

Meeting Summary
Motor Vehicle Dealer Board
Monday, March 14, 2022

Board Chair Linda Ford called the Dealer Board meeting to order at 10:30 a.m. This meeting was conducted at the Department of Motor Vehicles, 2300 W. Broad Street, Executive Conference Room 702, Richmond, Virginia. The roll was called and there were 12 Board members present. Roll call confirmed the following Committee members being present: Dan Banister, David Duncan, Dennis Ellmer, Steve Farmer, Rob Fisher, Ron Kody, Chris Maher, Geoff Malloy, Senior Saghafi, Maurice Slaughter and Andrew Wiley. Those absent included Ted Bailey, Michael Bor, Liza Borches, Gardner Britt, Mark Riblett and Don Sullivan. Executive Director William Childress, Lisa Mack-Nelson and Ann Majors represented the Dealer Board. Christian Parrish represented the Attorney General's Office. Alice Weedon was the recording secretary.

The November 8, 2021 meeting summary was approved. NOTE: There was no January 2022 Board meeting.

PUBLIC COMMENT – No public comments.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee

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

Review and Action: Informal Fact-Finding Conferences

Harding's Auto Sales, LLC and Brent Harding. 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 Harding's Auto Sales and Brent Harding for alleged violations of Va. Code sections §46.2-1529, 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against Harding's Auto Sales and Brent Harding: Assessed a civil penalty of \$750.00; and Harding's Auto Sales shall be inspected by a Motor Vehicle Dealer Board field representative by June 14, 2022 and that inspection shall be satisfactory; and Brent Harding shall successfully complete the dealer-operator course by September 14, 2022. The Board mandates that Brent Harding hereby be assessed a civil penalty of \$750.00; and the Harding's Auto Sales dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before June 14, 2022; and Brent Harding shall successfully complete the dealer-operator course by September 14, 2022. 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 Harding's Auto Sales dealership and Brent Harding successfully complies with the Board's mandates.

Chris Maher seconded. The motion carried unanimously.

ABC Motors, LLC and Naftali Lev. 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 ABC Motors and Naftali Lev for alleged violations of Va. Code sections §46.2-1529, 46.2-1537 and 46.2-1559. Based on due consideration, the Board believes that the following actions should be taken against ABC Motors and Naftali Lev: Assessed a civil penalty of \$60,000.00; and ABC Motors shall be inspected by a Motor Vehicle Dealer Board field representative and that inspection shall be satisfactory; and Naftali Lev shall successfully complete the dealer-operator course by June 14, 2022. The Board mandates that Naftali Lev hereby be assessed a civil penalty of \$60,000.00; and the ABC Motors dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before April 30, 2022, and Naftali Lev shall successfully complete the dealer-operator course by June 14, 2022. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses, certificates issued by the Board until such time the ABC Motors dealership and Naftali Lev successfully complies with the Board's mandates.

Discussion was that Mr. Hollis Parker, salesperson for ABC Motors, was able to prove that POD could be accessed via his cellphone; therefore tags could have been printed elsewhere, other than the printer at the dealership. Virginia Interactive is the vendor. Per DMV, further investigation is going to be conducted.

Rob Fisher seconded. All in favor: 7 (Banister, Duncan, Ellmer, Farmer, Fisher, Malloy, Wiley). Opposed: 5 (Ford, Kody, Maher, Saghafi and Slaughter). The motion carried.

South America Motors, Inc. and Elva Benites. 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 South America Motors and Elva Benites for alleged violations of Va. Code sections §46.2-1529, 46.2-1559 and 46.2-1575 (2). Based on due consideration, the Board believes that the following actions should be taken against South America Motors and Elva Benites: Assessed a civil penalty of \$7,750.00; and South American Motors shall be inspected by a Motor Vehicle Dealer Board field representative by June 14, 2022 and that inspection shall be satisfactory; and Elva Benites shall successfully complete the dealer-operator course by September 14, 2022. The Board mandates that Elva Benites hereby be assessed a civil penalty of \$7,750.00; and the South American Motors dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before June 14, 2022, and Elva Benites shall successfully complete the dealer-operator course by September 14, 2022. 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 South American Motors dealership and Elva Benites successfully complies with the Board's mandates.

Rob Fisher seconded. The motion carried unanimously.

