

**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 14, 2008

Vice-Chairman Vince Sheehy called the Dealer Board meeting to order at in Room 702 of the DMV Headquarters Building at 10:03 a.m. and 11:25 a.m., 2300 West Broad Street in Richmond. The roll was called and there were 15 Board members present. Present were members Jonathan Blank, Lynn Hooper, Todd Hyman, Henry Jones, David Lacy, Wanda Lewark, Chip Lindsay, Hugh McCreight, Thomas Moorehead, Pat Patrick, Kevin Reilly, Jimmy Whitten, Robert Woodall and Tommy Woodson. (Absent: D.B. Smit, Todd Haymore, Frank Pohanka, and Larry Shelor). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Wanda Neely, Rick Sipe and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

**PUBLIC COMMENT**

Mr. Ralph Davis, Deputy Secretary of Transportation, discussed the legislative proposal (HB-1201) to place the Motor Vehicle Dealer Board under the direction of the Department of Motor Vehicles. General discussion followed.

Robert Woodall made the following motion:

WHEREAS, the Virginia Motor Vehicle Dealer Board was created by statute enacted in 1995; and

WHEREAS, the Virginia Motor Vehicle Dealer Board has successfully regulated almost 4,000 motor vehicle dealers in the Commonwealth of Virginia since its inception; and

WHEREAS, the Virginia Motor Vehicle Dealer Board was created to remove from the taxpayers of Virginia the costs and burden of regulation by having the dealers of Virginia pay for their own oversight; and

WHEREAS, the Virginia Motor Vehicle Dealer Board has served as an example to other states and countries for the regulation of auto dealers; and

WHEREAS, the Virginia dealers serving on the Virginia Motor Vehicle Dealer Board have volunteered their time to provide industry expertise and knowledge, have effectively enforced the law, and have provided education to the dealer community where necessary; and

WHEREAS, the Virginia Motor Vehicle Dealer Board is viewed by dealers as an effective regulatory body that is very efficient in reducing the time and cost of the licensing process for dealerships and for salespersons;

WHEREAS, the Virginia Motor Vehicle Dealer Board has successfully administered the Transaction Recovery Fund that has protected Virginia consumers with no burden on Virginia taxpayers and the Transaction Recovery Fund provided \$4.19 million dollars to help close the state budget deficit in 2003; and

WHEREAS, abolishing the Virginia Motor Vehicle Dealer Board and returning its functions to the Commonwealth will be costly to Virginia taxpayers, will threaten the efficiency and effectiveness of the regulators now employed by the office, and will significantly degrade the capacity of regulators to effectively oversee the motor vehicle dealer industry;

NOW THEREFORE, it is hereby

RESOLVED, that Virginia Motor Vehicle Dealer Board opposes the proposal to abolish the Motor Vehicle Dealer Board and return its functions to the Department of Motor Vehicles; and it is hereby further

RESOLVED, that a copy of this resolution be distributed to his Excellency, the Governor, as well as the Secretary of Transportation and the Chairs of the House Transportation Committee and the Senate Transportation Committee of the Virginia General Assembly to express the position and grave concerns of the Virginia Motor Vehicle Dealer Board; and it is hereby further

RESOLVED, that the Executive Director of the Virginia Motor Vehicle Dealer Board is directed to actively oppose all efforts to move the regulatory functions of the Virginia Motor Vehicle Dealer Board to the Department of Motor Vehicles.

Jonathan Blank seconded. The motion carried unanimously.

This session ended at 10:47 a.m.

Full Board restarted at 11:25 a.m.

The November 5, 2007 meeting summary was approved.

## **STATUTORY COMMITTEE REPORTS**

### **Dealer Practices Committee**

- **Thomas E. Lakins and Tom Lakins Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Thomas E. Lakins and Tom Lakins Auto Sales. Based on that discussion, Mr. Patrick 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 Thomas Lakins and Tom Lakins Auto Sales for alleged violations of Va. Code §46.2-1533 (failure to maintain posted business hours). Based on due consideration, the Board believes a civil penalty should be assessed against Thomas Lakins and Tom Lakins Auto Sales. The Board hereby assesses a \$500.00 civil penalty against Thomas Lakins and Tom Lakins Auto Sales. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Lakins in running his dealership. The Board mandates that Mr. Lakins successfully complete the dealer-operator course by July 14, 2008. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Lakins by the Board until what time Mr. Lakins has successfully completed the course.

