

Meeting Summary
Motor Vehicle Dealer Board
Monday, November 9, 2020

Chairman Rick Holcomb called the Dealer Board meeting to order at 10:13 a.m. This meeting was conducted virtually using the GoToMeeting video conferencing application. The roll was called and there were 15 Board members present. Present were Dan Banister, David Duncan, **Dennis Ellmer, Steve Farmer, Rob Fisher, Randy Harris, Ron Kody, Chris Maher, Geoff Malloy, Mark Riblett, Senior Saghafi, Maurice Slaughter, Don Sullivan and Andrew Wiley. (Absent: Ted Bailey, Michael Bor, Liza Borches (left after TRF), Gardner Britt). Executive Director William Childress, Rick Sipe, 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.

**New Board Member Dennis Ellmer was listening; however, he could not participate in discussions or vote. He was being sworn in later in the day.

PUBLIC COMMENT

No public comment.

The September 14, 2020 meeting summary was approved.

Prior to the receiving the committee reports, Chairman Holcomb welcomed the three new Board members and asked them to introduce themselves and provide some background information. The three new Board members, Mark Riblett, Andrew Wiley and Dennis Ellmer introduced themselves and provided the Board with some information about their respective backgrounds.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

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

Update: Dealer Portal Sub-Committee – William Childress - Update provided during Dealer Practices Committee meeting was submitted for information purposes only. No action required on the Board's behalf.

Tabled Issue: Midtown Motors, Inc. and John D. Forney. Ron 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 Midtown Motors and John Forney for alleged violations of Va. Code sections §46.2-1550. Based on due consideration, the Board believes that the following actions should be taken against Midtown Motors and John Forney: Assessed a civil penalty of \$250.00. The Board mandates that John Forney hereby be assessed a civil penalty of \$250.00.

Senior Saghafi seconded. All in favor: 13 (Banister, Duncan, Farmer, Fisher, Harris, Kody, Malloy, Riblett, Saghafi, Slaughter, Sullivan, Wiley, Holcomb). Opposed: 1 (Maher). The motion carried.

Review and Action: Informal Fact-Finding Conferences:

Doc's Cars and James Hill. Ron 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 Doc's Cars and James Hill 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 Doc's Cars and James Hill: Assessed a civil penalty of \$2,000.00; and revoke all licenses issued by the Board to James Hill. The Board mandates that James Hill hereby be assessed a civil penalty of \$2,000.00, and that all licenses issued by the Board to James Hill shall be revoked.

Dan Banister seconded. The motion carried unanimously.

Blake Ford and Joseph B. Blythe. Ron 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 Blake Ford and Joseph Blythe for alleged violations of Va. Code sections §46.2-1537. Based on due consideration, the Board believes that the following actions should be taken against Blake Ford and Joseph Blythe: Assessed a civil penalty of \$600.00. The Board mandates that Joseph Blythe hereby be assessed a civil penalty of \$600.00

Chris Maher seconded. All in favor: 12 (Banister, Farmer, Fisher, Harris, Kody, Maher, Malloy, Riblett, Saghafi, Slaughter, Sullivan). Opposed: 2 (Duncan, Wiley). The motion carried.

Hall Nissan Virginia Beach and William R. Baker. Ron 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 Hall Nissan Virginia Beach and William Baker for alleged violations of Va. Code sections §46.2-1537. Based on due consideration, the Board believes that the following actions should be taken against Hall Nissan Virginia Beach and William Baker: Assessed a civil penalty of \$1,000.00. The Board mandates that William Baker hereby be assessed a civil penalty of \$1,000.00

Senior Saghafi seconded. The motion carried unanimously.

Review and Action: Formal Hearing

Integrity Autohaus, LLC and Ivan & Nina Johnson. Ron Kody 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 \$2,500.00 civil penalty against Integrity Autohaus, and Nina Johnson. Nina Johnson (Ivan) appealed the Board's decision and requested a formal hearing that was conducted on

October 15, 2020. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Integrity Autohaus and Nina Johnson for alleged violations of Va. Code Sections §46.2-1529 and 46.2-1539. Based on due consideration, the Board believes that the following actions should be taken against Integrity Autohaus and Nina Johnson; Assessed a civil penalty of \$2,500.00. The Board mandates that Integrity Autohaus and Nina Johnson hereby be assessed a civil penalty of \$2,500.00.