E and E Auto Sales, LLC and Markeese Johnson. 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 E and E Auto Sales and Markeese Johnson for alleged violations of Va. Code sections §46.2-1529, 46.2-1537, and 46.2-1559. Based on due consideration, the Board believes that the following actions should be taken against E and E Auto Sales and Markeese Johnson: Assessed a civil penalty of \$6,100.00; and Issued a written warning for VA Code Section §46.2-1559; and E and E Auto Sales shall be inspected by a Motor Vehicle Dealer Board field representative by June 14, 2022 and that inspection shall be satisfactory; and Markeese Johnson shall successfully complete the dealer-operator course by September 14, 2022. The Board mandates that Markeese Johnson hereby be assessed a civil penalty of \$6,100.00, and issued a written warning regarding 46.2-1559); and the E and E Auto Sales dealership shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field representative on or before June 14, 2022; and Markeese Johnson shall successfully complete the dealer-operator course by September 14, 2022. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses, certificates issued by the Board until such time the E and E Auto Sales dealership and Markeese Johnson successfully complies with the Board's mandates

Further Discussion: Ron Kody explained why he voted against this issue during the committee meeting. He questioned why the hearing officer reduced a \$61,000 civil penalty to \$6,100? Because Mr. Johnson did not stay for the Board meeting Mr. Kody recommended this issue be tabled to the May meeting for further reconsideration. Tabling the matter will allow Mr. Johnson to hear and participate in the discussions.

Rob Fisher seconded. All in Favor: 0. Opposed: 12 (Ford, Kody, Banister, Duncan, Ellmer, Farmer, Fisher, Malloy, Maher, Saghafi, Slaughter and Wiley). The motion failed.

Motion was made by Chris Maher to table this issue to the May meeting so that it could be reconsidered. Dan Banister seconded. The motion carried unanimously.

CarOfMine and Amalfi M. Arias. 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 CarOfMine and Amalfi Arias for alleged violations of Va. Code sections §46.2-1529, 46.2-1533, and 46.2-1575 (2). Based on due consideration, the Board believes that the following action should be taken against CarOfMine and Amalfi Arias: Assessed a civil penalty of \$500.00. The Board mandates that Amalfi Arias hereby be assessed a civil penalty of \$500.00. Failure to comply with the Board's mandates by the required dates will result in the suspension of all licenses, certificates issued by the Board until such time the CarOfMine dealership and Amalfi Arias successfully complies with the Board's mandate.

Mr. Arias spoke on his own behalf and requested the civil penalty be waived.

Chris Maher seconded. The motion carried unanimously.

Licensing Committee

Committee Chair Slaughter summarized discussions held and actions taken during the Committee Meeting.

Review and Action: Informal Fact-Finding Conferences

Jeffrey W. Uhl, Sales Applicant. Maurice Slaughter 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 Jeffrey Uhl for alleged violations of Va. Code section §46.2-1575 (13). Based on due consideration, the Board believes the following action shall be taken against Jeffrey Uhl: Allowed to apply for a salesperson license. The Board mandates that Jeffrey Uhl is hereby allowed to apply for a salesperson license.

Andrew Wiley seconded. The motion carried unanimously.

Advertising Committee

Committee Chair Duncan reported quorum in place; however, no discussions or actions were on the agenda for the committee to consider.

Transaction Recovery Fund Committee

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

Review and Action: Informal Fact-Finding Conferences

Joseph O. Fasusi vs. Washington Motorcars, Inc. Chris 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 approved.

Rob Fisher seconded. The motion carried unanimously.

Devon Osborne vs. Washington Motorcars, Inc. Chris 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 approved.

Rob Fisher seconded. The motion carried unanimously.

Carlos Moreno vs. Auto Max Center, LLC. Chris 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 that no further action be taken because Mr. Moreno did not submit his claim pursuant to stipulations governing the Transaction Recovery Fund 46.2-1527.4; therefore the Board is unable to remit payment.

Andrew Wiley seconded. The motion carried unanimously.

