

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ **FINAL** ~

Meeting Summary
Motor Vehicle Dealer Board
Monday, January 13, 2003

Chairman Ab Quillian called the Dealer Board meeting to order at 1:19 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 members present. Present were members Vice-Chairman Steve Farmer, Vice-Chairman Larry Matthews, Tom Barton, Carlton Courter, Bobby Joe Dotson, Rick Hunt, Pete Iaricci, Clyde King, Joel Lyles, Mike Martin, Max Pearson, Karen Radley, Ted Robertson, Vince Sheehy, Leo Trenor (Absent: Al Lacy, Chris Schroeder, Bruce Farrell). Bruce Gould, Peggy Bailey, Debbie Allison, and Katherine Idrissi represented the Dealer Board. Gail Morykon and Rick Knick were present from the DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The November 12, 2002 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

- **General Assembly.** Bruce Gould went over some legislation that was mostly for informational purposes to the Board members and a "position" was not needed. Those bills that needed a position from the Board are as follows: HB-1443 **support** (Sale or transfer of motor vehicle dealerships), HB-1521 **support** (Salvage vehicles; branded titles), HB-1659 **not support** (Salvage vehicles) HB-1689 **not support** (Motor vehicle dealers), HB-2604 **support** (Motor Vehicle Transaction Recovery Fund).

STATUTORY COMMITTEE REPORTS:

Dealer Practices Committee:

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

Review and Action: Formal Hearing:

- **Sebghatullah Nassiri and Export Car Connection, Inc.** Chairman Steve Farmer summarized for the Board the discussion held in the Committee meeting regarding Sebghatullah Nassiri and Export Car Connection, Inc. Based on that discussion and the recommendation in the case, Steve 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 Mr. Sebghatullah Nassiri t/a Export Car Connection, Inc. for alleged violations of Va. Code §46.2-1575(2), failure to comply subsequent to receipt of a written warning from the Board, and §§46.2-1529, 46.2-1548 and 46.2-1559, related to record keeping requirements. Mr. Nassiri received numerous letters, educational efforts and opportunities to comply with the record keeping requirements. Based on due consideration, and the hearing officer's recommendation, the Board believes that a civil penalty should be levied against Mr. Sebghatullah Nassiri t/a Export Car Connection, Inc.

The Board hereby assesses a civil penalty in the amount of: \$500 for violations of Va. Code §46.2-1529, \$500 for violations of Va. Code, §46.2-1548 and \$500 for violations of Va. Code §46.2-1559 for a total civil penalty of \$1,500 on Mr. Sebghatullah Nassiri t/a Export Car Connection, Inc.

Larry Matthews seconded. The motion passed unanimously.

At this point, Bobby Joe Dotson and Clyde King left the meeting.

Licensing Committee:

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

Review and Action: Formal Hearing:

- **Floyd B. Brantley, III, Salesperson.** Vice-Chairman Pete Iaricci summarized for the Board the discussion held in the Committee meeting regarding Floyd B. Brantley, III. Based on that discussion and the recommendation in the case, Pete Iaricci made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, revoked the salesperson license of Mr. Floyd B. Brantley, III pursuant to Va. Code 46.2-1575 (13), having been convicted of a felony. Mr. Brantley appealed the revocation and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Floyd B. Brantley, III and based on due consideration, the Board believes that Mr. Brantley's motor vehicle salesperson's license should be suspended. The Board hereby suspends Mr. Floyd B. Brantley, III's salesperson license for a period of 120 days and under the conditions as recommended by the hearing officer for violations of Va. Code 46.2-1575 (13), having been convicted of a felony. [Conditions: The Board require Mr. Brantley to agree that if he violates any provision of Chapter 15 of Title 46.2, that his parole officer will receive notice thereof together with the Board's request that such violation be treated as grounds for the revocation of his suspended sentences.]

Steve Farmer seconded. The motion passed unanimously.

