

Meeting Summary
Motor Vehicle Dealer Board
Monday, July 11, 2016

Chairman Rick Holcomb called the Dealer Board meeting to order at 10:57 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were Board 15 members present. Present were members Ted Bailey, Liza Borches, Michael Bor, Gardner Britt, Steve Farmer, Robert Fisher, David Gripshover, Ron Kody, Chris Maher, Geoff Malloy, Jacques Moore, Senior Saghafi, Maurice Slaughter and Joe Tate. (Absent: David Duncan, Clay Huber, Matt McQueen and George Pelton). Executive Director William Childress, Peggy Bailey, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon was the recording secretary.

Board Chairman Rick Holcomb assisted Deputy Secretary of Transportation Grindly Johnson with the presentation of reappointment /appointment certificates and pins to the following Board members:

Reappointed:

Ted Bailey
Ron Kody
Joe Tate

Appointed:

Michael Bor
Liza Broches
Robert Fisher
Geoff Malloy
Hamid "Senior" Saghafi
Maurice Slaughter

PUBLIC COMMENT

There was no public comment.

The May 9, 2016 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Ron Kody summarized discussions held and actions that were taken during the Committee Meeting.

- **Update: Insurance on Dealer Plates** – Chairman Kody briefed the Full Board that William Childress recommended to the Dealer Practices committee that the current process used by field staff regarding dealerships having insurance on their dealer plates remain intact. MVDB staff talked to various insurance companies and one insurance lobbyist and learned that for the most part insurance companies needed to know how many dealer plates a dealer had to help determine the insurance premium. Ron also briefed the Board that the MVDB staff would work to educate the dealers about dealer plates and the requirement to have the plates insured.

- **Fahad Auto Sales, LLC and Jassam M. Sarhan.** Chairman Kody 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 Fahad Auto Sales, LLC and Jassam M. Sarhan for alleged violations of Va. Code sections §46.2-1575 (9). Based on due consideration, the Board believes that the following actions should be taken against Fahad Auto Sales, LLC and Jassam M. Sarhan; Assessed a civil penalty of One Thousand dollars (\$1,000.00); and Fahad Auto Sales, LLC shall be re-inspected by a Motor Vehicle Dealer Board field inspector by January 11, 2017 and that inspection shall be satisfactory. The Board mandates that Fahad Auto Sales and Jassam M. Sarhan hereby be assessed a civil penalty of \$1,000.00, and that the Fahad Auto Sales, LLC dealership satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before January 11, 2017. Failure to pass the inspection conducted by a Motor Vehicle Dealer Board field inspector by January 11, 2017 will result in suspension of all licenses and certificates issued to Fahad Auto Sales, LLC by the Board until such time Fahad Auto Sales, LLC successfully complies with the Board's mandates.

Joe Tate seconded. The motion carried unanimously.

- **W & W Auto Sales and Stephen D. Willis, Sr.** Chairman Kody 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 W&W Auto Sales and Stephen D. Willis, Sr. for alleged violations of Va. Code sections §46.2-1508, 46.2-1529, 46.2-1533, 46.2-1574 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against W&W Auto Sales and Stephen D. Willis, Sr.: Assessed a civil penalty of Two Thousand Seven Hundred and Fifty dollars (\$2,750); and Suspension of all licenses issued to W&W Auto Sales and Stephen D. Willis, Sr. for 90 days until the dealership is in complete compliance with the VA Motor Vehicle Dealer Licensing laws. W&W Auto Sales shall be re-inspected by a Motor Vehicle Dealer Board field inspector by October 11, 2016 and that inspection shall be satisfactory. The Board mandates that W&W Auto Sales and Stephen D. Willis, Sr., hereby be assessed a civil penalty of \$2,750, and that all licenses issued by the board to W&W Auto Sales and Stephen D. Willis, Sr., be suspended for 90 days until the dealership is in complete compliance with VA Motor Vehicle Dealer Licensing Laws and that the W&W Auto Sales dealership satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before October 11, 2016. Failure to pass the inspection conducted by a Motor Vehicle Dealer Board field inspector on or before October 11, 2016 will result in revocation of all licenses and certificates issued to W&W Auto Sales by the Board.

Robert Fisher seconded. The motion carried unanimously.

