

Meeting Summary
Motor Vehicle Dealer Board
Monday, September 9, 2019

Chairman Rick Holcomb called the Dealer Board meeting to order at 10:43 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 Michael Bor, Liza Borches, Gardner Britt, David Duncan, Steve Farmer, Rob Fisher, Randy Harris, Chris Maher, Geoff Malloy, Matt McQueen, Senior Saghafi, Maurice Slaughter, Don Sullivan and Joe Tate. (Absent: Ted Bailey, Dan Banister, Ron Kody). Executive Director William Childress, Peggy Bailey, Lisa Mack-Nelson, Micah Bailey and Ann Majors represented the Dealer Board. Christian Parrish represented the Attorney General's Office. Alice Weedon was the recording secretary.

PUBLIC COMMENT

There was no public comment.

The July 8, 2019 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

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

Amazing Grace Auto Sales and Emmanuel A. Yeboah. Committee Vice-Chairman Farmer 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 Amazing Grace Auto Sales and Emmanuel Yeboah for alleged violations of Va. Code sections §46.2-1533 and 46.2-1575 (2); and based on due consideration, the Board believes that the following action should be taken against Amazing Grace Auto Sales and Emmanuel Yeboah: Assessed a civil penalty of \$750. The Board mandates that Emmanuel Yeboah hereby be assessed a civil penalty of \$750.

Mr. Yeboah spoke on his own behalf.

NOTE: Mr. Yeboah didn't speak before the Dealer Practices Committee because he arrived to the meeting late.

Matt McQueen seconded. The motion carried unanimously.

HGS Auto Sales and Hussam Salman. Committee Vice-Chairman Farmer 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 HGS Auto Sales and Hussam Salman for alleged violations of Va. Code sections §46.2-1533 and 46.2-1575 (2). Based on due consideration, the Board believes

that the following actions should be taken against HGS Auto Sales and Hussam Salman: Assessed a civil penalty of \$750; and HGS Auto Sales shall be inspected by a Motor Vehicle Dealer Board field representative by December 9, 2019 and that inspection shall be satisfactory. The Board mandates that Hussam Salman hereby be assessed a civil penalty of \$750 and the HGS Auto Sales dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before December 9, 2019. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the HGS Auto Sales dealership and Hussam Salman successfully complies with the Board's mandates.

Joe Tate seconded. The motion carried unanimously.

Expo Auto Brokers, LLC and Michael H. Martin. Committee Vice-Chairman Farmer 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 Expo Auto Brokers and Michael Martin for alleged violations of Va. Code sections §46.2-1533 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Expo Auto Brokers and Michael Martin: Assessed a civil penalty of \$1,250; and Expo Auto Brokers shall be inspected by a Motor Vehicle Dealer Board field representative by December 9, 2019 and that inspection shall be satisfactory. The Board mandates that Michael Martin hereby be assessed a civil penalty of \$1,250 and that Expo Auto Brokers shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before December 9, 2019. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the Expo Auto Brokers dealership and Michael Martin successfully complies with the Board's mandates.

Mr. Martin spoke on his own behalf again.

Rob Fisher seconded. The motion carried unanimously.

North End Motors, LLC and Hassan E. Ali. Committee Vice-Chairman Farmer 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 North End Motors and Hassan Ali for alleged violations of Va. Code sections §46.2-1533 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against North End Motors and Hassan Ali: Assessed a civil penalty of \$1,500; and North End Motors shall be inspected by a Motor Vehicle Dealer Board field representative before December 9, 2019 and that inspection shall be satisfactory. The Board mandates that Hassan Ali hereby be assessed a civil penalty of \$1,500 and the North End Motors dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative before December 9, 2019. Failure to comply with the Board's mandates by the required dates will result in the

suspension of all licenses and certificates issued by the Board until such time the North End Motors dealership and Hassan Ali successfully complies with the Board's mandates.

Joe Tate seconded. The motion carried unanimously.

NOTE: Amended motion was made by Maurice Slaughter to assess a civil penalty of \$3,000. The motion died due to a lack of a second.

Mr. Ali spoke on his own behalf again.