Todd Hyman seconded. The motion carried unanimously.

- **Audrey T. Moss & Donald W. Aaron, Sr. and Auto Villa.** Chairman Pat Patrick summarized for the board the discussion held in the Committee meeting regarding Audrey T. Moss and Donald W. Aaron, Sr. and Auto Villa. Based on that discussion, Mr. Patrick 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 Audrey T. Moss and Auto Villa for alleged violations of Va. Code §46.2-1575(4) (Defrauding any retail buyer to the buyer's damage) and 46.2-1575(6) (Having used deceptive acts or practices). Based on due consideration, the Board believes no action should be taken against Audrey T. Moss and Auto Villa. The Board hereby takes no further action against Audrey T. Moss and Auto Villa.

Henry Jones seconded. The motion carried unanimously.

- **Donald W. Aaron, Sr., Salesperson for Auto Villa.** Chairman Pat Patrick summarized for the board the discussion held in the committee meeting regarding Donald w. Aaron, Sr., Salesperson for Auto Villa. Based

on that discussion, Mr. Patrick 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 Donald W. Aaron, Sr., Salesperson for Auto Villa for alleged violations of Va. Code §§46.2-1575(4) (Defrauding any retail buyer to the buyer's damage) and 46.2-1575(6) (Having used deceptive acts or practices). Based on due consideration, the Board believes no action should be taken against Donald W. Aaron, Sr., Salesperson for Auto Villa. The Board hereby takes no further action against Donald W. Aaron, Sr., Salesperson for Auto Villa.

Robert Woodall seconded. The motion carried unanimously.

- **Layton M. Nolen and Nolen's Used Cars.** Chairman Pat Patrick summarized for the board the discussion held in the Committee meeting regarding Layton M. Nolen and Nolen's Used Cars. Based on that discussion, Mr. Patrick 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 Layton M. Nolen and Nolen's Used Cars for alleged violations of Va. Code §46.2-1533 (failure to maintain posted business hours). Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Nolen in running his dealership. The Board mandates that Mr. Nolen successfully complete the dealer-operator course by July 14, 2008. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Nolen by the Board until what time Mr. Nolen has successfully completed the course.

Robert Woodall seconded. The motion carried unanimously.

- **Saleem A. Khan and Tri State Auto.** Chairman Pat Patrick summarized for the board the discussion held in the Committee meeting regarding Saleem A. Khan and Tri State Auto. Based on that discussion, Mr. Patrick 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 Saleem Khan and Tri State Auto for alleged violations of Va. Code §§46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1533 (failure to maintain posted business hours), 46.2-1535 (Advertisements), 46.2-1537 (Prohibited solicitation and compensation) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board). Based on due consideration, the Board believes a civil penalty should be assessed against Saleem Khan and Tri State Auto. The Board hereby assesses a \$1,000.00 civil penalty against Saleem Khan and Tri State Auto and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Khan should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Khan.

Keith Reilly seconded. The motion carried unanimously.

### **Licensing Committee**

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **Ellis R. Saliba and Discount Auto.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Ellis R. Saliba and Discount Auto. Based on that discussion, Mr. Hyman 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 Ellis R. Saliba and Discount Auto for alleged violations of Va. Code §46.2-1537 (Allowing the sale of vehicles by and compensating an unlicensed individual). Based on due consideration, the Board believes a civil penalty should be assessed against Ellis R. Saliba and Discount Auto. The Board hereby assesses a \$2,000.00 civil penalty against Ellis R. Saliba and Discount Auto and based on due consideration, the Board believes that a Motor Vehicle Dealer Board field representative should re-inspect this dealership. The Board hereby directs the executive director of the Motor Vehicle Dealer Board to ensure that Discount Auto be inspected by a field representative within 30 days.

Pat Patrick seconded. The motion carried unanimously.

**Advertising Committee**

Vice Chairman Lynn Hooper summarized discussions that were held during the Committee Meeting.