OLD BUSINESS

Dealer Portal Update. William Childress informed the Board that VITA has granted full approval to move forth with the Dealer Portal project. All VITA requirements have been met (security exceptions, VITA oversight (\$400 per month) payments via eVA, etc.) May 12, 2022 is the projected project kick-off date. The vendor’s name is System Automation, the company is based out of Maryland. Ron Kody and Christian Parrish expressed interest in attending the kick off meeting. William indicated that a few more board members can attend the kick-off, but the limit is 3. He said for the members to contact him if they are interested in attending. An update will be presented at the May meeting.

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

Legislative Updates – VADA and VIADA

VADA: Ralston King indicated key components from legislation. Highlighted on the Decibel levels noise complaints and noise in the community. Two Bills that VADA focused on, 1st – focused on franchise warranty and recall vehicles. 2nd – Virginia overtime wage act. Both bills passed.

VIADA: Alvin Melendez wanted to address the POD issue. He noticed that all the dealers appearing before the Board today are all on-line dealers, which means they were approved because they sell over 100 cars a year. Mr. Melendez’s concern was that dealers are printing three to four PoD tags for each vehicle. Mr. Melendez outlined the highlights of HB 316:

- Recertification time would change from every 36 months to every 24 months.
- It will be a four hour instructor led (in person or virtual) course, different from the 6-hour, pre-recorded slide show. The instructor led course will allow dealers to ask questions and get answers from industry experts teaching the class.
- For the monetary part – it will increase the MVDB fee from \$25 to \$50; an increase that has not happened since the Recertification process began in Virginia. The fee increase will include the end of course exam.
- The max amount a class provider can charge cannot exceed \$300, up from the current fee of \$250. However, none of the providers currently charge anywhere close to that. Current VIADA members pay just the fee that MVDB charges, and non-members pay only \$75.00.

- VIADA plans to teach the class in person, with a schedule similar to the current Dealer-Operator class schedule. The virtual class will be available at flexible times including weekends. VIADA will also plan to have a least one Free class per year for both Members and Non-members the Friday before the VIADA Convention begins. They will not be required to register for Convention to get the class for free.

NEW BUSINESS

HB 316 – William Childress wanted the members to know that this bill has not been signed into law, but the Board staff is prepared to move forward when signed into law by the Governor. William informed the Board that a recommendation was made to the Governor (via the Secretary of Transportation) strike the \$50 exam fee, which was the old DMV testing fee. When this law is passed it will go into affective July 1, 2022. William informed the Board that his staff has scheduled meetings with all three vendors currently providing the dealer-operator recertifying course. In addition, William informed the Board that official applications to be a dealer-operator recertification provider may come before the Board during the May 2022 meeting.

AAMVA Region 2 Conference. This conference will be held in Mobile Alabama, May 3-5, 2022. William has been asked to present Virginia’s Dealer Board Compliance processes, to include the issuance of POD and temporary tags. This discussion will also include new car purchases (traditional, internet, directly from the manufacturer). William requested approval from the Board to attend this meeting.

Motion was made by Chris Maher allowing William Childress to attend the AAMVA conference in Mobile Alabama. Rob Fisher seconded. The motion carried unanimously.

EXECUTIVE DIRECTOR’S REPORT – William Childress informed the Board that there were a couple of field representative vacancies on the Board staff. One position (full-time) in Northern Virginia and one in Richmond (part-time) – the goal is to have both vacancies filled by the May 2022 Board meeting. With that said, William introduced James Blasko, the newest field representative for the Fredericksburg District. Mr. Blasko shared his background with the Board members.

William acknowledged a long serving state employee and current Board staff employee, JeAnne Marshall-Robinson, who is retiring effective May 1, 2022 after 44 years of dedicated service to the Commonwealth. Ms. Marshall-Robinson spoke briefly to the Board about her career.

William recognized that even though Marta Morales works for DMV, that she supported and contributed to the success of the Board over many years. Ms. Morales is retiring, effective May 2022 and this is her last Board meeting. Ms. Morales spoke briefly to the Board.

Finally, William announced that Board Member Steve Farmer is retiring and this will be his final Board meeting. Mr. Farmer addressed his fellow Board members and gave a brief overview of how far the Board has come since its inception.

NEW BUSINESS FROM THE FLOOR – There was no new business from the floor.

The next meeting will be on May 9, 2022.

There being no further business to come before the Motor Vehicle Dealer Board, Board Chair Linda Ford adjourned the Board meeting at 12:04 p.m.