Great Affordable Autos, LLC and Naftali Lev. Committee Vice-Chairman Farmer 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 Great Affordable Autos and Naftali Lev for alleged violations of Va. Code sections §46.2-1500, 46.2-1537 and 46.2-1547 (2). Based on due consideration, the Board believes that the following actions should be taken against Great Affordable Autos and Naftali Lev: Assessed a civil penalty of \$500. The Board mandates that Naftali Lev hereby be assessed a civil penalty of \$500.

Mr. Lev spoke on his own behalf again.

Joe Tate seconded. The motion carried unanimously.

RHD Japanese, LLC and Ahmed Wahedi. Committee Vice-Chairman Farmer 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 RHD Japanese and Ahmed Wahedi for alleged violations of Va. Code sections §46.2-1533 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against RHD Japanese and Ahmed Wahedi: Assessed a civil penalty of \$750. The Board mandates that Ahmed Wahedi hereby be assessed a civil penalty of \$750.

Mr. Umid Alikhani spoke on behalf of Mr. Wahedi and RHD Japanese, LLC.

Joe Tate seconded. The motion carried unanimously.

Exquizit Auto Sales and Eric L. Johnson. Board Member Maurice Slaughter made the following amended 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 Exquizit Auto Sales and Eric Johnson for alleged violations of Va. Code sections §46.2-1529 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Exquizit Auto Sales and Eric Johnson: Assessed a civil penalty of \$1,000 and the Exquizit Auto Sales dealership shall be inspected by a Motor Vehicle Dealer Board field representative on or before December 9, 2019 and that inspection shall be satisfactory; Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and

certificates issued by the Board until such time the Exquizit Auto Sales dealership and Eric Johnson successfully complies with the Board's mandates.

Mr. Johnson was present and spoke on his own behalf. He requested that the 30 day suspension approved by the Dealer Practices Committee removed due to the fact that this business is his livelihood.

NOTE: Mr. Johnson did not speak before the Dealer Practices Committee because he arrived to the meeting late.

NOTE: Original motion by Steve Farmer included \$1,000 civil penalty, 30 day suspension and satisfactory inspection, within 90 days, after the suspension period.

Chris Maher seconded. All in favor: 13 (Holcomb, Bor, Borches, Duncan, Farmer, Fisher, Harris, Maher, Malloy, McQueen, Saghafi, Slaughter and Sullivan). Opposed: 2 (Britt and Tate). The motion carried. Mr. Johnson feels confident that he can accomplish what he needs to get his records completed prior to the mandated inspection.

Virginia Finance Group, LLC and Nicole M. Parker. Committee Vice-Chairman Farmer made the following motion: The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Virginia Finance Group and Nicole Parker for alleged violations of Va. Code sections §46.2-1547. Based on due consideration, the Board believes that the following actions should be taken against Virginia Finance Group and Nicole Parker: Assessed a civil penalty of \$500; and Suspension of all certificates and licenses issued to Nicole Parker and Virginia Finance Group by the Board until September 30, 2019; and Virginia Finance Group shall be inspected by a Motor Vehicle Dealer Board field representative by December 9, 2019 and that inspection shall be satisfactory. The Board mandates that Nicole Parker hereby be assessed a civil penalty of \$500 and that Virginia Finance Group shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before December 9, 2019. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses and certificates issued by the Board until such time the Virginia Finance Group dealership and Nicole Parker successfully complies with the Board's mandates.

Rob Fisher seconded. The motion carried unanimously.

Licensing Committee

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

Advertising Committee

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

Under New Business, Board Chairman Rick Holcomb informed the Board that he received a complaint from a citizen about a dealership's bill board advertisement that included the word "bullshit".

Chairman Holcomb directed the Advertising Committee along with representatives from the VADA, VIADA and Christian Parrish (AG's Office) to publicly meet and discuss whether or not the Board has the authority to regulate language/content in an advertisement that is not dealing with vehicle price, monthly payments, terms of payment, or other requirements outlined in the Virginia Code or Regulations. The meeting date was set for November 4, 2019 before the regularly scheduled Board meeting. The Executive Director will coordinate the meeting time and make sure this meeting is posted on the Virginia Town Hall.