- **Other Businesses in Dealerships** – William Childress briefed the Dealer Practices Committee meeting about Virginia dealerships having insurance business within the dealership. He brought this matter to the attention of the committee for discussion and guidance. The committee decided that as long as the dealership had at least 250 square feet dedicated solely to the business of the dealership that other business could exist within the dealership. Board Chairman Rick Holcomb added that he wanted the record to reflect that the discussion surrounding this topic was thoroughly detailed and of a positive nature.

- **Request for Variance in Hours: Jerry's Auto Service & Jerry Farmer.** Motion was made by Ron Kody: 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, 2017.

Senior Saghafi seconded. The motion carried unanimously.

Licensing Committee

Chairman Joe Tate summarized discussions held and actions that were taken during the Committee Meeting.

- **Samuel Ariondo, Salesperson.** Chairman Tate 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 Samuel Ariondo for alleged violations of Va. Code section §46.2-1575 (1), (6) and (13). Based on due consideration, the Board believes the following action shall be taken against Samuel Ariondo; Assessed a civil penalty of Five Thousand dollars (\$5,000.00). The Board mandates that Samuel Ariondo hereby be assessed a civil penalty of \$5,000.

Jacques Moore seconded. The motion carried unanimously.

- **Joseph C. Nelson, III, Salesperson.** Chairman Tate 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 C. Nelson for alleged violations of Va. Code section §46.2-1575 (1), 46-2-1575 (6), 46.2-1575 (9). Based on due consideration, the Board believes the following action shall be taken against Joseph C. Nelson: assessed a civil penalty of Eleven Thousand dollars (\$11,000) The Board mandates that Joseph C. Nelson hereby be assessed a civil penalty of \$11,000.

Chris Maher seconded. All in favor: 14 (Bailey, Bor, Borches, Britt, Farmer, Fisher, Gripshover, Kody, Maher, Malloy, Moore, Saghafi, Slaughter and Tate). Opposed: 1 (Holcomb). The motion carried.

- **Rodney L. Hubbard, Salesperson.** Chairman Tate 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 denied the application for a dealer's license to Rodney L. Hubbard. Rodney L. Hubbard appealed the decision and requested a formal hearing that was conducted on May 24, 2016. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Rodney L. Hubbard for alleged violations of Va. Code sections §46.2-1575 (4), (6), (13) and (14). Based on due consideration, the Board believes that the following actions should be taken against Rodney L. Hubbard: Denied a dealer's license and allowed to apply for a salesperson license. The Board mandates that Rodney L. Hubbard hereby be denied a dealer's license and allowed to apply for a salesperson license.

Senior Saghafi seconded. All in favor: 10 (Kody, Borches, Bor, Britt, Farmer, Gripshover, Maher, Malloy, Saghafi and Slaughter). Opposed: 4 (Bailey, Fisher, Moore and Tate). Abstained: 1 (Holcomb). The motion carried.

Advertising Committee

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

Shakila Sadat was present but declined to speak. NOTE: Mrs. Sadat was not present during the Dealer Practices Committee meeting.

- **American Auto Fox and Shakila Sadat.** Vice-Chairman Bailey 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 American Auto Fox and Shakila Sadat for alleged violations of Va. Code sections §46.2-1575 (7) and 46.2-1581 (8). Based on due consideration, the Board believes that the following action should be taken against American Auto Fox and Shakila Sadat: Assessed a civil penalty of Two Hundred and Fifty dollars (\$250). The Board mandates that American Auto Fox and Shakila Sadat hereby be assessed a civil penalty of \$250.

Jacques Moore seconded. The motion carried unanimously.

- **My Car and Tahidul Alam.** Vice-Chairman Bailey 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 My Car and Tahidul Alam for alleged violations of Va. Code section §46.2-1575 (7). Based on due consideration, the Board believes that the following actions should be taken against My Car and Tahidul Alam: Be issued a written warning; and My Car shall be re-inspected by a Motor Vehicle Dealer Board field inspector by January 11, 2017 and that inspection shall be satisfactory. The Board mandates that My Car and Tahidul Alam hereby be issued a written warning; and that the My Car dealership satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before January 1, 2017. Failure to pass the inspection conducted by a Motor Vehicle Dealer Board field inspector on or before January 11, 2107 will result in suspension of all licenses and certificates issued to My Car by the Board until such time My Car successfully complies with the Board's mandates.

Joe Tate seconded. The motion carried unanimously.

