

Meeting Summary
Motor Vehicle Dealer Board
Monday, July 12, 2021

Chairman Rick Holcomb called the Dealer Board meeting to order at 11:35 a.m. This meeting was conducted at DMV, Conference Room 702, 2300 W. Broad Street, Richmond, Virginia 23220. The roll was called and there were 13 Board members present. Present were Ted Bailey, Gardner Britt, Steve Farmer, Rob Fisher, Randy Harris, Chris Maher, Geoff Malloy, Mark Riblett, Senior Saghafi, Maurice Slaughter, Don Sullivan and Andrew Wiley. Those absent included Dan Banister, Michael Bor, Liza Borches, David Duncan, Dennis Ellmer, Ron Kody. Executive Director William Childress, 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.

Chris Maher introduced Gonzalo Aida, who is the Executive Assistant of Government Relations for VIADA.

Anne Gambardella introduced Ralston King, who is the Vice President of Legislative Affairs for VADA.

The May 10, 2021 Full Board meeting summary was approved.

PUBLIC COMMENT – No public comment.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee

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

Jerry's Auto Service and Sales and Jerry Farmer. Steve Farmer moved to approve Mr. Farmer's variance request in hours. Rob Fisher seconded. The motion carried unanimously. Mr. Farmer was not present during the Committee and Full Board Meetings.

Review and Action: Information Fact-Finding Conferences:

Auto Icon Motor Group and George M. Ruiz. Steve 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 Auto Icon Motor Group and George Ruiz for alleged violations of Va. Code sections §46.2-1516, 46.2-1529 and 46.2-1539. Based on due consideration, the Board believes that the following actions should be taken against Auto Icon Motor Group and George Ruiz: Assessed a civil penalty of \$6,250.00. The Board mandates that George Ruiz hereby be assessed a civil penalty of \$6,250.00. Mr. Ruiz was not present during Committee and Full Board meetings.

Mark Riblett seconded. The motion carried unanimously.

The committee will meet again on September 13, 2021.

Licensing Committee

Committee Vice-Chairman Slaughter reported quorum in place; however, no discussions or action items were on the agenda for the committee to consider. The committee will meet again on September 13, 2021.

Advertising Committee

Committee Vice-Chairman Bailey reported that the committee did not have the required quorum to conduct business. The committee will meet again on September 13, 2021.

Transaction Recovery Fund Committee

Committee Chairman Maher reported quorum in place and summarized discussions held and actions taken during the Committee Meeting.

Review and Action: Information Fact-Finding Conferences

Aaron Osei-Amoah vs. Leckner Cars, LLC. Chris Maher made the following motion: Committee Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Aaron Osei-Amoah vs. Leckner Cars, LLC. 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 \$21,757.60 should be approved.

Rob Fisher seconded. The motion carried unanimously.

Christopher Garmer vs. Easy Motors. Chris Maher made the following motion: Committee Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Christopher Garmer vs. Easy Motors. 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 of \$25,000 on the claim. Based on due consideration and recommendation of the Hearing Officer, the Board believes the claim in the reduced amount of \$19,862.84 should be approved.

Andrew Wiley seconded. The motion carried unanimously.

Christian Parrish confirmed that Virginia law does not allow payment of punitive or lost wages from the Fund.

Review and Action: Formal Hearing:

Anthony R. McDaniel vs. Washington Motorcars, Inc. Chris Maher made the following motion: Committee Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Anthony R. McDaniel and Washington Motorcars. 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 \$22,162.54 should be denied.

Andrew Wiley seconded. The motion carried unanimously.

Mr. Smith thanked the Board members for their time and considerations.

The committee will meet again on September 13, 2021.

OLD BUSINESS

Salesperson Licensing Update. William Childress informed the Board that he was unaware of any problems with the salesperson testing process. The old Sterling CSC is used on Wednesday afternoons for testing and Field Reps (and Ann Majors) are still doing salesperson testing. The MVDB staff has conducted approximately 3,000 test since this process started.

Resuming Dealership Operating Hours. William Childress reminded the Board that this topic was briefly discussed during the May 2021 meeting and tabled pending Governor Northam lifting the State of Emergency (COVID-19). With the State of Emergency lifted, William requested that the Board establish a date for dealerships to resume maintaining their statutory business hours requirements.

