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MOTOR VEHICLE DEALER BOARD

Dealer Talk

Virtru and MVDB 61

The MVDB has implemented an electronic means to submit salesperson license applications to the Board. The Dealership will use an encryption service called **Virtru** to securely email the MVDB 61 sales license applications. The encrypted submission is necessary to protect the applicant's personal information. The dealership will receive an email verifying the Board's receipt of the encrypted email and attached MVDB 61. Board staff will contact the dealership for credit card payment, so it is essential that the Board receives correct contact information for the person with the credit card.

To get started, go to the link provided [HERE](#) and watch the quick video on how to install the Virtru Plugin from the Chrome Web Store. This link provides detailed installation instructions of Virtru on the following (Outlook Desktop, IOS, and Android). **The email address for encrypted sales license applications is:**

MVDB61@MVDB.VIRGINIA.GOV. When composing your email to send the MVDB 61 application electronically, make sure "Virtru" is "turned on". Be sure you have attached the MVDB 61(s). If this is an original/initial salesperson application, make sure the criminal background check requirement is completed on the application, and the applicant must pass the sales exam before submitting. No criminal background check info is needed for salesperson transfer applications. In the email message, be sure to provide the Board with a name and contact phone number of the individual authorized to pay for the transaction by credit card over the phone. **If the Board is unable to receive credit card payment, this will delay processing of the salesperson license.**

If you have any questions on the process, please email rick.sipe@mvdv.virginia.gov, or call Rick Sipe at 804-367-1100 x 3003#.

Time Dealer of the Year Nominee

TIME has announced the nomination of Dan Banister, dealer principal at Banister Nissan of Chesapeake in Chesapeake, Virginia, for the 2021 TIME Dealer of the Year award.

Banister is one of a select group of 40 dealer nominees from across the country who will be honored at the 104th annual National Automobile Dealers Association (NADA) Show being held virtually February 9-11, 2021.





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Time Dealer of the Year Nominee

The TIME Dealer of the Year award is one of the automobile industry's most prestigious and highly coveted honors. Recipients are among the nation's most successful auto dealers who also demonstrate a long-standing commitment to community service. Banister, 52, was chosen to represent the Virginia Automobile Dealers Association in the national competition – one of only 40 auto dealers nominated for the 52nd annual award from more than 16,000 nationwide.

In 2010, he and a partner purchased Victory Nissan. By 2017, Banister bought out his partner and is now the principal owner of two Virginia dealerships, Banister Nissan of Chesapeake and Banister Nissan of Norfolk.

"I am one of only 15 black-owned Nissan dealerships nationwide, and our stores are consistently among the top-performing Nissan dealerships worldwide," Banister said. Banister is currently regional president for Nissan's National Dealer Advisory Board. In addition, he is president of the Hampton Roads Automobile Dealers Association, overseeing the group's annual international auto show. And he serves on the board of the Virginia Automobile Dealers Association, as well as the Motor Vehicle Dealer Board for the state of Virginia, a position appointed by the governor.

A respected leader in his community, Banister is actively involved in numerous local charities. He currently sits on the boards of The Elder's House (provides a safe and nurturing environment for at-risk youth); The Chesapeake Forum (brings dynamic and diverse speakers to the area to educate and inspire); Chesapeake Regional Health Foundation (raises funds for needed new medical equipment); and Chesapeake Public Library Foundation (supports various library programs), plus others.

In addition, Banister has supported St. Jude Children's Research Hospital by providing a car as part of its Hampton Roads St. Jude Dream Home Giveaway, a major fundraising effort for the hospital. He is also a member of the Mount Lebanon Baptist Church in Chesapeake, known as The Mount, which is guided by spiritual leader Bishop Kim W. Brown.

Dealers are nominated by the executives of state and metro dealer associations around the country. The award is sponsored by TIME in association with Ally Financial, and in cooperation with NADA.

Banister was nominated for the TIME Dealer of the Year award by Don Hall, president and CEO of the Virginia Automobile Dealers Association. He and his wife, Beverly, have two children.