- **Mike Auto Sales and Luai Abualya.** Vice-Chairman Bailey 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 Mike Auto Sales and Luai Abualya for alleged violations of Va. Code Sections §46.2-1575 (7), 46.2-1581 and Title 24 of the Virginia Administrative Code, 22-30-10. Based on due consideration, the Board believes that the following actions should be taken against Mike Auto Sales and Luai Abualya: Assessed a civil penalty of Four Thousand dollars (\$4,000); and Mike Auto Sales shall be re-inspected by a Motor Vehicle Dealer Board field inspector by January 11, 2017. The Board mandates that Mike Auto Sales and Luai Abualya hereby be assessed a civil penalty of \$4,000 and that the Mike Auto Sales dealership satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before January 11, 2017. Failure to pass the inspection conducted by a Motor Vehicle Dealer Board field inspector on or before January 11, 2017, will result in suspension of all licenses and certificates issued to Mike Auto Sales by the Board until such time Mike Auto Sales successfully complies with the Board's mandates.

Maurice Slaughter seconded. The motion carried unanimously.

Transaction Recovery Fund Committee

Chairman Chris Maher summarized discussions held and actions that were taken during the Committee Meeting.

- **Shepherd Tolbert vs. Steve Yancoski, American Auto Auction.** Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Shepherd Tolbert vs. Steve Yancoski, American Auto Auction. Based on that discussion and the recommendations in these cases, Mr. Maher 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 claim should be denied.

David Gripshover seconded. The motion carried unanimously.

OLD BUSINESS

UPDATE: SHIFT – William Childress briefed the Board regarding SHIFT and actions taken by MVDB staff to get SHIFT in compliance with Virginia laws. SHIFT was sent a cease and desist letter and later another letter rejecting their request for a 30 day grace period while they worked to become compliant. An update will be provided in the September Board meeting.

NEW BUSINESS

Executive Director's Report. William Childress indicated that in September, he and one staff member will be attending the NAMVBC meeting of his peers in Colorado from Sep 14 – 17. The estimated cost of the trip is approximately \$3,000 total. The Committee approved the trip. He also indicated that in August he will be attending the AAMVA Conference in Williamsburg, Virginia. The estimated cost is approximately \$800. The Committee approved this trip as well. Mr. Childress informed the committee that he was serving on the Business Team for Virginia Informational Technology Agency representing small special funded agencies. This commitment is a two year commitment and the hours working on this project could be 16-24 hours a week. Several Board members expressed concern about how much time William would be away from the office. Board Chairman Rick Holcomb asked the Board to allow William the opportunity to find the balance between the VITA project and his primary job as the Executive Director. He also told the Board that he was confident that William would stop participating in the VITA project if it took away too much time from his primary duties. At this time, William Childress began discussing Tesla, at which Rick Holcomb excused himself from the meeting and handed control of the meeting over to Ron Kody to finish conducting. William Childress informed the Board that the MVDB staff had received a package from VADA outlining potential violations committed by Tesla. William informed that Board that the MVDB staff was investigating the information provided and would hopefully provide an update during the September Board meeting. He also advised the Board that Tesla would be handled like any other dealer.

The next meeting will be scheduled for September 12, 2016.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Ron Kody adjourned the meeting at 12:11 p.m.

Meeting Summary
Dealer Practices Committee
Monday, July 11, 2016

Chairman Ron Kody called the Dealer Practices Committee meeting to order at 9:02 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Michael Bor, Liza Borches, Gardner Britt, Steve Farmer, Robert Fisher, Chris Maher, Geoff Malloy, Senior Saghafi and Joe Tate. (Absent: Clay Huber and Matt McQueen). Other Board members present: Rick Holcomb, Ted Bailey, David Gripshover, Jacques Moore and Maurice Slaughter. Executive Director William Childress, Peggy Bailey, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The May 9, 2016 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: Insurance on Dealer Plates** – William Childress briefed the board on the staff's findings regarding insurance on dealer plates. After much research and discussion with 3 different insurance companies and an insurance lobbyist who represents more than a dozen insurance companies, it was determined that our current practices would remain intact. Insurance companies need to know how many plates the dealer has in order to determine the premium. However, insurers of larger dealerships with a garage or umbrella liability policy would be covered regardless of the number of dealer plates. It will be the responsibility of the dealership to ensure that each dealer plate is insured and the Board staff will work to make dealerships more aware of insurance requirements.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Fahad Auto Sales, LLC and Jassam M. Sarhan.** On May 12, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (9) (Having been convicted of a criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000 and a comprehensive inspection within 6 months.