Rob Fisher seconded. The motion carried unanimously.

Chairman Holcomb, acknowledging the level and intensity of the discussions concerning recommended fines for unlicensed salespersons during the Dealer Practices Committee, appointed a sub-committee to work with the Executive Director and his staff. Additional guidance for the Board Staff to consider involving cases is the desired outcome of this sub-committee. Chairman Holcomb designated Ron Kody as the Chair of this sub-committee. Chris Maher and Dan Banister were also appointed.

Licensing Committee

Committee Vice-Chairman Slaughter summarized discussions held and actions taken during the Committee Meeting.

Update: Sales Licensing Sub-Committee – Ron Kody. Reference Ron’s report to the Licensing Committee, which was submitted for informational purposes only. No action required on the Board’s behalf.

Advertising Committee

Committee Chairman Duncan reported committee quorum in place, however, no discussions or actions due to no agenda items for committee or requests from the floor. Committee will meet again on January 11, 2021.

Transaction Recovery Fund Committee:

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

Review and Action: Informal Fact-Finding Conferences:

Susan Courtney vs. GN Auto. Committee Vice-Chairman Malloy summarized for the Board the discussion held in the committee meeting regarding Susan Courtney vs. GN Auto. 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 claim in the amount of \$25,000 should be paid to Ms. Courtney.

Rob Fisher seconded. The motion carried unanimously.

Stephanie Roberts vs. Xpress Cars, Inc. Committee Vice-Chairman Malloy summarized for the Board the discussion held in the committee meeting regarding Stephanie Roberts vs. Xpress Cars, Inc. 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 claim in the amount of \$25,000 should be paid to Ms. Roberts.

Rob Fisher seconded. The motion carried unanimously.

OLD BUSINESS – There was no old business.

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

NEW BUSINESS:

Service Contract Solicitations – Anne Gambardella (VADA) – Anne briefed the Board concerning maintenance notifications customers were receiving via U.S. mail. The mailings, an apparent form of advertisement, however, were not coming from the franchise dealerships as it appeared. Anne wanted the Board to be aware that this problem existed and has for some time now. She also wanted the Dealer Board to be aware of this in case customers registered complaints against the dealerships or received copies of the mailings. Chairman Holcomb asked for a copy of the mailing. He wants to check with his Data Management Division and other DVM officials to see if someone is using DMV data for the mailings. Anne Gambardella will provide the Chairman Holcomb with the customer address as requested.

Two-Day Dealer Operator Course – William Childress reminded the Board that the current two-day dealer operator class contract expires in June 2021. William provided the immediate past history of the evolution of the course, the fact that it was co-sponsored by the Community Colleges of Virginia and the VIADA before June 2018. Since July 1, 2018, the course has been the sole responsibility of the VIADA. William was seeking the Board’s desires concerning the contract, whether or not to continue with the VIADA exclusively, or open the process up to other potential vendors. Chairman Holcomb requested that Christian Parrish (OAG) and the Executive Director look into the Board’s options, to include a RFP, sole source award, and the authority of the Board to award contracts and bring that information back to the Board.

Board Reappointments – Chairman Holcomb acknowledged the reappointments of the following Board members; Daniel Banister, Michael Bor, David Duncan, Steve Farmer, Robert Fisher, Christopher Maher and Maurice Slaughter.

EXECUTIVE DIRECTOR'S REPORT – William Childress briefed the Board on a philosophical and procedural change concerning Board mandated inspections. The current process requires the dealer to contact the Board staff when the dealer is ready for inspection and the Field Rep Supervisor assigns a field rep to conduct the inspection. The problem is most dealers wait until the last minute to have the inspection and several of them fail. Once failed, they are suspended and unable to pass the inspection since they failed to achieve the satisfactory inspection by the designated date. Moving forward, the Board mandated inspection will take place after day 33 (allowing dealer opportunity to appeal decision) and before day 60. If the dealer fails the inspection, they will have opportunities to be re-inspected (areas of failure only) prior to the designated cure date. Dealers failing to achieve the satisfactory inspection will come back before the Board.

NEW BUSINESS FROM THE FLOOR – No new business from the floor.

The next meeting will be on January 11, 2021.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 11:17 a.m.