Upcoming EVENTS

BOARD MEETINGS

Virtual meeting will be held on

Monday, January 11, 2021**

Dealer Practices Committee Meeting

Time: 9:00 a.m.

Licensing Committee Meeting

Time: Immediately following Dealer Practices Committee

Advertising Committee Meeting

Time: Immediately following Licensing Committee

Transaction Recovery Fund Committee Meeting

Time: Immediately following Advertising Committee

Full Board Meeting

15 minutes immediately following Transaction Recovery Fund Committee meeting.

**Click [HERE](#) for Virginia Town Hall to view meeting information.

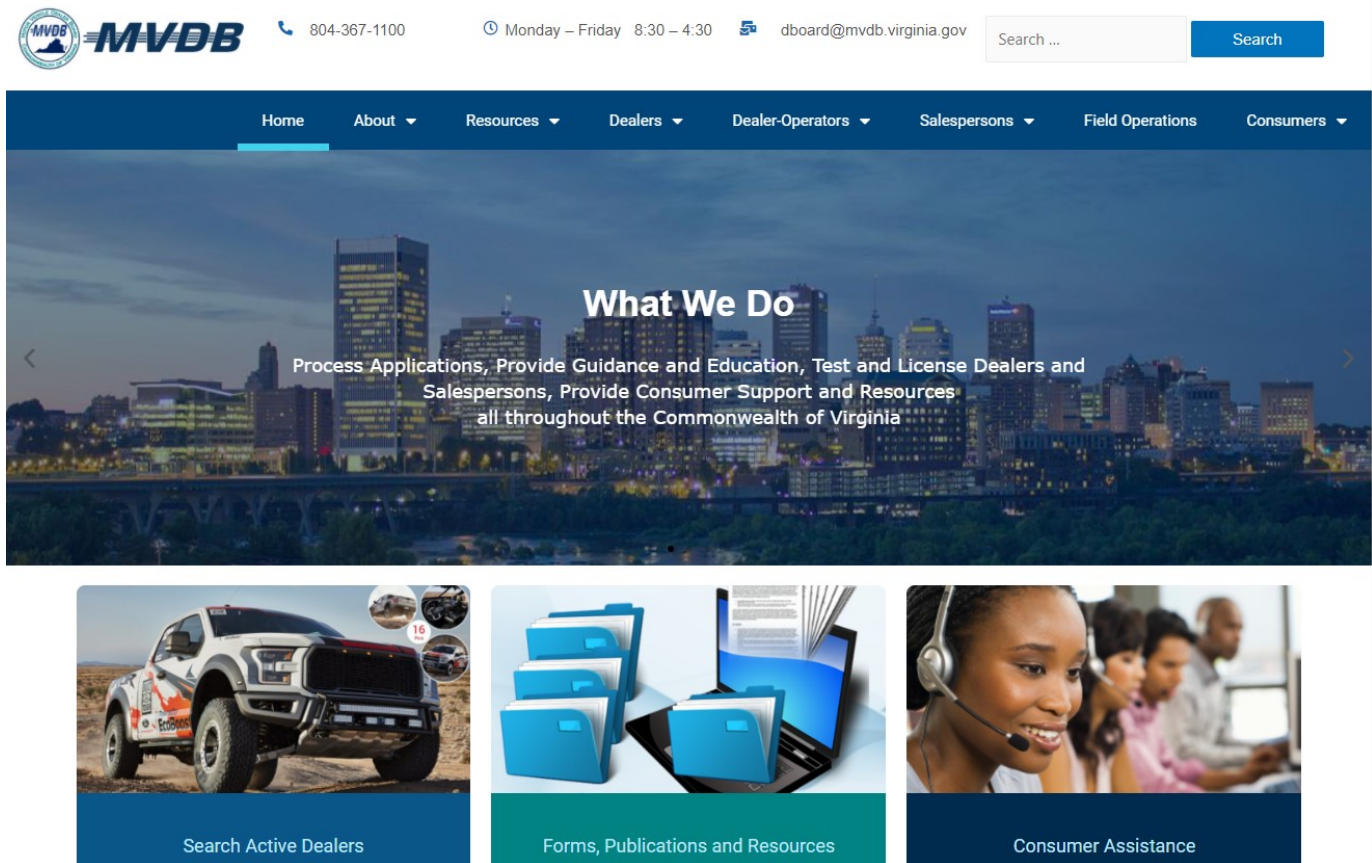
MVDB will be closed

- ◆ Christmas Eve, December 24, 2020
- ◆ Christmas Day, December 25, 2020
- ◆ New Years Day, January 1, 2020
- ◆ Martin Luther King Jr. Day, January 18, 2020