There was general discussion concerning the differences of 1) a formal opinion by the Attorney General, which takes 6 months to a year to complete; and 2) informal opinion, which takes 3 to 6 months to complete; and 3) seeking advice from counsel of the Board, which can be completed by the November 4 Board Meeting.

Motion was made by Gardner Britt to seek advice of counsel of the Board, Christian Parrish, of the Attorney General's Office, to determine if the Board is responsible for regulating "offensive/obscene" content in a dealer's advertisement. Steve Farmer seconded. All in favor: 12 (Bor, Britt, Duncan, Farmer, Fisher, Maher, Malloy, McQueen, Saghafi, Slaughter, Sullivan and Tate). Opposed: 2 (Borches and Harris). Rick Holcomb abstained. The motion carried.

Transaction Recovery Fund Committee:

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

Tabled Issues from the July Board Meeting:

Nicholas C. Campisi vs. Goldstar Motor, Co. and Thomas K. Maad – Committee Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Nicholas C. Campisi vs. Goldstar Motor Co., and Thomas K. Maad. Based on that discussion and the recommendations in this case, Chairman Maher made the following motion: Pursuant to Section §46.2-1527.1 et seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund, and the recommendation of the Hearing Officer on the claim. Based on due consideration and recommendation of the Hearing Officer, the Board believes the following claim should be tabled due to Mr. Maad indicating that he will pay this claim as soon as possible. Don Sullivan seconded. The motion carried unanimously. It was reported that Mr. Maad paid Mr. Campisi \$1,000 of

his \$1,829.22 claim. Motion was made by Chris Maher to pay Mr. Campisi the balance remaining of \$829.22.

Matt McQueen seconded. The motion carried. Senior Saghafi abstained because Mr. Maad works for his dealership.

Thomas Kinson vs. GN Auto, LLC and Gaby Touma – Committee Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Thomas Kinson vs. GN Auto, LLC and Gaby Touma. Based on that discussion and the recommendations in this case, Chairman Maher made the following motion: Pursuant to Section §46.2-1527.1 et seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund (“Fund”), the Board has reviewed and considered claims submitted for payment from the Fund, and the recommendation of the Hearing Officer on the claim. Based on due consideration and recommendation of the Hearing Officer, the Board believes this issue should be tabled to the September Board meeting so that the issue of attorney fees can be further clarified. Matt McQueen seconded. The motion carried unanimously. After clarification of the attorney fees were determined to be included, Chris Maher made the motion to pay Mr. Kinson his claim of \$9,250.50 from the Transaction Action Recovery Fund.

Rob Fisher seconded. The motion carried unanimously.

OLD BUSINESS:

Sub-Committee on Dealer Tag Insurance: The sub-committee discussion was based around whether or not each plate should be insured. It was determined by Chris Maher that if the plates are under insured, this is not a violation. It was decided by Mr. Maher, that it is not the place of the Field Rep to count tags. They are there just ensure they have insurance. They can, however, for example, request that the dealer should get revised insurance documents showing that instead of having 6 tags insured, when they actually have 16 tags. According to Mr. Maher, tag counting should not be policed by the Dealer Board.

Motion was made by Chris Maher to let this policy recommendation go into effect. Rob Fisher seconded. All in favor: 14 (Tate, Bor, Borches, Britt, Duncan, Farmer, Fisher, Harris, Maher, Malloy, McQueen, Saghafi, Slaughter and Sullivan). Opposed: 1 (Holcomb). The motion carried.

At Your Pace Online: William Childress summarized At Your Pace’s online dealer-operator recertification program application and informed the Board that the application does meet Virginia’s requirements. William also presented to the Board the information requested by Chairman Holcomb during the May 2019 meeting. Christian Parrish answered sever questions from Board members and reminded the Board members of the Board’s authority concerning contracts.

Motion was made by Randy Harris to approve At Your Pace Online as an online dealer-operator re-certification vendor. Gardner Britt seconded. All in favor: 10 (Holcomb, Bor,

Borches, Britt, Duncan, Harris, Malloy, McQueen, Saghafi, Slaughter). Opposed: 5 (Farmer, Fisher, Maher, Sullivan and Tate). The motion carried.