Chris Maher moved, that effective August 1, 2021, dealers will resume their normal business hours. Rob Fisher seconded. The motion carried unanimously. It was also agreed upon by Board members and William to practice soft enforcement (warning before writing up the dealer). The Board staff will use their normal communications methods to inform licensees about meeting statutory business hour requirements.

MVDB One Virginia Plan. William Childress informed the Board that the MVDB had submitted its Diversity, Equality, and Inclusion plan to the Governor’s Office (June 30, 2021). The MVDB has adopted the ONE Virginia Plan and Subsequent Principles of Community to create an engaged workforce that leverages diversity as a strength, cultivates and supports an inclusive work climate and culture, and works in pursuit of policies and practices that hold us accountable for expanded access, success and overall inclusive excellence. He indicate that we ask for the commitment of every MVDB employee to embark on this mission of advancing our workforce toward increased engagement, unification, and innovation. It is only through our collective efforts that we will make the MVDB and the Commonwealth of Virginia a model of inclusive excellence, kindness, and respect.

Legislative Updates – VADA and VIADA

VADA: Ann Gambardella indicated they do not have anything that would affect the operations of the Dealer Board.

VIADA: Alvin Melendez indicated that the VIADA had nothing at this time.

OLD BUSINESS FROM THE FLOOR – No old business from the floor.

NEW BUSINESS

Deficit Provision Acknowledgement – William Childress briefed the Board that he had signed the Deficit Provision Acknowledgement form and is now briefing the Board as required. The signed form acknowledges that the Dealer Board will not spend beyond their appropriations for the fiscal year. A copy of the form was provided to all Board members in their Board package.

MVDB Budget – William Childress introduced Alicia Hotinger (DMV Budget Director) to discuss MVDB's budget. Ms. Hotinger started with the Expenditures beginning FY 2021. The Board spend 2.5 million, which includes items such as Personnel Services, Telecommunications, Computer Services, Travel/Vehicle/Gas, Rent, Cost Recovery/Fees such as DMV MOU, Attorney General, PMIS, Cardinal, Credit Card, Payroll Services, postage and a host of other operating expenses. She informed the Board that we are collecting about \$218,000 monthly and that our expenditures are about \$208,000 per monthly. Bottom line, the Board is breaking even and has done so over the past couple of years. William informed the Board that over the past 3 years he has intentionally been slow to fill vacancies to help with the budget situation, especially during the recent COVID pandemic. Alicia recommended that the Board keep at a minimum a million dollar reserve fund to cover bills and expenses when collections are low. However, she preferred and felt it was in the Board's best interest to maintain a reserve fund closer to 1.6 million.

Proposed Fee Increase for Licenses. After hearing Ms. Hotinger's MVDB budget report, there was no discussion relating to fee increases. William Childress outlined the proposed fee increases. They are as follows; Dealer Licenses to \$270.00, Salesperson Licenses to \$50.00, License Endorsements to \$50.00 each, and Foreign Dealers Licenses will increase to \$100.00. Based on historical figures, the proposed increases will bring in about \$421,000.00 per year.

Gardner Britt moved to increase the proposed fees effective December 1, 2021, which will include the December renewals (mailed out in November). Mark Riblett seconded. The motion carried unanimously.

Dealer Portal Update. William Childress reminded the Board that he has a contract price from a vendor that is currently Enterprise Cloud Oversight Service (ECOS) approved through VITA. With the fee increase in place, the staff is ready to move forward with the acquisition of the dealer portal. Chairman Holcomb said he would like the Board to allow William the ability to negotiate the contract and get the best price possible, without having to wait 2 months to update the Board and get approval.

Chris Maher moved to grant William Childress the authority to negotiate the contract with the ECOS approved vendor on behalf of the Board. Rob Fisher seconded. The motion carried unanimously.

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

The next meeting will be on September 13, 2021.

EXECUTIVE DIRECTOR'S REPORT – William Childress introduced Field Representative Kenneth Clark to the Board members. Kenneth succeeds Larry Sparks, who retired on July 1, 2021. William also briefed the Board members that more PoD tag abuse cases would be coming before them. Many potential PoD abuse cases have been uncovered during the pandemic, especially in the Tidewater and Northern Virginia areas. William informed the Board that the staff will follow the normal processes, but due to the size of the civil penalties, many dealers will most likely appeal the civil penalties. The Board could start seeing multiple cases as early the September meeting.

Motion was made by Rob Fisher to adjourn. Andrew Wiley seconded. The motion carried unanimously.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 12:41 p.m.