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MVDB Website Has a New Look



As many of you may have noticed already, the MVDB has a new website.

Here are a few of our many enhancements you may encounter when visiting our website:

- Modern and secure architecture.
- Visually appealing
- Easy navigation for users
- Better organization of information.
- Responsive web design, meaning it responds to fit your viewing device.
- New Calendar of events.
- User friendly

If you haven't visited our site recently, be sure to check us out! mvdb.virginia.gov

Reminders...

§46.2-1539 requires a safety inspection between the time the vehicle comes into the possession of the dealer and the time it is sold at retail. In the event the vehicle is found not to be in compliance with all safety inspection requirements, the dealer shall either take steps to bring it into compliance, or shall furnish any buyer intending it for use on the public highway a written disclosure, prior to sale, that the vehicle did not pass a safety inspection. The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

Reporting Fraud to FTC is Easier

Whether it's a bogus message claiming your trademarks are about to expire unless you transfer money immediately or threats to ruin your credit if you don't pay for unordered office supplies, scammers have small businesses in their sights. You can help the FTC and its partners fight fraud and you don't even need to wear a superhero cape (unless you want to). Your story is your superpower. When you tell the FTC about frauds, scams, and other kinds of bad B2B practices, you're helping the FTC and our law enforcement partners spot and stop scams. To make it easier, the FTC just launched ReportFraud.ftc.gov – a new version of the FTC's consumer reporting website. But don't let that description fool you. It's for small businesses, too.

By following a few short steps on ReportFraud.ftc.gov, your report is instantly available to more than 3,000 federal, state, and local law enforcers across the country. After you tell us what happened, you'll get advice from ReportFraud.ftc.gov on what you can do next to recover and protect yourself and your small business against fraud. Want to see how it works? [Watch this "How To" video.](#) (link is external)

Why report fraud? Because your report can make a difference. We use reports like yours to investigate, bring law enforcement cases, and alert companies and consumers about what frauds to be on the lookout for so they can protect themselves, their businesses, their friends, and family. The FTC also uses reports to share data about what is happening in your community. You can check out what is going on in your state or metro area by visiting ftc.gov/exploredata.

In addition, when customers approach you about suspected fraud – including when a scammer has falsely used your company's name – suggest they visit ReportFraud.ftc.gov (or ReporteFraude.ftc.gov for Spanish speakers).

Help us spread the word. By encouraging people to tell the FTC about their experience at ReportFraud.ftc.gov, you're helping fight fraud in your community. Thank you — and keep up the good work, superheroes!

Reminders...

ALL IDO's of independent dealerships must recertify their IDO qualification every three years by either taking an online course, classroom course, or by passing an administered DMV test. Click [HERE](#) for more information and [HERE](#) to determine your recertification deadline. Please note that dealers with [Franchise](#) endorsements are exempt from recertification. If you are unclear on your recertification deadline, or any other recertification questions, please contact Ann Majors at the MVDB. She may be reached at 804-367-1100 x 3016#, or email at ann.majors@mvdb.virginia.gov



FBI Investigates Kansas Dealer

The FBI is investigating a Kansas City metro car dealership following a series of I-Team reports that documented customer complaints against the dealership.

Former Lawrence Kia employee Mark Kavanaugh confirmed to 41 Action News that he has had multiple contacts with an FBI agent. Kavanaugh first told the I-Team in the spring that he found hundreds of deals with the customers' incomes inflated on the car loan application every time.