**Transaction Recovery Fund Committee:**

Chairman David Lacy summarized discussions held and actions that were taken during the Committee Meeting.

- **Revisit Claim: Nhan Tran and Altaf Shah and Sports Car Center & Public Auto Auction.** (Courts award of attorney fees). Chairman David Lacy summarized for the Board the discussion held in Committee meeting regarding Nhan Tran and Altaf Shah and Sports Car Center & Public Auto Auction. Based on that discussion and recommendation in the case, Mr. Lacy made the following motion: Pursuant to §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 hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claim and payment amount subject to compliance by the claimant with statutory requirements:

<b>Nhan Tran and Sports Car Center &amp; Public Auto Auction.</b>	<b>\$12,496.50 (attorney fees)</b>
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- **(1) Barbara Ashby and Sandra T. & Maynard C. Shirley and Shirley's Auto Sales and (2) Francisco L. Acosta and Amanullah Abbasi and Nations Auto Group, LLC.** Chairman David Lacy summarized for the Board the discussion held in the Committee meeting regarding Barbara Ashby and Sandra T. & Maynard C. Shirley and Shirley's Auto Sales and Francisco L. Acosta and Amanullah Abbasi and Nations Auto Group, LLC. Based on that discussion and the recommendation in the case, Mr. Lacy made the following motions: Pursuant to §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 hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

<b>Barbara Ashby and Shirley's Auto Sales</b>	<b>\$7,048.00</b>
<b>Francisco Acosta and Nations Auto Group, LLC</b>	<b>\$5,538.00</b>

Robert Woodall seconded. The motion carried unanimously.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

- **Executive Director's Report.** Bruce Gould updated the board members on legislation being considered by the General Assembly which impacts the Dealer Board. He introduced Rick Sipe as our newest employee.

The next meeting will be scheduled for March 10, 2008.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Sheehy adjourned the meeting at 12:11 p.m.

Meeting Summary  
**Dealer Practices Committee**  
Monday, January 14, 2008

Chairman Pat Patrick called the Dealer Practices Committee meeting to order at 8:32 am. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Jonathan Blank, Lynn Hooper, Henry Jones, David Lacy, Hugh McCreight, Thomas Moorehead, Kevin Reilly, Jimmy Whitten and Robert Woodall. (Absent: Frank Pohanka). Other board members present: Todd Hyman, Wanda Lewark, Chip Lindsay, Hugh McCreight, Thomas Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske was present from the Attorney General's Office.

The November 5, 2007 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Update: November Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on November 5, 2007.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

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

- **Thomas Lakins and Tom Lakins Auto Sales.** On October 22, 2007, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Section 46.2-1533 (failure to maintain posted business hours). Based on the information provided at the conference, the hearing officer recommended that Tom Lakins Auto Sales be assessed a single civil penalty of \$500. He also recommended that the Board consider suspension of licensing for a period of two weeks or until such time during this period when a complete inspection of the dealership's records may be conducted and that they are found to be in compliance.

Motion was made by Robert Woodall to accept the hearing officer's recommendation. Lynn Hooper seconded. There was some debate on the history of suspension on dealers who did not pass an inspection. Mr. Gould indicated that, in the past, there have been resolutions suspending the dealer for a few days until they pass the inspection.

Amended motion was made by Robert Woodall to assess a \$500 civil penalty, attend the dealer-operator course, rather than suspend his license and pass an inspection within 30 days of passing the course. Lynn Hooper seconded. The motion carried unanimously.

- **Audrey T. Moss, Donald W. Aaron, Sr. and Auto Villa.** On November 14, 2007, an informal fact-finding conference was conducted to address the alleged violation of VA Code Section 46.2-1575(4) (Defrauding any retail buyer to the buyer's damage) and 46.2-1575(6) (Having used deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended that the dealership and Mr. Aaron each be assessed a civil penalty of \$500, for a total civil penalty of \$1,000.

Audrey T. Moss and her attorney, Mr. Walker, spoke on behalf of the dealership. The attorney indicated that the consumer wanted her money back, so the dealership wrote a check and paid her all the monies she put into the car, but the consumer's attorney told her no, that he wanted to pursue this in court for 6 figures.