Motion was made by Steve Farmer to accept the hearing officer's recommendation of assessing a civil penalty of \$1,000 and a satisfactory inspection. Joe Tate seconded. The motion carried unanimously.

- **W & W Auto Sales and Stephen D. Willis, Sr.** On May 25, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section 46.2-1508 (Licenses required), 46.2-1529 (Dealer records), 46.2-1533 (Business hours), 46.2-1574 (Acts of Officers, Directors, Partners and Salespersons) and 46.2-1575 (2) (Failure to comply subsequent to receipt of a written warning from the Department or Board). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,750 and suspension until the dealership is in complete compliance with the VA Motor Vehicle Dealer Licensing Laws.

Motion was made by Liza Borches to accept the hearing officer's recommendation of assessing a civil penalty of \$2,750; however, the motion was modified and a satisfactory inspection within 90 days was added. Chris Maher seconded. The motion carried unanimously.

- **Other Business in Dealerships** – William Childress sought the Board's direction regarding other businesses being located within a dealership. Virginia Code section 46.2-1510 (2) requires that space within the dealership of at least 250 square feet in a permanent, enclosed building not used as a resident. The Board has historically not allowed other businesses within a dealership, even if it had more than 250 square feet, unless that business had a separate entrance for that business from outside the dealership. The case that brought this issue to the Board's attention was Blue Ridge Nissan and its owner, Mr. Michael R. Mathesius, who also owns an Allstate insurance business which he operates within his Nissan car dealership. Mr. Mathesius was present and did speak briefly regarding his situation. After much discussion by Board members, it was determined that as long as the dealer dedicates at least 250 square feet to the dealership business and meets all the requirements of the Code that other business could be located with the facility. The Board further expressed that the field agents would have to use their judgement regarding the dealerships having at least 250 square feet devoted to the business of the dealership.
- **Request for Variance in Hours: Jerry's Automotive Sales and Service & Jerry Farmer.** William Childress reported that for the past 18 years, Jerry Farmer has requested a variance in hours for his dealership, Jerry's Automotive Sales and Service, because of his teaching schedule. Even though Mr. Farmer is currently retired, he is required to be available to substitute teach at his former high school or as needed throughout the county per his contract.

Motion was made by Liza Borches to grant the variance in hours for Mr. Farmer and Jerry's Auto Service. Robert Fisher seconded. All in favor: 9 (Kody, Farmer, Bor, Borches, Britt, Fisher, Maher, Malloy, Saghafi). Opposed: 1 (Tate). The motion carried.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 12, 2016

The meeting adjourned at 9:39 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, July 11, 2016

Chairman Joe Tate called the Dealer Licensing Committee meeting to order at 9:39 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Ted Bailey, Liza Borches, David Gripshover, Jacques Moore, Senior Saghafi and Maurice Slaughter. (Absent: David Duncan and George Pelton). Other Board members present: Rick Holcomb, Michael Bor, Gardner Britt, Steve Farmer, Robert Fisher, Ron Kody, Chris Maher and Geoff Malloy. Executive Director William Childress, Peggy Bailey, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The May 9, 2016 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

Review and Action: Informal Fact-Finding Conferences:

- **Samuel Ariondo, Salesperson.** On April 14, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (1) (Having made a material misstatement), 1575 (6) (Deceptive acts or practices) and (13) (Having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$5,000.

Motion was made by Jacques Moore to accept the hearing officer's recommendation of assessing a civil penalty of \$5,000. David Gripshover seconded. The motion carried unanimously.

- **Joseph C. Nelson, III, Salesperson.** On April 27, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (1) (Having made a material misstatement), 1575 (6) (Having used deceptive acts or practices) 1575 (9) (Having been convicted of a criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$11,000.

