to Towne's bank account and the money would not be used until after he found a vehicle for her.

Later, Ms. Cross learned that Masika or another employee of Towne obtained a copy of her credit report from Experian and forged her signature to other documents received from USAA. Mr. Masika represented to USAA that the documents were signed by Ms. Cross to obtain a loan for the purchase of a vehicle from Towne. On May 8, 2008, before leaving for Chicago, Mr. Maskia called Ms. Cross and indicated that he found a silver Range Rover and insisted she accept it for purchase. Ms. Cross repeatedly reminded Mr. Maskia she was only interested in a black Range Rover and finally told him to take no action toward finding her a vehicle until she returned. Mr. Maskia advised her that he would buy the silver Range Rover, because he was already at its location and that she did not have to buy it. Ms. Cross rescinded the alleged deal and instructed Mr. Maskia to stop the transaction between them in its entirety and to return the money he had received from USAA.

On May 13, 2008, Ms. Cross received a voice mail message from an unknown employee of Towne informing her that her vehicle was at the dealership and ready for pick-up. She tried calling Mr. Maskia during the remainder of her time in Chicago and was denied direct contact with him. Upon returning from Chicago, Ms. Cross contacted USAA and was informed that her loan application had been processed for the purchase of a specific vehicle. Over a period of several weeks, Ms. Cross had spoken with Mr. Masika protesting his use of her pre-approved loan funds to buy a vehicle that she had not authorized him to purchase and indicated she was not obligated for any vehicle held by Towne and that any alleged sale was rescinded.

On July 9, 2008, Ms. Cross received copies of the documents relating to the transaction with USAA. At this time, Ms. Cross learned that several documents contained forgeries of her signature and the loan application listed a vehicle identification number for a specific vehicle purchased. Apparently, Towne and Mr. Masika returned \$19,000.00 to USAA, but failed to fully pay on the full amount of the loan that was fraudulently obtained under Ms. Cross' name. In which, USAA continues to hold Ms. Cross responsible for the balance owed on the loan.

On October 26, 2009, Robin Abbott, attorney for Ms. Cross, filed a "Complaint" in the United States District Court, Eastern District of Virginia against Towne Automotive Brokers, Inc., Francis Masika and USAA Federal Savings Bank. On December 1, 2009, Ms. Abbott submitted to the Dealer Board, as prior notification, the "Complaint" that had been filed against Towne Automotive Brokers, Inc., Francis Masika and USAA Federal Savings Bank. On December 7, 2009, the Dealer Board acknowledged receipt of Kimberly Cross' possible claim against the Motor Vehicle Transaction Recovery Fund and staff referred and provided Ms. Cross' legal counsel with the dealers surety bonding company.

On April 14, 2010, the United States District Court/Eastern District of Virginia awarded Kimberly Cross a default judgment against Towne Automotive Brokers, and Francis Masika in the amount of \$14,784.00. On June 28, 2010, Accredited Surety & Casualty Company had received two claimants that had received judgments orders against Towne Automotive and

the court has paid the actual damages for Carlos Colombani in the amount of \$41,546.45 and Kimberly Cross in the amount of \$8,453.55, therefore exhausting the \$50,000.00 surety bond. On December 1, 2010, Ms. Abbott submitted to the Dealer a copy of the judgment order. On March 21, 2011, Ms. Cross received payment of \$8,453.55. Her damages were reduced to the extent that USAA would forgive her of the debt obligation. On April 11, 2011, Ms. Abbott submitted to the Dealer Board documentation for consideration of payment of attorney fees in the amount of \$5,000.00 from the Recovery Fund.

On June 10, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider Ms. Cross' request and pay the attorney's fees of \$5,000.00.

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. Pat Patrick seconded. All in favor: 6 (Shelor, Lacy, Lewark, Alvarez, Patrick, Pohanka). Opposed: 1 (Tate). The motion carried.

- **Maritza Y. Peterson executor for Gregory Alan Peterson (deceased January 2011) and Heritage Chrysler Plymouth Dodge of South Hill and Joseph T. Byrum.** On November 18, 2007, Mr. Peterson purchased a 1998 Ford Windstar from Heritage Chrysler, Plymouth, Dodge of South Hill for a total purchase price of \$10,588.48. As a part of the transaction, Mr. Peterson purchased GAP insurance for \$800.00. On December 13, 2008, Mr. Peterson was involved in an accident and the 1998 Ford Windstar was a total loss. Mr. Peterson submitted a claim for the damage to his insurance company (Travelers Commercial Insurance) which paid the fair market value of the vehicle at the time in the amount of \$2,836.55. However, the payoff amount of his loan to Wachovia was \$9,258.39 at the time of the accident. Upon deducting the amount paid by Travelers, Mr. Peterson was still liable for the balance owed in the amount of \$6,421.84. Mr. Peterson then submitted a claim to the GAP Insurance Company for the difference and subsequently learned that there was no evidence of any GAP insurance filed with the company. He was informed that Heritage had not forwarded any premium of \$800.00 with any application to the GAP insurance company for coverage for the vehicle at the time of purchase.