- **Alvin W. Walden, Salesperson.** Vice-Chairman Pete Iaricci summarized for the Board the discussion held in the Committee meeting regarding Alvin W. Walden. Based on that discussion and the recommendation in the case, Pete Iaricci 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 revoked the salespersons license of Mr. Alvin W. Walden pursuant to Va. Code 46.2-1575 (13), having been convicted of a felony. Mr. Walden appealed the revocation and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Alvin W. Walden and based on due consideration, the Board believes that Mr. Walden's motor vehicle salesperson's license should be suspended. The Board hereby suspends Mr. Alvin W. Walden salesperson license for a period of 120 days and under the conditions as recommended by the hearing officer for violations of Va. Code 46.2-1575 (13), having been convicted of a felony. [Conditions: The Board require Mr. Walden to agree that if he violates any provision of Chapter 15 of Title 46.2, that his parole officer will receive notice thereof together with the Board's request that such violation be treated as grounds for the revocation of his suspended portion of the April 10, 2002 sentence handed down by the Circuit Court of Henrico County.]

Karen Radley seconded. All in favor: 11 (Robertson, Sheehy, Courter, Trenor, Hunt, Lyles, Matthews, Farmer, Martin, Iaricci, Quillian). Opposed: 2 (Radley and Barton). The motion passed.

- **Robert A. Hudson, Jr., Salesperson.** Vice-Chairman Pete Iaricci summarized for the Board the discussion held in the Committee meeting regarding Robert A. Hudson, Jr. Based on that discussion and the recommendation in the case, Pete Iaricci 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 denied the license application of Robert A. Hudson for violations of Va. Code §46.2-1574 as it relates to §§46.2-1575 (4) defrauding a retail buyer; (6) deceptive acts or practices and (14) failure to submit taxes and fees to DMV. Mr. Hudson appealed the denial and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Robert A. Hudson and based on due consideration, the Board believes that the application for a motor vehicle salesperson's license in the name of Robert A. Hudson should be approved. The Board hereby approves the application for a motor vehicle salesperson's license submitted by Robert A. Hudson.

Mike Martin seconded. The motion passed unanimously.

- **Jeffrey M. Brown, Salesperson.** Vice-Chairman Pete Iaricci summarized for the Board the discussion held in the Committee meeting regarding Jeffrey M. Brown. Based on that discussion and the recommendation in the case, Pete Iaricci made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, revoked the salesperson license of Mr. Jeffrey M. Brown pursuant to Va. Code §46.2-1575 (13), having been convicted of a felony. Mr. Brown appealed the revocation and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Jeffrey M. Brown and based on due consideration, the Board believes that Mr. Brown's motor vehicle salesperson's license should not be revoked or suspended. The Board hereby allows Mr. Jeffrey M. Brown to retain his salesperson's license on the condition that Mr. Brown submits the results of drug tests to the Board.

Leo Trenor seconded. General discussion followed concerning the requirement that Mr. Brown submits the results of drug tests to the Board.

Substitute motion was made by Larry Matthews to allow Mr. Brown to retain his license without conditions. Karen Radley seconded. The motion passed unanimously.

- **Lewis Bagwell & J&K Automotive.** Vice-Chairman Pete Iaricci summarized for the Board the discussion held in the Committee meeting regarding Lewis Bagwell and J & K Automotive. Based on that discussion and the recommendation in the case, Pete Iaricci made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, suspended for 21 days all licenses issued by the Board to Mr. Lewis G. Bagwell pursuant to violations of Va. Code §46.2-1575 (1), having made a material misstatement on an application [for certificate of title], (9), having been convicted of any crime involving the business of selling motor vehicles, (13), having been convicted of a felony. Mr. Bagwell appealed the suspension and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Lewis G. Bagwell and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Bagwell should not be revoked or suspended provided Mr. Bagwell comply with the conditions as set forth below.

The Board hereby allows Mr. Lewis G. Bagwell to retain all licenses issued by the Board to Mr. Bagwell provided he provides documentary evidence of the full satisfaction of his criminal fines and court costs obligations. Further, that a 25 day suspension of Mr. Bagwell's license

be imposed if (1) Mr. Bagwell has not paid in full the criminal fines and court costs and shall stay suspended until such time costs have been paid and (2) if Mr. Bagwell is found in violation of any of the provisions of the Dealer Laws (Chapter 15 of Title 46.2).

Larry Matthews seconded. The motion passed unanimously.

- **Michael D. Hockett, Salesperson.** Vice-Chairman Pete Iaricci summarized for the Board the discussion held in the Committee meeting regarding Michael D. Hockett. Based on that discussion and the recommendation in the case, Pete Iaricci made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, revoked the salesperson license of Mr. Michael D. Hockett pursuant to violations of Va. Code §46.2-1575 (6) having used deceptive practices, (9) having been convicted of any crime involving the business of selling motor vehicles, (13) having been convicted of a felony. Mr. Hockett appealed the revocation and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Michael D. Hockett and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Hockett should be suspended.