Motion was made by David Gripshover to accept the hearing officer's recommendation of assessing a civil penalty of \$11,000. Maurice Slaughter seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Rodney Hubbard, Salesperson.** Historical overview leading up to the formal hearing: On January 19, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (4) (Defrauding any retain buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business), 1575 (6) (Having used deceptive acts or practices, 1575 (13) (Having been convicted of a felony) and 1575 (14) (Failure to submit to the Department, within 30 days from the date of sale, any application, tax, or fee collected for the Department on behalf of a buyer). Based on the information provided at the conference, the hearing officer recommended denial of his application to sell vehicles in the Commonwealth of Virginia and on February 29, 2016, Mr. William Childress, Executive Director agreed with that recommended and his decision was to deny Mr. Hubbard's application for a license. On March 2, 2016, the Dealer Board received Mr. Hubbard's appeal for a formal hearing. On May 24, 2016, a formal hearing was conducted to address the above alleged code violations. Based on the information provided at the hearing, the hearing officer recommended denial of all license requested.

Mr. Hubbard was present and spoke to the Board.

Motion was made by Jacques Moore to accept the hearing officer's recommendation and died due to lack of second. Substitute Motion was made by Liza Borches to deny his dealers license, but to allow him to apply for a salespersons license. Maurice Slaughter seconded. All in favor: 6 (Tate, Bailey, Borches, Gripshover, Saghaifi and Slaughter). Opposed: 1 (Moore). The motion carried.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 12, 2016

The meeting adjourned at 10:17 a.m.

Meeting Summary
Advertising Committee
Monday, July 11, 2016

Vice-Chairman Bailey called the Advertising Committee meeting to order at 10:18 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Michael Bor, Liza Borches, Ron Kody, Geoff Malloy and Maurice Slaughter. (Absent: David Duncan, Clay Huber, Matt McQueen and George Pelton). Other Board members present: Rick Holcomb, Gardner Britt, Steve Farmer, Robert Fisher, David Gripshover, Chris Maher, Jacques Moore, Senior Saghafi and Joe Tate. Executive Director William Childress, Peggy Bailey, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The May 9, 2016 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

Review and Action: Informal Fact-Finding Conferences:

- **American Auto Fox and Shakila Sadat.** On May 25, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code 46.2-1575 (7) (Misleading advertising) and 1581 (8) (Regulated advertising practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$250

Motion was made by Ron Kody to accept the hearing office's recommendation of assessing a civil penalty of \$250. Maurice Slaughter seconded. The motion carried unanimously.

- **My Car and Tahidul Alam.** On May 23, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (7) (Misleading advertising). Based on the information provided at the conference, the hearing officer recommended a written warning for code violations and to consider inspecting this dealership within six months.

Motion was made by Maurice Slaughter to accept the hearing officer's recommendation of a formal written warning and a satisfactory inspection within six months. Liza Borches seconded. The motion carried unanimously.

- **Mike Auto Sales and Luai Abualya.** On June 9, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (7) (Misleading advertising) and 1581/24 VAC 22-30-10 (Regulated advertising practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,500 and an inspection should be considered within six months.

Mr. Rushdi Murbarak, licensed salesperson at Mike Auto Sales, was present and spoke on behalf of Luai Abualya.

Motion was made by Ron Kody to accept the hearing officer's recommendation of assessing a civil penalty of \$1,500 and satisfactory inspection within six months. Geoff Malloy seconded.

Substitute motion was made by Maurice Slaughter to assess a civil penalty of \$4,000 due to the fact that since there were two vehicles involved in this matter, this makes for a total of four potential violations. The Board did not accept the hearing officer's recommendations, but rather, found multiple (2) violations for each vehicle, thus resulting in a maximum civil penalty of \$4,000. The dealership had previously been assessed a civil penalty for the same conduct and then knowingly repeated that conduct. The Board felt that the maximum penalty was appropriate and would get the attention of the owner. Ron Kody seconded. The motion carried unanimously.

The next meeting was scheduled for September 12, 2016.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:35 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, July 11, 2016

Chairman Chris Maher called the Transaction Recovery Fund Committee meeting to order at 10:35 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Michael Bor, Steve Farmer, Robert Fisher, David Gripshover, Rod Kody, Geoff Malloy and Maurice Slaughter. (Absent: Matt McQueen). Other Board members present: Rick Holcomb, Liza Borches, Gardner Britt, Jacques Moore, Senior Saghafi and Joe Tate. Executive Director William Childress, Peggy Bailey, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The May 9, 2016 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