The investigation, according to retired FBI agent Michael Tabman, is "right up the FBI's alley." He said that evidence could include documents, customer complaints and even Lawrence Kia employee witnesses.

Karen Olson-Thomas is one of the customers affected by Lawrence Kia's business practices. She was finished with her job as a school assistant when she went to Lawrence Kia in June 2019. "Technically, I didn't have a job," she said. However, being unemployed and having six children living at home didn't prevent Lawrence Kia from selling Olson-Thomas a Ford Focus. Olson-Thomas reached out to the I-Team following several previous reports on Lawrence Kia that include numerous complaints and documents showing the dealership inflated customers' incomes on car loan applications.

Cody Cole previously spoke to the I-Team, stating that his loan was set up by an inflated income on his car loan. "I don't make nowhere near \$3500 a month. I wish I did," Cole told the I-Team in March. Following Cole's comments in a June I-Team report, he's now the lead plaintiff in a class action lawsuit against Lawrence Kia.

Documents or discovery from Lawrence Kia in the case were due last week.

The judge also has ordered the two sides to attempt to settle the case by finding a mediator by next week.

Court documents show attorneys for Lawrence Kia have offered no denial of the claims against the dealership. Instead, they're attempting to get the case thrown out because customers signed deals requiring any complaints to be brought to arbitration instead of the courts.

In August, Richelle Popevis told the I-Team her signature was forged on her car loan documents. She claimed the documents were modified without her approval. "Forgery is forgery," Popevis said in August. "You know that when you're doing it that you're committing a crime." A handwriting expert the I-Team asked to look at the documents agreed that the signatures on the modified documents did not match Popevis' signature.

Following the I-Team reports, the Douglas County District Attorney, the Kansas Attorney General and the Kansas Bank Commissioner all opened Lawrence Kia investigations.

"Anytime we hear of a situation where a lender, a supplier, has done something fraudulent that puts the public in danger, we're always interested in finding out what that is," Douglas County District Attorney Charles Branson said in June.

Wells Fargo and Azura Credit Union also suspended accepting car loan applications from Lawrence Kia in June after I-Team reports.

As for Olson-Thomas, like other customers who've spoken to the I-Team, she claimed documents she provided show her income was inflated on her car loan application.

"I'm behind on my house payment, I'm behind on everything," Olson-Thomas said.

At the time of her loan, she said her only source of income was \$800 a month of child support. But the documents show an additional \$1,688 of monthly income she said she didn't make.

The documents also show Olson-Thomas made a \$1,600 down payment for the car.

"There's no way I would've put \$1,600 down on the car," she said. "I just couldn't afford it."

Kavanaugh said in March that he feels bad for the customers who were affected.

"I can tell you from being in the car business for 26 years, some of these deals go bad, and they will go bad, the bank is going to be on them," Kavanaugh said.

Tabman said he believes the U.S. Attorney will take the case to a grand jury.

"There's multiple ways the FBI is going to get their evidence here," he said. "Directly, indirectly, but it is all there. This is not really complicated."

It doesn't change Karen Olson-Thomas' situation. She might lose her car after missing a payment.

"Now I'm in further debt because of the car and just in more trouble than I was before," Olson-Thomas said.

While Kavanaugh confirmed the Feds are investigating Lawrence Kia, an FBI spokeswoman said she could neither confirm nor deny the existence of a Lawrence Kia investigation.

DMV News

Constitutional Amendment

Effective January 1, 2021 veterans of the United States armed forces or the Virginia National Guard who have been rated by the United States Department of Veteran Affairs or its successor agency pursuant to federal law with a one hundred percent (100%) service-connected, permanent, and total disability will be exempt from state and local taxation on one motor vehicle owned and used primarily by or for the qualifying veteran. Veterans that qualify will be exempt from sales and use tax (SUT) provided they present the appropriate documentation. Motor vehicles purchased prior to the effective date wherein sales and use tax was paid will not be refunded any taxes paid. Under this amendment, a motor vehicle that is owned by the spouse of a veteran of the United States armed forces or the Virginia National Guard with a one hundred percent (100%) service-connected, permanent, and total disability could also be free from taxation for one motor vehicle used primarily by or for the qualifying veteran. To prove eligibility, qualifying veterans or spouses will have to submit the following documentation along with the ownership document:

- SUT 3 “Purchasers Statement of Exemption” and
- Veterans benefits Letter stating 100% service-connected, permanent, and total disability or
- VSA 54 “Veterans Certification of Disability.”