The Board hereby suspends all licenses issued by the Board to Mr. Michael D. Hockett for a period of the later of 45 days after Mr. Hockett provides documentary evidence of the full satisfaction of the completion of his court ordered 200 hours of community service or 45 days after the Board ordered suspension begins for violations of Va. Code §46.2-1575, (9) having been convicted of any crime involving the business of selling motor vehicles, (13) having been convicted of a felony.

Joel Lyles seconded. The motion passed unanimously.

Advertising Committee:

Chairman Vince Sheehy summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

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

- Chairman Lyles summarized for the Board the discussion held in the Committee meeting regarding Dana Martin and Hudson Chevrolet and reported that the Committee voted to accept the hearing officer's recommendation. Discussion followed and based on that discussion, Joel Lyles 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 based on due consideration and recommendation of the agency representative, the Board believes the following claim should be denied. The Board hereby reaffirms the denial of the following claim and amount:

CLAIMANT:	JUDGMENT AMOUNT	AMOUNT OF CLAIM:
Dana Martin	\$1,559.31	\$1,559.31

Larry Matthews seconded. The motion passed unanimously.

OLD BUSINESS

- **Update: Task Force.** Mike Martin made the following resolution in the form of a motion: The Virginia Motor Vehicle Dealer Act defines a salesperson as “. . . any person who is licensed as and **employed** (emphasis added) as a salesperson by a motor vehicle dealer . . .”; and Sections 46.2-1518; 46.2-1537; 46.2-1538; and 46.2-1546 of the Motor Vehicle Dealer Act refer to salespersons **“employed”** (emphasis added) by the dealer and Section 46.2-1550 states that “employees” of the dealership are permitted to use dealer license plates; and independent contractors act independently, buying and selling motor vehicles from locations other than the dealer’s licensed location and tend not to maintain records at the dealership location; and independent contractors oftentimes use their own funds and compensate the dealer from which their license is issued; and United States Department of the Treasury Internal Revenue Service (IRS) Publication 1779 states that an individual who is an “independent contractor” is not an employee; and the Motor Vehicle Dealer Board Chairman’s Task Force on Licensing has recommended that the Board implement a policy whereby all salespersons must be employed by the dealership as a wage employee and not as an independent contractor. All dealers be notified by mail that by March 1, 2003, all salespersons must be employed by the dealer as a wage employee and not as an independent contractor and that failure to comply could result in a civil penalty or suspension or revocation of the dealer’s license and the Motor Vehicle Dealer Board staff develop a system to ensure that at the time of the issuance of an original license and at the time of renewal of an existing license, that all licensed salespersons for dealers be employed by the dealer and be issued an IRS Form W-2.

Larry Matthews seconded. The motion passed unanimously.

NEW BUSINESS

The next meeting will be scheduled for March 10, 2003.

- **Executive Director’s Report.** Bruce Gould updated the Board members on the Budget. He indicated that he had to make some severe cutbacks in the operations. A recent report indicates that the agency is not doing the full extent that is needed to get under the required number. The target was missed by about \$3,400.00. He is now attempting to find some places to make some more cuts. General discussion followed.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Quillian adjourned the meeting at 2:57 p.m.

Meeting Summary
Dealer Practices Committee
Monday, January 13, 2003

Chairman Steve Farmer called the Dealer Practices Committee meeting to order at 8:30 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were members: Steve Farmer, Vince Sheehy, Clyde King, Bobby Joe Dotson, Bruce Farrell, Mike Martin, Pete Iaricci, Larry Matthews and Chris Schroeder. Other members present: Ted Robertson, Leo Trenor, Joel Lyles, Tom Barton, Karen Radley, Max Pearson and Rick Hunt. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison, and Katherine Idrissi represented the Dealer Board. Gail Morykon and Rick Knick were present from DMV. Rick Walton represented the Attorney General's Office.