Motion was made by Kevin Reilly to take no action against the dealer. He sees no point in assessing a civil penalty in this case. It was clear that the dealership did everything in their power to help the consumer. Henry Jones seconded. The motion passed unanimously.

- **Layton M. Nolen and Nolens Used Cars.** On November 16, 2007, an informal fact-finding conference was conducted to address the alleged violation of VA Code Section 46.2-1533 (failure to maintain posted business hours). Based on the information provided at the conference, the hearing officer recommended that no civil penalty be assessed; however, he suggested that Mr. Nolen be required to attend the Dealer-Operator Course.

Motion was made by Jonathan Blank to accept the hearing officer's recommendation. Robert Woodall seconded. The motion carried unanimously.

#### **Review and Action: Formal Hearing:**

- **Saleem Khan and Tri State Auto.** On May 21, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1533 (failure to maintain posted business hours), 46.2-1535 (Advertisements), 46.2-1537 (Prohibited solicitation and compensation) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board). Based on the information provided at the conference, the hearing officer recommended that Mr. Khan and Tri State Auto be assessed a civil penalty of \$1,000 and that all issued licensing and certificates dealing with the motor vehicle operations be revoked. Mr. Khan appealed this decision on July 25, 2007 and requested a formal hearing. On October 25, 2007, a formal hearing was conducted to address the alleged violations of the VA Code Sections listed above. Based on the information provided at the formal hearing, the hearing officer recommended that a civil penalty of \$1,000 be assessed and that all licenses and certificates issued by the Motor Vehicle Dealer Board be subject to immediate revocation.

Mr. Khan was present and spoke on his own behalf.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Jonathan Blank seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

Hugh McCreight stated that the issue of wholesalers selling to dealers and not transferring the title is a growing problem. Bruce Gould indicated that he will put together a task force to address this issue. It was suggested that task force also look at requiring all those buying at wholesale to be licensed. Anyone interested in serving on the task force should contact Gould.

The next meeting was scheduled for March 10, 2008.

The meeting adjourned at 9:49 a.m.

Meeting Summary  
**Dealer Licensing Committee**  
Monday, January 14, 2008

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 10:48 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Wanda Lewark, Chip Lindsay, Kevin Reilly, Vince Sheehy, Jimmy Whitten and Robert Woodall, Tommy Woodson. (Absent: Larry Shelor) Other Board members present: David Lacy, Jonathan Blank, Lynn Hooper, Henry Jones, Hugh McCreight, Thomas Moorehead, Pat Patrick) Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The November 5, 2007 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

- **Update: November Actions.** Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on November 5, 2007.

**NEW BUSINESS**

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

- **Ellis R. Saliba and Discount Auto.** On November 28, 2007, an informal fact-finding conference was conducted to address the alleged multiply violations of VA Code Section 46.2-1537 (Allowing the sale of vehicles by an unlicensed individual and also compensating them). Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$2,300 be assessed, with respect to the twenty-three vehicle sales by the two unlicensed parties. He also recommended that there be further investigation of the status of the charges against Mr. Saliba now pending in the Winchester Courts and any on-going criminal investigation by DMV against him or Discount Auto, which may require further action by the Board.

Motion was made by Kevin Reilly to assess a civil penalty of \$3,000 and to re-inspect the dealership within 30 days. Tommy Woodson seconded. The motion passed unanimously.

**NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for March 10, 2008

The meeting adjourned at 11:00 a.m.

Meeting Summary  
**Advertising Committee**  
Monday, January 14, 2008

Vice-Chairman Lynn Hooper called the Advertising Committee meeting to order at 11:02 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Henry Jones, Chip Lindsay, Hugh McCreight, Thomas Moorehead and Pat Patrick. (Absent Frank Pohanka and Larry Shelor). Other Board members present: David Lacy, Vince Sheehy, Todd Hyman, Wanda Lewark, Jimmy Whitten, Robert Woodall and Tommy Woodson) Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Rick Sipe, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The November 5, 2007 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**

The next meeting was scheduled for March 10, 2008.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 11:02 a.m.