Online dealer participants will not be able to process transactions with this exemption; this transaction should be sent to the auto auction for processing. If SUT is paid at a dealership, the qualifying veteran or spouse may request a refund from DMV by submitting form SUT 2 “Application for Refund of Sales and Use Tax” along with the veterans benefit letter stating 100% service-connected, permanent, and total disability or VSA 54 “Veterans Certification of Disability.”

PoD Temporary License Plates

Virginia Department of Motor Vehicles (DMV) began using print on demand (PoD) technology for temporary tags in December 2009. Since that time specific parameters for use and issuance have been defined by Virginia Code §46.2-1542, and §46.2-1561. The PoD program is intended to allow individuals who recently purchased vehicles the opportunity to immediately drive the vehicle for up to thirty days while ownership is being transferred. The following are instances when PoD temporary license plates may be issued:

- Purchaser is **NOT** a Virginia resident and will be titling the vehicle in their home state.
- Purchaser is a Virginia resident and wants a personalized plate message.
- Purchaser is a Virginia resident and wants to order a plate not stocked at the dealership.
- Dealership does or does not have the title or ownership document readily available to transfer ownership at the time sale.
 - ◆ A second set of 30 day temporary tags may be issued if ownership isn’t transferred within 30 days of first issuance.
 - Dealer must submit to DMV the application for certificate of title, copy of the bill of sale, payment of the Sales and Use tax, and a written statement of fact describing the efforts being taken to secure the ownership document before issuing a second set to Virginia customers.
 - The second set must be issued within 5 days of 1st set expiring.
 - ◆ A 30 day extension may be granted on the second set, upon request from the dealer to the DMV Dealer Services work center, if ownership hasn’t been transferred or title unable to be produced by the dealer.

In light of the COVID-19 pandemic DMV has received several requests about including temporary tags with the current 60 day extension for registrations. 30 day temporary tags are not included. The thirty day validity of temporary tags, from the date of issue, is statutory, per Va. Code § 46.2-1542(B).

The Print on Demand program is designed to give dealers flexibility in managing reissues or a second 30 day extension, if necessary, pursuant to Va. Code § 46.2-1542(C). Any concerns or questions regarding this program may be directed to our Dealer Services work center at 804-367-0901 or podtemptag@dmv.virginia.gov.

Fridge, Ice, or Chill

It doesn't take much for something to go "bad" at the dealership. It's best to have policies and procedures to keep everything "fully refrigerated," and not just "on ice." Here's how to keep things on "chill status:"

Compliance Management System: The Consumer Financial Protection Bureau (CFPB) mandates that:

"institutions continuously assess their business strategies and modify product and service offerings and delivery channels. To maintain legal compliance, an institution must develop and maintain a sound compliance management system (CMS) that is integrated into the overall framework for product design, delivery, and administration across their entire product and service lifecycle. Ultimately, compliance should be part of the day-to-day responsibilities of management and the employees of a supervised entity; issues should be self-identified; and corrective action should be initiated by the entity." The CFPB continues: "A CMS is how an institution:

- Establishes its compliance responsibilities;
- Communicates those responsibilities to employees;
- Ensures that responsibilities for meeting legal requirements and internal policies and procedures are incorporated into business processes;
- Reviews operations to ensure responsibilities are carried out and legal requirements are met; and
- Takes corrective action and updates tools, systems, and materials as necessary."

The full text can be read [HERE](#).

If you do not have a system of compliance and subsequent training, you are opening yourself up for bigger fines and regulatory violations.