The November 12, 2002 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update November Actions:** Peggy Bailey updated the Committee on the following issues that were discussed at the November meeting: 1. Saleem A. Kahan and Wassim A. Warraich T/A Discovery Motors were assessed a civil penalty of \$5,000 and all licenses and certificates issued to them were revoked for violations of Va. Code Sections 46.2-1529 and 46.2-1575(2). The Board received a notice of appeal on December 21, 2002. The case will be assigned to a hearing officer to schedule a formal hearing. 2. Rasheed Nezam and Star Motor Cars was assessed a civil penalty of \$250 for violations of Va. Code Section 46.2-1575(9). Mr. Nezam was given until December 23, 2002 to either pay the civil penalty or appeal. 3. Muhammad Saghir and Global Auto Exchange was assessed a civil penalty of \$5,000 and all licenses and certificates issued to him were revoked for violations of Va. Code Sections 46.2-1529 and 46.2-1575(2). He was given until December 23, 2002 to either pay the civil penalty or appeal.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Formal Hearing:

- **Sebghatullah Nassiri and Export Car Connection, Inc.** A formal hearing was conducted on November 2, 2002 referencing Sebghatullah Nassiri and Export Car Connection, Inc. for the alleged violations of failing to maintain required dealership records, as well as records of temporary and transport license plates at its licensed location (VA Code Section 46.2-1529, 46.2-1548 and 46.2-1559). Based on the testimony and evidence surrounding the case, the hearing officer found Sebghatullah Nassiri and Export Car Connection, Inc. in violation of VA Code Sections 46.2-1529, 46.2-1548 and 46.2-1559. Therefore, the hearing officer recommended assessing a civil penalty of \$500 for each of those three violations (\$1,500 total).

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Bobby Joe Dotson to accept the hearing officer's

recommendation. Vince Sheehy seconded. All in favor: 6 (Farmer, King, Schroeder, Dotson, Matthews, Sheehy). Opposed: 3 (Martin, Farrell, Iaricci). The motion passed.

Request for Variance in Hours:

- **Donald Cannon and Cannon's Inc. Request for Permanent Variance.** Bruce Gould indicated that Mr. Cannon is asking for a variance in the hours requirements due to health issues and the possibility of knee surgery, Mr. Cannon requested that he only be open on Fridays from 9:00 a.m. to 5:00 p.m. Once he has the knee surgery, he would get back to his normal business hours. He did not indicate when he was going to have the surgery.

After some discussion and review of the information provided to the Committee in their notebooks, it was the consensus of the committee to not take any action at this time.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for March 10, 2003.

The meeting adjourned at 8:57 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, January 13, 2003

Chairman Bruce Farrell called the Dealer Licensing Committee meeting to order at 9:03 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members Pete Iaricci, Clyde King, Chris Schroeder, Steve Farmer, Bobby Joe Dotson, Mike Martin, Vince Sheehy and Larry Matthews. Other members present: Ted Robertson, Leo Trenor, Rick Hunt, Joel Lyles, Tom Barton, Karen Radley, Max Pearson. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison, Katherine Idrissi and Vic Hernandez represented the Dealer Board. Gail Morykon and Rick Knick represented DMV. Rick Walton represented the Attorney General's Office.

PUBLIC COMMENT:

Reilly Marchant, attorney for Wayne Gormus, spoke on behalf of Mr. Gormus. He requested that the committee reconsider the Board's previous decision to revoke Mr. Gormus' salesperson license.

The November 12, 2002 meeting summary was approved.

OLD BUSINESS

- **Update: November Actions.** Bruce Farrell updated the Committee on the following issues that were discussed at the November meeting: 1. John R. Atherton was denied a motor vehicle salesperson's license for having been convicted of a felony. The Board accepted the recommendation of the hearing officer to give Mr. Atherton a license. His license was mailed with the letter dated November 25, 2002. 2. Charles E. Falk and Charlie Falk Auto Wholesalers was assessed a civil penalty of \$7,500 for violations VA Code Sections 46.2-1511 and 46.2-1575(2). Mr. Falk was notified of the Board's decision in a letter dated November 20, 2002. The Board received the civil penalty on December 23, 2002.
- **Update: Wayne Gormus.** W. Reilly Marchant requested in a letter dated November 7, 2002 that Mr. Gormus' issue be placed on the Agenda. He indicated that he and Mr. Gormus will be in attendance. At the September meeting, the Committee and Full Board adopted a resolution revoking all licenses and certificates issued by the Board to Mr. Wayne Gormus for violations of Virginia Code Sections 46.2-1575(1), (9), (13) and (16).