Mr. Peterson then contacted the owner, Mr. Joseph Byrum, and he received no explanation from Mr. Byrum as to what happened to the \$800.00 premium he had paid and why the documentation was never submitted to the GAP insurance company. On September 17, 2009, Mr. Peterson sought legal counsel with Charles G. Butts, Jr. and initiated a civil suit in the Mecklenburg County General District Court against JTB Enterprises, Inc. On September 18, 2009, Mr. Butts submitted to the Dealer Board the "Warrant in Debt" that had been filed. On December 3, 2009, the Mecklenburg General District Court awarded Gregory Peterson a default judgment against JTB Enterprises, Inc. in the amount of \$6,421.84, \$55.00 court costs and \$1,852.67 in attorney fees. On January 20, 2011, Mr. Byrum contacted the Dealer Board and indicated that he would try to satisfy the judgment before any payment would be made by the Fund. On February 8, 2011, Mr. Butts contacted the Dealer Board and indicated that Mr. Peterson had recently passed away and that the family was in the process of appointing an executor to act on behalf of the deceased. On May 16, 2011, Mr. Butts submitted paperwork that indicates Maritza Peterson as executor of the estate of Gregory A. Peterson.

On June 20, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board

approve the claim for liability after insurance, attorney fees and court cost in the amount of \$8,329.51.

Mr. Caparetta (Co-signor on the vehicle) and Executor Maritza Peterson were present and Mr. Caparetta spoke on behalf of Mrs. Peterson.

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

Motion was made by Joe Tate to accept the hearing officer's recommendation. Pat Patrick seconded. The motion carried unanimously.

- **Susan Henderson and Salesperson Andre Parnell Raven, Sr. (currently employed with Honda of Dulles).** In December of 2009, Ms. Henderson purchased a Honda from Andre P. Raven, Sr. at which time was a licensed salesperson at Sheehy Honda. Ms. Henderson indicated to Mr. Raven was that she was also looking for a reliable vehicle for her daughter. Mr. Raven indicated he would call her when a fairly decent vehicle arrived at the dealership.

In February 2010, Mr. Raven called Ms. Henderson and indicated that a 2001 Chrysler Sebring was available and that he could get the vehicle for her and her daughter for \$2,200.00. Ms. Henderson agreed and on February 25, 2010 she obtained a certified check in the amount of \$2,200.00. However, Mr. Raven indicated that she would have to pay for the vehicle in cash. On February 26, 2010, Ms. Henderson gave him the \$2,200.00 in cash. Mr. Raven did not provide any receipt or bill of sale for the purchase. When she inquired about the title, he indicated that would take a couple of weeks before the dealership received the actual title and that he would call her at that time. After a couple of weeks passed, Mr. Henderson returned to the dealership and demanded a receipt for the purchase of the vehicle. Annoyed, Mr. Raven finally provided an unofficial hand written receipt stating that she had paid him \$2,200.00 towards the purchase of a vehicle.

In March of 2010, Ms. Henderson continued to call about the title and finally Mr. Raven called and indicated he did not appreciate the harassing calls and was returning the money in a certified check and that he wanted the vehicle back undamaged. Ms. Henderson's daughter met Mr. Raven at his bank to make the exchange. While in the process of making the exchange, Mr. Raven grabbed the car keys from Ms. Henderson's daughter and took-off with the cash and the vehicle. Ms. Henderson contacted Sheehy and spoke with Denny Wiseman, who informed her that he had researched the vehicle and indicated that it was not in their inventory as one of their cars and that he could no longer get involved.

On April 30, 2010, the Fairfax County General District Court awarded Susan E. Henderson and Rachel B. Henderson judgment against Andre Parnell Raven in the amount of \$2,200.00. On October 15, 2010, Ms. Henderson's daughter filed a Garnishment of Wages against Mr. Raven with his current employer (Honda of Tysons Corner), the garnishment was based on the judgment that had been issued by not fully satisfied. On December 10, 2010, Ms. Henderson filed a written complaint with the Dealer Board against Andre Raven. On December 29, 2011, the Dealer Board contacted Sheehy Honda and inquired on the 2001 Chrysler Sebring that Mr. Raven indicated he had purchased. All the documentation reflected that Mr. Raven purchased the vehicle for \$1,908.06 and DMV records indicate that it was titled in Mr. Raven's name. On December 30, 2010, Mr. Raven faxed a letter to the Dealer Board stating that he did receive \$2,200 in cash from Ms. Henderson to purchase the vehicle and after

countless complaints he decided not to sell the vehicle to her. Mr. Raven indicated he had appeared in small claims court and agreed to pay the judgment in the amount of \$2,200.00.

On March 15, 2011, Mr. Raven submitted a statement of earnings from Honda of Tysons Corner, which reflects a garnishment of his wages in the amount of \$387.52 on January 14, 2011. On March 16, 2011, Mr. Raven transferred his salespersons license from Honda of Tysons to Honda of Dulles. On April 26, 2011, Ms. Henderson refilled her complaint with Dealer Board against Mr. Raven's record. Ms. Henderson has been unsuccessful in collecting any further garnishment, due to Mr. Raven continuous transferring from one dealership to another. Ms. Henderson submitted to the Dealer Board copies of two checks, one for \$128.13 and the second one for \$387.52 that she has received by garnishment of his wages.

On May 23, 2011, Ms. Henderson submitted to the Dealer Board the Judgment Claim Request form, copy of the original Warrant in Debt that had been filed against Andre Raven. Mr. Henderson is requesting consideration of payment from the Fund on the remaining balance of the judgment in the amount of \$1,737.35.

On June 30, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider approval of Ms. Henderson's claim in the amount of \$1,737.35

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. David Lacy 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 12, 2011.

The meeting adjourned at 10:45 a.m.