Meeting Summary  
**Transaction Recovery Fund Committee**  
Monday, January 14, 2008

Chairman David Lacy called the Transaction Recovery Fund Committee meeting to order at 11:05 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, Wanda Lewark, Vince Sheehy and Tommy Woodson. (Absent: Larry Shelor). Other Board members present: Todd Hyman, Henry Jones, Chip Lindsay, Hugh McCreight, Thomas Moorehead, Pat Patrick, Kevin Reilly, Jimmy Whitten and Robert Woodall. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Wanda Neely, Rick Sipe and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The November 5, 2007 summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Revisit Claim for Approval of Payment (Award of Attorney Fees): Nhan Tran and Altaf Shah & Sports Car Center & Public Auto Auction.** At the September 10, 2007 Board meeting, the Recovery Fund Committee and Full Board approved payment of Mr. Tran's actual damages in the amount of \$2,114.732 and held in abeyance the attorney fees upon receipt of the Court Order showing the award of the attorney fees. On December 3, 1007, Counsel submitted the Judgment Order from the United States District Court for Eastern District of Virginia/Alexandria division awarding the attorney fees in the amount of \$12,496.50. Counsel is requesting reimbursement from the Fund.

Motion was made by Lynn Hooper to accept the attorney fees. Tommy Woodson seconded. The motion passed unanimously.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

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

- **Barbara A. Ashby and Sandra T. & Maynard C. Shirley and Shirley's Auto Sales.** On March 20, 2007, Ms. Ashby entered into an agreement to purchase a 2000 Ford Explorer from Shirley's Auto Sales for a total purchase price of \$7,000.00, at which time Ms. Ashby made a deposit of \$2,000.00. On March 28, 2007, Ms. Ashby returned to Shirley's Auto Sales to take possession of the vehicle and provided a check in the amount of \$5,000.00 for the remaining balance owed. Ms. Ashby was provided a Buyers Order and a set of temporary tags with an expiration date of April 26, 2007. On April 27, 2007, Ms. Ashby had not received title to the vehicle, so the dealership issued her a second set of temporary tags with an expiration date of May 26, 2007. Ms. Ashby had spoken with Mr. Shirley on several occasions on the whereabouts of the title and he indicated that the bank would not release the title because the clerk had given him the incorrect pay-off amount and that he still owed additional money to the bank in order to obtain the title.

On May 25, 2007, Ms. Ashby started experiencing numerous problems with vehicle. She then called Mr. Shirley regarding all the problems and he told her to bring the vehicle back and that he would take care of everything at one time. On May 28, 2007, Ms. Ashby returned the vehicle back to the dealership and Mr. Shirley indicated that the vehicle would be repaired by June 1, 2007. On this date, Mr. Shirley called Ms. Ashby and indicated that the paint hadn't come in and that he would not be able to have the vehicle ready for her to pick up. She explained to Mr. Shirley that she didn't want the Explorer back until all the repairs had been done and that he had possession of the title.

From June 15 to July 8, 2007, Ms. Ashby had been in contact with Mr. Shirley about the vehicle and each time he would give her an excuse as to why the vehicle had not been repaired and they still had not obtained the title. From July 16 to July 20, 2007, Mr. Shirley kept reassuring Ms. Ashby that he would return her money, but he never followed through with his promise.

On August 1, 2007, Ms. Ashby filed a Warrant in Debt in the General District Court of Augusta County against Mr. Shirley and Shirley's Auto Sales for the \$7,000.00 she had paid in connection with the purchase of the 2000 Ford Explorer. On August 27, 2007, she was awarded judgment for the \$7,000.00 with interest at a 6% from date of judgment until paid and \$48.00 in costs. On September 12, 2007, Ms. Ashby filed a claim against the Motor Vehicle Transaction Recovery Fund and attached paperwork as a result of the judgment. On September 26, 2007, the Dealer Board staff acknowledged Ms. Ashby's claim against the Fund and requested additional documentation in order to complete the review process. On October 12, 2007, Ms. Ashby submitted the requested documentation.