OLD BUSINESS FROM THE FLOOR – There was no old business from the floor.

NEW BUSINESS:

EXECUTIVE DIRECTOR’S REPORT: William Childress presented the following:

Converting Authorized Closings Days to Hours:

History:

§46.2-1533 of the Virginia Code requires motor vehicle dealers to be open for business for a minimum of 20 hours per week, with at least 10 of those hours occurring between the hours of 9 a.m. – 5 p.m. Monday – Friday. The Motor Vehicle Dealer Board further authorized dealerships the opportunity to close their dealerships for 20 days per year based on their renewal month. The Motor Vehicle Dealer Board staff is charged with maintaining and updating dealership closures. All dealerships are responsible for submitting their closures to the Motor Vehicle Dealer Board staff.

Problem:

When developed, the system currently used to capture authorized closings was not designed to capture hours. Instead, the system was designed to capture whole days or nothing at all. Over the years the Board staff has used various methods and calculations to determine when to subtract hours from a dealership’s authorized closing account. This process penalizes dealerships.

Solution:

The Dealer Board’s Executive Director tasked the agency’s IT resource (John Saul) to develop a process based on hours to capture dealerships authorized closings. Effective October 1, 2019, we will start using Modification to the Authorized Closings will allow dealerships to close based on half-hour increments. Below are the groupings for dealerships that determine Authorized Closing Hours and the hours that make a single day for dealer closings.

Full Time and Part Time dealership definition (in hours):

Full Time Dealerships (FT):

- (FT) dealerships open (40) hours a week or more.
- (FT) dealerships will have (160) hours of Authorized Closings.
- (FT) dealerships have a cap of (8) hours of deduction per single day if they exceed more than 8 operational hours within the day.

Part Time Dealerships (PT 30):

- (PT30) dealerships open less than (40) hours a week but greater than (29) hours a week.
- (PT30) dealerships will have (120) hours of Authorized Closings.

- (PT30) dealerships do not have a cap on hours of deduction per single day. Whether a dealership is open 4 hours or 10 hours within a single day, the amount of hour loss for an entire day is the operational hours for that day.

Part Time Dealerships (PT 20):

- (PT20) dealerships open less than (30) hours a week.
- (PT20) dealerships will have (80) hours of Authorized Closings.
- (PT20) dealerships do not have a cap on hours of deduction per single day. Whether a dealership is open 4 hours or 10 hours within a single day, the amount of hour loss for an entire day is the operational hours for that day.

Converting of Days to Hours:

Dealerships with current days in Authorized Closings: Dealerships with current days taken in the Authorized Closings will be converted to hours taken. This conversion will be based on the dealerships grouping whether they are FT, PT30 / PT20.

1 day = the number of hours open in a single business day.

If a dealership is an FT (Full Time) dealership, a full day will not exceed 8 hours for the day.

If a dealership is a PT30 / PT20 dealership, a full day will consist of the number of hours during a given day of operation whether it is 2, 4, 6, 8, 9, or more hours.

Example: FT Dealership

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open Hours	Open Hours	Open Hours	Open Hours	Open Hours	Open Hours	Open Hours
5	8	8	8	8	10	5
Deduction	Deduction	Deduction	Deduction	Deduction	Deduction	Deduction
5	8	8	8	8	8	5

Example: PT30 / PT20 Dealership

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open Hours	Open Hours	Open Hours	Open Hours	Open Hours	Open Hours	Open Hours
0	5	4	0	2	10	5
Deduction	Deduction	Deduction	Deduction	Deduction	Deduction	Deduction
0	5	4	0	2	10	5

NEW BUSINESS FROM THE FLOOR – Chairman Holcomb indicated that DMV had created a new combination plate (specialty plate and dealer tag). For now the promotional plate process is being used until legislation is put in place to legally allow dealer plates to be combined with specialty plates. The promotional plated presented to the Board commemorated UVA’s men’s basketball team recent National Championship. The price will be \$100 per promotional plate plus other fees, if applicable.

The next Full Board meeting will be November 4, 2019.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 1:03 p.m.