After general discussion and review of the information provided to the Committee in their notebooks, no action was taken.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Formal Hearings:

- **Floyd B. Brantley, III, Salesperson.** A formal hearing was conducted on October 17, 2002, referencing Floyd B. Brantley, III and the refusal to renew his salesperson's license for the alleged violation of VA Code Section 46.2-1575(13), having been convicted of a felony. Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board suspend Mr. Brantley's salesperson's license for 120 days and under the conditions that the Board require Mr. Brantley to agree that if he violates any provision of

Chapter 15 of Title 46.2, that his parole officer will receive notice thereof together with the Board's request that such violation be treated as grounds for the revocation of his suspended sentences.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Clyde King to accept the hearing officers recommendation. Pete Iaricci seconded. All in favor: 5 (Iaricci, King, Schroeder, Dotson, Sheehy). Opposed: 4 (Farrell, Farmer, Martin, Matthews). The motion passed.

- **Alvin W. Walden, Salesperson.**

A formal hearing was conducted on October 17, 2002, referencing Alvin W. Walden and the refusal to renew his salesperson's license for the alleged violation of VA Code Section 46.2-1575(13), having been convicted of a felony. Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board delay action on Mr. Walden's application until the January meeting. If at that time, Mr. Walden presents a letter from his probation officer stating he has no new citations against him and has complied with all conditions of his supervised release, he recommends that the Board renew Mr. Walden's license subject to an immediate twenty (20) day suspension.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Bobby Joe Dotson to accept the hearing officers recommendation. Clyde King seconded.

Substitute motion was made by Pete Iaricci to make the suspension 120 days rather than the recommended 20 days. Steve Farmer seconded. All in favor: 8 (Iaricci, King, Schroeder, Farmer, Dotson, Martin, Sheehy, Matthews). Opposed: 1 (Farrell). The motion passed.

- **Robert A. Hudson, Initial Application for a Sales License.**

Chairman Bruce Farrell excused himself from this issue due to a past business transaction with Robert Hudson and Hudson Chevrolet. Vice-Chairman Pete Iaricci took over the discussion and action taken.

Bill Lehner, attorney for Mr. Hudson, spoke on behalf of Mr. Hudson. Robert Hudson and his son Rob Hudson also spoke on their own behalf and made themselves available for questions.

A formal hearing was conducted on August 28, 2002, referencing Robert A. Hudson and the denial of a salesperson's license for the alleged violations of defrauding any retail buyer (VA Code Section 46.2-1575[4]), using deceptive acts or practices (46.2-1575[6]) and failure to submit to the DMV, within thirty days from the date of sale, any application, tax or fee collected for the DMV on behalf of the buyer (46.2-1575[14]). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board take into consideration Mr. Hudson's circumstances and approve his application for a sales license.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Mike Martin to accept the hearing officers recommendation. Larry Matthews seconded. The motion passed unanimously (without Bruce Farrell participating).

- **Jeffrey M. Brown, Salesperson.**

Mr. Brown spoke on his own behalf and requested that the Committee agree with the hearing officer's recommendation to grant him a license.

A formal hearing was conducted on September 4, 2002, referencing Jeffrey M. Brown and the refusal to renew his salesperson's license for the alleged violation of VA Code Section 46.2-

1575(13), having been convicted of a felony. Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board grant Mr. Brown a license and approve his application.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Mike Martin to accept the hearing officers recommendation and in addition, obtain periodic updates from his dealership on Mr. Brown's drug test results (pass or fail). Larry Matthews seconded. The motion passed unanimously

- **Lewis Bagwell and J & K Automotive.**

Mr. Bagwell spoke on his own behalf and indicated that he made a bad business decision and that he has never been in trouble before. He also indicated that there was no intent to commit a crime.

A formal hearing was conducted on November 25, 2002, referencing Lewis Bagwell and J & K Automotive and the possible suspension of his dealerships and salesperson's license for the alleged violations of making a false statement or material omission in an application for a motor vehicle title (46.2-1575[1]), committing a crime involving the business of selling motor vehicles (46.2-1575[9]) and being convicted of a felony (46.2-1575[13]). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board suspend Mr. Bagwell's salesperson's license, as well as the dealership license of J & K Automotive, until the later of twenty-five (25) days after Mr. Bagwell provides documentary evidence of the full satisfaction of his criminal fines and court costs obligations or twenty-five (25) days after any Board ordered suspensions begins and on condition the reinstatement of the privileges of Mr. Bagwell's salesperson's license upon his agreement that upon any subsequent violation of any provision of Chapter 15 of Title 46.2 of the Code of Virginia.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Clyde King to accept the hearing officers recommendation. Vince Sheehy seconded.