On October 23, 2007, Mr. Shirley contacted the Dealer Board and indicated that he would be going the auction on October 30 and that he would then be able to satisfy the judgment that Ms. Ashby had been awarded. Staff indicated to Mr. Shirley that he would have to provide proof of full payment of the judgment. He was also informed that if he did not pay and if the payment of the judgment was paid from the Fund, it would result in the revocation of his license. On November 12, 2007, Ms. Ashby contacted the Dealer Board staff and even though Mr. Shirley contacted her and indicated he would reimburse her the judgment amount, when it came time to pay, he started up with the excuses again. Therefore, Ms. Ashby continued the process of the recovery from the Fund for payment of her judgment.

After carefully reviewing all documentation, staff recommended that the Recovery Fund Committee and Full Board approve the Ms. Ashby's judgment in the amount of \$7,000.00 plus the \$48.00 in costs. On November 28, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference, the hearing officer conducting the conference concurred with the staff's recommendation that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$7,000 plus \$48.00 in court costs.

Motion was made by Jonathan Blank to accept the hearing officer's recommendation. Lynn Hooper seconded. The motion carried unanimously.

- **Francisco L. Acosta and Amanullah Abbasi and Nations Auto Group, LLC.** On December 12, 2003, Mr. Acosta entered into an agreement with Nations Auto Group to purchase a 2000 Honda, 2D Coupe for a total purchase price of \$16,172.00. Mr. Acosta made a deposit of \$5,000.00 and was allowed \$2,500.00 on a trade-in of a 1991 Chevrolet Astro Van. Mr. Acosta financed the remaining balance of \$10,457.41, which includes all applicable taxes, tags and miscellaneous costs. In connection with the purchase of the vehicle, Nations included a warranty for 50% of the labor and 50% of the parts for the engine and transmission for a period of one (1) month or 1,000 miles. He also purchased an extended warranty (Wynn's Warranty) for \$1,225.00. Nations Auto Group knew that Ms. Acosta lived in Northern Virginia, but they did not inform him that the vehicle did not meet

the emissions standards. It was during the Warranty period that Ms. Acosta discovered that the vehicle would not meet the Commonwealth of Virginia's emissions standards. Pursuant to the Warranty, Mr. Acosta returned the vehicle and requested that the repairs be made on the vehicle in order for it to pass the emissions test. However, Nations refused to make the repairs to the vehicle, which was a violation of the Virginia Motor Vehicle Dealer Licensing Laws Code §46.2-1571(B)(1).

In October of 2004, Mr. Acosta brought this breach of warranty claim and several other claims against Nations Auto Group before the American Arbitration Association. On May 6, 2005, Arbitrator, Gregory Beckwith ordered Nations Auto Group to pay Mr. Acosta \$4,000 to cover the costs of repairing the vehicle to make it compliant with the emissions standards and to reimburse Mr. Acosta \$1,500.00 for the fees and expenses he had paid to the American Arbitration Association. Nations Auto Group failed to comply with the Arbitrator's order and on May 8, 2006, Mr. Acosta obtained a judgment on the arbitration award in the Fairfax County General District Court for \$5,500, the full amount ordered by Mr. Beckwith, plus 6% interest from May 6, 2005 plus \$38.00 for court costs.

On May 3, 2007, Cynthia Radomsky, attorney for Mr. Acosta, submitted to the Dealer Board for consideration of payment from Motor Vehicle Transaction Recovery Fund. On May 8, 2007, Board staff acknowledged receipt of Mr. Acosta's claim and requested additional documentation in order to complete the review process. Staff further advised Ms. Radomsky that the Board has reason to believe that there may be additional claims against the Fund from other transactions involving the same licensee (Nations Auto Group). On November 13, 2007, Board staff received the additional documentation. The Dealer Board was not given any prior notification pursuant to §46.2-1527.4; however, after carefully reviewing all the documentation regarding Arbitration Award and the final Judgment Order, it is requested that the Recovery Fund Committee and Full Board approve Mr. Acosta's claim in the amount of \$5,500.00 plus the \$38.00 in court costs. On December 17, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference, the hearing officer conducting the conference concurred with the staff's recommendation that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$5,500 plus \$38.00 in court costs.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

### **NEW BUSINESS FROM THE FLOOR**

There was no old business from the floor.

The next meeting was scheduled for March 10, 2008.

The meeting adjourned at 11:25 a.m.