- **Shepherd Tolbert vs. American Auto Auction and Steve Yancoski.** On or about May 14, 2011, Shepherd Tolbert purchased a 1999 Ford Van from American Auto Auction paying \$1,189.00. Mr. Tolbert was given Virginia title (98414129). Section A of the title was signed over to RK Toyota Scion as buyer, then in section B (dealer reassignment) was completed by RK Chevrolet and in Section C (dealer reassignment) was signed over to Shepherd Tolbert. Mr. Tolbert took the Virginia title to the Portsmouth DMV and was informed that RK Chevrolet needed to title the vehicle in their name first. In the early part of June, 2011 Mr. Tolbert returned to American Auto Auction to return the vehicle and the title and requested a refund of his money. Per American Auto Auction agreement; if the title is incorrect he could obtain his money back. American Auto Auction advised Mr. Tolbert to come back in a few days and they'd return of his money. However, when Mr. Tolbert returned to the dealership they were closed and out of business. Mr. Tolbert filed a complaint with the DMV Law Enforcement and tried contacting Steve Yancoski and Walter Grabetlon by phone as well as emails and Facebook, with no luck.

On January 12, 2016, Mr. Tolbert filed a Warrant in Debt in the Portsmouth General District Court against RK Chevrolet; Walter Gabetlon and Steve Yancoski for \$1,189.00 with a return hearing date of February 22, 2016. On February 22, 2016, Shepherd Tolbert and RK Chevrolet reached a settlement agreement of \$600.00, dismissing the lawsuit against them. Mr. Tolbert continued the proceedings against Walter Grabetlon and Steve Yancoski. On February 22, 2016, the Portsmouth General District Court reduced the amount of his lawsuit and awarded Shepherd Tolbert a default judgment against Walter Grabetlon and Steve Yancoski in the amount of \$589.00 and \$71.00 in costs.

On January 26, 2016, Shepherd Tolbert submitted to the Dealer Board, documentation for consideration of reimbursement from the Fund.

On February 25, 2016, Peggy Bailey, Program Manager for the Dealer Board acknowledged receipt of Shepherd Tolbert's possible claim against the Motor Vehicle Transaction Recovery Fund (Fund) and requested additional documentation with an attested copy of the final judgment order.

On March 30, 2016, Shepherd Tolbert submitted additional documentation to the Dealer Board for reimbursement from the Fund. On April 8, 2016, Shepherd Tolbert via fax submitted a written statement explaining the facts of his claim and what the dealer and/or the licensed salesperson did that resulted in him having to obtain judgment. On April 12, 2016 the Dealer Board staff sent "Notice of Verified Claim" to the debtor (Steve Yancoski) the owner of American Auto Auction requesting that the judgment be satisfied within 30-days.

After a careful preliminary review, Shepherd Tolbert's claim meets, in part, the requirement of Virginia Code §46.2-1527.3 (A Judgment was awarded in the Commonwealth of Virginia). The Dealer Board staff is sympathetic to Mr. Tolbert's situation and commends him for his efforts. However, there are multiple concerns regarding his claim against the Fund.

Issues of Concern:

There is no proof of the actual amount that Mr. Tolbert paid the dealer. The title assignment only reflects \$100.00 for the sales price and the Invoice from American Auto Auction indicates that Mr. Tolbert paid in full with cash, but no amount is shown.

There is no indication on the face of the Warrant in Debt/Judgment showing that the court awarded Mr. Tolbert a default judgment based on fraud

It appears that the Statue of Limitation for filing a lawsuit had already passed; Mr. Tolbert's transaction occurred in May, 2011 and his lawsuit was not until January, 2016 in which a default judgment was awarded February 22, 2016.

Historically, the Dealer Board staff would make a recommendation prior to the Informal Fact-Finding Conference. However, given the facts and code sections governing the Fund, the Dealer Board staff is requesting the expertise of the Recovery Fund Committee and full Board in determining whether to approve or deny Mr. Tolbert's claim. Should the full Board approve Mr. Tolbert's claim the only amount that is compensable for payment from the Fund, would be \$589.00 plus the \$71.00 in costs.

On June 9, 2016, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended denying the request based on there is no indication or judgment of fraud in this case. A fraudulent judgment must be the key element of consideration in any request for funds.

Motion was by David Gripshover to accept the hearing officer's recommendation and deny the claim. Robert Fisher seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for September 12, 2016

The meeting adjourned at 10:39 a.m.