Substitute motion was made by Bobby Joe Dotson to "not" take any licenses away on the condition that all court costs and fines have been paid and hold him accountable for future actions taken. Larry Matthews seconded. All in favor: 7 (Farrell, Iaricci, King, Farmer, Dotson, Martin, Matthews). Opposed: 2 (Schroeder and Sheehy). The motion passed.

- **Michael D. Hockett, Salesperson.**

A formal hearing was conducted on November 22, 2002, referencing Michael D. Hockett and the refusal to renew his salesperson's license for the alleged violations of VA Code Section 46.2-1575(6) having used deceptive practices, 46.2-1575(9) having been convicted of a criminal act involving the business of selling vehicles or 46.2-1575(13) having been convicted of a felony. Based on the testimony and evidence surrounding the case, the hearing officer recommended that (1) the Board suspend Mr. Hockett's salesperson's license until the later of forty-five (45) days after it receives notice from the appropriate federal probation authorities that Mr. Hockett has completed his court ordered 200 hours of community service or forty-five (45) days after the Board ordered suspension begins; and (2) require Mr. Hockett to post a \$20,000 letter of credit in favor of the Board that complies with the requirements of VA Code Section 46.2-2011.9 and is conditioned upon his complete compliance with all provisions of Chapter 15 of Title 46.2 of the Code of Virginia.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Pete Iaricci to accept the hearing officers recommendation with an exception of leaving out the second requirement of Mr. Hockett to post a \$20,000 letter of credit in favor of the Board. Larry Matthews seconded. All in favor: 7 (Iaricci, King,

Schroeder, Dotson, Martin, Sheehy, Matthews). Opposed: 2 (Farrell and Farmer). The motion passed.

NEW BUSINESS FROM THE FLOOR

Mike Martin read to the Committee the Salesperson License Resolution that was a result of the Task Force meetings. He indicated that he will put it in the form of a motion at the Full Board meeting.

Bruce Farrell indicated that he had been made aware of the Commissioner's decision about issuing Altec a license and that some form of guidance should be provided to the executive director should he receive an application for a dealer's license from Altec. The main questions are 1). Should Altec be licensed as an independent dealer or as a franchise dealer? and 2). If licensed as an independent dealer, are they allowed to sell vehicles that have not yet been titled and are transferred to the customer off of an MCO? General discussion followed.

The next meeting was scheduled for March 10, 2003.

The meeting adjourned at 10:57 a.m.

Meeting Summary
Advertising Committee
Monday, January 13, 2003

Chairman Vince Sheehy called the Advertising Committee meeting to order at 11:04 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were members Ted Robertson, Karen Radley, Chris Schroeder, Rick Hunt, Max Pearson, Joel Lyles, Tom Barton, Leo Trenor. Other Board members present: Bruce Farrell, Larry Matthews, Steve Farmer, Clyde King, Mike Martin, Pete Iaricci and Bobby Joe Dotson. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison, Katherine Idrissi and Vic Hernandez represented the Dealer Board. Gail Morykon and Rick Knick represented DMV. Rick Walton represented the Attorney General's Office.