Insurance: The Motor Vehicle Dealer Board has certain minimum requirements. You have to properly insure all the dealer tags. You have to have a surety bond. And the mandated policy minimums are way too minimum. To protect you and your business, you should have higher policy limits and a thorough review of all coverage areas. Failure to have proper insurance will result in fines and put you in the soup (which is "hot," by the way). Do not just shop for price when you are renewing. Look at the policy carefully to determine the coverage gaps. Ask for help if you need it.

Deceptive Advertising: Best practice is to have a third-party review all of your advertising to ensure that it cannot be perceived as deceptive. And if you use "trigger terms" have you disclosed the rest of the terms? Trigger terms include:

- The amount or percentage of any down payment
- The number of payments or period of repayment
- The amount of any payment
- The amount of any finance charge

Self-Inspection Checklist: The Dealer Board in Virginia provides a Self-Inspection Checklist. [http://www.mvdb.virginia.gov/forms/files/MVDB%2058%20\(REV%2004-2020\).pdf](http://www.mvdb.virginia.gov/forms/files/MVDB%2058%20(REV%2004-2020).pdf) Have you ever looked at it? It shows you how to stay out of trouble. Insulate yourself (like a refrigerator!) from a problem. Make sure you are checking on these items. Remember, you manage what you monitor.

Sanctions: Did you know that the Dealer Board has posted a Process for Determining Sanctions? Here it is: <https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\506\GDoc MVDB 4902 v3.pdf> Have you ever read it?

Customer Problems: Part of having a Compliance Management System is responding to customer complaints on the internet. Each complaint should be specially addressed as generic postings by the dealership will be perceived as calloused and insincere. Your handling of the complaint will be a lot less expensive than if it sent to a regulator. The "first rule" of claims is that the first loss you take on any given situation is going to be the least expensive loss. If you satisfy the customer early in the process, he/she won't spin out of control. It's also the right thing to do to maintain your good reputation in the community. Keep the customers from becoming "hot," as upset customers create lawsuits, as well as regulatory problems.

Keep things from warming up. Keep your dealership's issues "on ice." Compliance with the federal, state and local laws will go a long way in ensuring things are kept as smooth as butter... which requires refrigeration, by the way.

Tom Kline www.bettervantagepoint.com

Board Actions

Dealer Practices

Informal Fact-Finding Conferences:

Midtown Motors, Inc. and John D. Forney - On July 23, 2020, an informal fact-finding conference was conducted to address the alleged violations of misuse of dealer tags. Based on the information provided at the conference, the Board assessed a civil penalty of \$250. Mr. Forney may appeal to a Formal hearing.

Doc's Cars and James Hill - On August 13, 2020, an informal fact-finding conference was conducted to address the alleged violations of dealer records, and failure to comply with previous warnings. Based on the information provided at the conference, the Board assessed a \$2,000 civil penalty and revocation of the dealership's licenses and certificates issued to Doc's Cars and James Hill by the Board. Mr. Hill may appeal to a Formal hearing.

Blake Ford and Joseph B. Blythe - On September 17, 2020, an informal fact-finding conference was conducted to address the alleged violations of unlicensed salespersons. Based on the information provided at the conference, the Board assessed a \$600 civil penalty. Mr. Blythe may appeal to a Formal hearing.

Hall Nissan Virginia Beach and William R. Baker - On September 22, 2020, an informal fact-finding conference was conducted to address the alleged violations of unlicensed salespersons. Based on the information provided at the conference, the Board assessed a \$1,000 civil penalty. Mr. Baker may appeal to a Formal hearing.

Formal Hearing:

Integrity Autohaus, LLC and Ivan & Nina Johnson - On January 6, 2020, an informal fact-finding conference was conducted to address the alleged violations of failure to provide dealer records and proof of safety inspection prior to retail sale. Based on the information provided at the conference; the March 9, 2020 the Board assessed a civil penalty of \$2,500. On March 23, 2020, Mr. Johnson appealed for a Formal hearing. On October 15, 2020, a formal hearing was conducted to address the alleged violations. Based on the information provided at the hearing, the Board assessed a civil penalty of \$2,500. Mr. and Ms. Johnson may appeal to Circuit Court.

Administrative Actions:

Don's Auto Exchange Inc. and Donald Keene Jr. Paid a \$2,500 civil penalty for failure to maintain dealer records, proof of safety inspection prior to retail sale, misuse of D-tags, and failure to comply with previous warnings.

H & C Auto Inc. and Richard Call. Paid a \$250 civil penalty for failure to maintain dealer records.

Southwest Motors Inc. and Larry C. Trent. Paid a \$250 civil penalty for misuse of D-tags.

Supreme Motorsport and Christopher Epps. Paid a \$250 civil penalty for failure to maintain dealer records, and provide proof of safety inspection prior to retail sale.

Phoenix Automotive and Conrad Holtslag. Paid a \$500 civil penalty for failure to maintain dealer records, and provide proof of safety inspection prior to retail sale.

USA Future Properties & Auto Inc. and Brian O'Neil Mason. Paid a \$350 civil penalty for failure to maintain dealer records, and provide proof of safety inspection prior to retail sale.

Harley-Davidson Bayside & Bayside Ducati and Maurice D. Slaughter. Paid a \$5,700 civil penalty for unlicensed salespersons.

Advertising

Administrative Actions:

The Automotive Company LLC and Jean Pierre Assaad. Paid a \$250 civil penalty for advertising on Craigslist in the owner category instead of the dealer category, and failing to disclose VADLR, or the dealership name. Also, the advertisement failed to disclose their processing fee.

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IMPORTANT NOTICE TO PROSPECTIVE DEALERS

The path to a Dealer-Operator license begins with a required two-day course of study each month at various community colleges in Virginia with the curriculum and instruction provided by VIADA. The course takes the attendee from establishing the dealership under local zoning and Dealer Board requirements, through the sales process with its multitude of forms, laws and regulations, into a sampling of opening and operating expenses, and ending with a discussion on ethics. The course is also open to all existing dealers and their employees.

THE FOLLOWING COURSES ARE REGISTERED THROUGH VIADA,

CALL 1-800-394-1960 to register or visit viada.org

2020
<p>December 8-9</p> <p>Hilton Richmond Downtown (501 East Broad Street, Richmond, VA 23219)</p>
2021
<p>January 12-13</p> <p>Spring Hill Suites (1997 Power Plant Pkwy, Hampton, VA 23666)</p> <p>January 26-27</p> <p>TBD</p> <p>February 9-10</p> <p>Hampton Inn & Suites Roanoke Airport (5033 Valley View Blvd W NW, Roanoke, VA 24012)</p> <p>February 23-24</p> <p>Richmond Downtown Hilton (501 E Broad St, Richmond, VA 23219)</p> <p>March 9-10</p> <p>Home2 Suites by Hilton (43340 Defender Dr, Chantilly, VA 20152)</p> <p>March 23-24</p> <p>Courtyard Marriott (2136 Riverside Dr, Danville, VA 24540)</p> <p>April 6-7</p> <p>Double Tree by Hilton (990 Hilton Heights Road, Charlottesville, VA 22901)</p> <p>April 20-21</p> <p>Spring Hill Suites (1997 Power Plant Pkwy, Hampton, VA 23666)</p>



Please click [HERE](#) or on the graphic on the left to view our Dealership Education videos!

More videos will be uploaded on an ongoing basis, so stay informed and receive notifications when new videos are released. The MVDB Education video library will eventually cover a wide range of topics that Dealerships can use to remain compliant with Virginia Code.

You may also access these videos from a link on our website Home page.

BE SURE TO SUBSCRIBE TO OUR [MVDB CHANNEL](#)!

MOTOR VEHICLE DEALER BOARD

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www.mvdb.virginia.gov

DISCLAIMER: We make every effort to ensure information in Dealer Talk is accurate, but it is not a substitute for legal advice.



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What's Wrong With This Picture?



Improper use of Dealer Tag.

The Code of Virginia states in part that it is unlawful for any dealer to permit dealer's license plates to be used on : §46.2-1550 A (4) Vehicles used in conjunction with any other business.