The November 12, 2002 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

- **Review of Recent Advertisements.** Bruce Gould introduced several examples of advertising for the Committee to review. The first being a video advertisement and the second being an audio advertisement. He also indicated that he had provided a packet of newspaper advertisements to the Committee. The video tape was an advertisement that included "rebates", "owning the finance company" and "comparison to manufacturer's price". After reviewing the video, the Committee reviewed the packet of newspaper advertisements. The first newspaper advertisement was a dealer stating "will beat any deal or pay the consumer \$10,000" in the disclaimer it indicated that it beat the price of any "local dealer". Second advertisement claims it would pay the customer \$25,000 if it could not beat the price of the competition. The disclaimer noted that this order only applied to "any Richmond Metro dealer". Third was a radio script that will be heard last. The fourth advertisement was "you own it!", but the disclaimer makes it sound like a lease. The fifth advertisement indicates "beat any dealer or we will pay you cash", but the disclaimer states that the dealer reserves the right to purchase the vehicle from the competitor at the price the competitor has offered, making it near impossible for anyone to take advantage of the dealer's offer to pay cash if cannot beat the deal. The audio tape was an advertisement that included "guaranteed trade in" and "two for the price of one". General discussion followed. Max Pearson suggested that an Advertising Sub-Committee be formed to review the Advertising regulations again and a recommendation should be brought to the March meeting on how to tighten the guidelines on what is and is not a violation. Advertising Chairman Sheehy indicated that he would like to meet with staff prior to the next Board meeting to review the Advertising Laws and Regulations.

The next meeting will be March 10, 2003.

The meeting adjourned at 11:56 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, January 13, 2003

Chairman Joel Lyles called the Transaction Recovery Fund Committee meeting to order at 12:57 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members Bobby Joe Dotson, Leo Trenor, Mike Martin, Karen Radley, Rick Hunt. (Absent: Chris Schroeder, Al Lacy and Bruce Farrell). Other Board members present: Ab Quillian, Carlton Courter, Ted Robertson, Vince Sheehy, Tom Barton, Larry Matthews, Steve Farmer, Clyde King, Pete Iaricci, Max Pearson. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon and Rick Knick represented DMV. Rick Walton represented the Attorney General's Office.

The November 12, 2002 summary was approved.

PUBLIC COMMENT:

There was no public comment.

OLD BUSINESS

- **Update: November Actions.** Joel Lyles indicated that at the November meeting, claims approved for payment were (1) Kenneth & Catherine Eisenhart and Second Change Motors in the amount of \$6,000.00. This issue is pending because staff is waiting on Assignment Claimant's Rights, (2) Joyce Cook and Maurice Quiroz t/a Express Auto Buying Service, Inc. in the amount of \$6,213.00. Date the Fund paid was December 16, 2002.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Review and Action: Informal Fact-Finding Conference Results:**

Dana Martin and Hudson Chevrolet Corp. Dana Martin purchased a 1998 Pontiac Firebird on April 2, 1998 for \$27,848.00. Ms. Martin began to experience problems with the vehicle and was convinced to purchase an extended warranty. On December 11, 2000, she made a deposit of \$500 and was provided an Extended Warranty Contract. She was told she would get a payment book for the remaining cost of \$1,059.31. As of May 7, 2001, she had not yet received the payment book, so she wrote a check for \$1,059.31 to pay for the extended warranty in full. In August of 2001, she began experiencing problems with the car while traveling in Winston-Salem NC. She took her car to a Pontiac dealership in Winston-Salem, only to be told that she did not have any coverage by an extended warranty. Upon her return, Ms. Martin visited the Hudson dealership, only to find it out of business. In May of 2002, she filed a complaint with the DMV and was advised to consult with an attorney. On June 12, 2002, Ms. Martin was awarded judgment against Hudson Chevrolet Corporation in the amount of \$1,559.31 for the extended warranty that was never provided. On June 17, 2002, Ms. Martin submitted to the Dealer Board a judgment claim request form and the final judgment. After carefully reviewing the facts, it was also discovered that Bank of America seized the Hudson Automotive Group's accounts in August 2001, including the funds Ms. Martin submitted to Hudson. Staff recommended that the Recovery Fund committee and the Board approve Ms. Martin's claim in the amount of \$1,559.31.

An informal fact-finding conference was conducted on December 9, 2002 and based on the testimony and evidence in the case, the agency representative conducting the informal fact-finding conference recommended that the Recovery Fund Committee and Board not approve payment of the \$1,559.31. The fraud and the loss or damage did not occur "in connection with the purchase or lease of a motor vehicle". The contract for the extended warranty was executed in December of 2000 and the vehicle was purchased in April of 1998. General discussion followed.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Leo Trenor to deny the claim. Karen Radley seconded. All in favor: 5 (Trenor, Martin, Radley, Hunt and Dotson). Opposed: 1 (Lyles). The motion passed.

NEW BUSINESS FROM THE FLOOR

No new business from the floor.

The next meeting was scheduled for March 10, 2003.

The meeting adjourned at 1:12 p.m.