

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 9, 2012

Chairman Rick Holcomb called the Dealer Board meeting to order at 11:58 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 Board members present. Present were members Andy Alvarez, Ted Bailey, Roy Boswell, Lynn Hooper, Art Hudgins, Brian Hutchens, Wanda Lewark, Chip Lindsay, George Pelton, Kevin Reilly, Joe Tate, Jimmy Whitten, Rodney Williams, Sally Woodson and Tommy Woodson. (Absent: Ronald Kody, Thomas Moorehead and Matt McQueen). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon was the recording secretary.

PUBLIC COMMENT

There was no public comment.

The November 14, 2011 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Tommy Woodson summarized discussions held and actions that were taken during the Committee Meeting.

- **Mr. R's Cars and Antonio L. Randolph.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Mr. R's Cars and Antonio L. Randolph. Based on that discussion, Mr. Woodson 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 Antonio L. Randolph and Mr. R's Cars, LLC. for alleged violations of VA Code Sections 46.2-1533 (failure to maintain posted business hours) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Antonio L. Randolph and Mr. R's Cars, LLC. The Board hereby takes assesses a \$2,000 civil penalty against Antonio L. Randolph and Mr. R's Cars, LLC.

George Pelton seconded. The motion carried unanimously.

- **Pruitt Automotive Wholesale, LLC and Paul W. Pruitt.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Pruitt Automotive Wholesale, LLC and Paul w. Pruitt. Based on that discussion, Mr. Woodson 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, assessed a \$500 civil penalty and suspended for fifteen days all licenses and certificates issued to Mr. Paul Pruitt and Pruitt Automotive Wholesale, LLC; and Mr. Pruitt appealed the Board's decision and requested a formal hearing that was conducted on November 29, 2011. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Paul Pruitt and Pruitt Automotive Wholesale, LLC for alleged violations of Va. Code Section(s) 46.2-1533 (failing to maintain business hours) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Paul Pruitt and Pruitt Automotive Wholesale, LLC. The Board hereby assesses a \$350 civil penalty against Paul Pruitt and Pruitt Automotive Wholesale, LLC.

Sally Woodson seconded. The motion carried unanimously.

- **Lee's Auto and John J. Lee.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Lee's Auto and John J. Lee. Based on that discussion, Mr. Woodson 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, assessed a \$8,000 civil penalty; suspended for 90 days or until Mr. Lee had a satisfactory inspection, whichever was longer; and mandated that Mr. lee complete the dealer-operator course; and Mr. Lee appealed the Board's decision and requested a formal hearing that was conducted on November 29, 2011. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning John J. Lee and Lee's Auto for alleged violations of Va. Code Sections 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failing to maintain buyer's orders), 46.2-1548 (dealer plate records), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1559 (temporary license plate tag record keeping), 46.2-1560 (related to temporary license plate) and 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against John J. Lee and Lee's Auto. The Board hereby assesses a \$6,000 civil penalty against John J. Lee and Lee's Auto.

Joe Tate seconded. The motion carried unanimously.

- **Cars Unlimited and Scotty M. Laughlin.** This issue was tabled until the March 12, 2012 meeting.

Licensing Committee

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

- **Imperial Auto 2 and Najib U. Ahmad.** Chairman Jimmy Whitten summarized for the Board the discussion held in the committee meeting regarding Imperial Auto 2 and Najib U. Ahmad. Based on that discussion, Mr. Whitten 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 all licenses issued by the Board to Najib U. Ahmad and Imperial Auto 2. Mr. Ahmad appealed the revocation and requested a formal hearing. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Najib U. Ahmad and Imperial Auto 2 for alleged violations of Va. Code Sections 46.2-1575 (6) (having used deceptive acts or practices), 46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles and 46.2-1575(13) (having been convicted of a felony). Based on due consideration, the Board believes no further action should be taken against Najib U. Ahmad and Imperial Auto 2. The Board hereby takes no further action against Najib U. Ahmad and Imperial Auto 2.

Roy Boswell seconded. The motion carried unanimously. The limousine license issue has been referred to DMV for action.

Advertising Committee

Chairman Kevin Reilly summarized discussions that were held during the Committee Meeting.

- **TrueCar.** Chairman Kevin Reilly summarized for the Board the discussion held in the committee meeting regarding TrueCar. Based on that discussion, Mr. Reilly made the following motion: The Board has reviewed and considered the pricing/fee model currently being utilized by motor vehicle dealers in the Commonwealth of Virginia with respect to payments to TrueCar. These payments are in violation of Virginia Code Section 45.2-1537, and the Board directs the MVDB Executive Director to notify motor vehicle dealers in the Commonwealth of Virginia of this decision, and begin enforcement action immediately.

Chip Lindsay seconded. The motion carried unanimously.

Transaction Recovery Fund Committee:

Chairman Lynn Hooper summarized discussions held and actions that were taken during the Committee Meeting.

- William E. McMillan, III and Automix, Inc., Lorenzo C. Reid and Automix, Inc. and Laetitia Lukanda and City Auto Sales.** Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding William E. McMillan, III and Automix, Inc., Lorenzo C. Reid and Automix, Inc. and Laetitia Lukanda and City Auto Sales. Based on that discussion and the recommendations in these cases, Mr. Hooper made the following motion: Pursuant to VA Code 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 the 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:

William E. McMillan, III and Automix, Inc.	\$17,825.50
Lorenzo C. Reid and Automix, Inc.	\$5,108.40
Laetitia Lukanda and City Auto Sales	\$20,000.00

Sally Woodson seconded. The motion carried unanimously.

OLD BUSINESS

There was no old business

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

General Assembly Bills: Rick Holcomb indicated that 2 bills could impact the dealer industry. Odometer Tampering Bill, involving federal civil penalties, raising the penalty from \$1,500 to \$3,000 and DMV Customer Service Bill, which one part of the bill involves Print on Demand and the bags that hold the temporary tags. Law Enforcement feels the bag prevents them from viewing the paper tag, especially when moisture gets in. They want to raise the fee from \$2.00 to \$3.00 for a better quality paper that will be resistant to moisture.

Executive Director's Report. Bruce Gould indicated that any General Assembly issues involving the MVDB will be informed to all members via e-mail. Bruce also indicated that a Field Representative position has come open in the South West Virginia area and this position will be advertised soon for applications.

The next meeting will be scheduled for March 12, 2012.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 12:50p.m.

Meeting Summary
Dealer Practices Committee
Monday, January 9, 2012

Chairman Tommy Woodson called the Dealer Practices Committee meeting to order at 9:00 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Ted Bailey, Chip Lindsay, Kevin Reilly, Joe Tate, Jimmy Whitten Rodney Williams and Sally Woodson. (Absent: Ronald Kody, Matt McQueen and Thomas Moorehead). Other Board members present: Art Hudgins, Andy Alvarez, Brian Hutchens, Roy Boswell, Rick Holcomb, Lynn Hooper, Wanda Lewark, George Pelton. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Frank McCormick and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 14, 2011 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

Review and Action: Informal Fact-Finding Conferences:

- **Mr. R's Cars, LLC and Antonio L. Randolph.** On November 29, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1533 (failure to maintain posted business hours) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning). Based on the information provided at the conference, the hearing officer recommended a \$1,000 civil penalty be assessed and the revocation of all licenses. Should Mr. Randolph ever reapply for a license under the Board's authority, he should be required to pay all civil penalties levied, and complete the dealership training course provided by the Department of Motor Vehicles.

Motion was made by Kevin Reilly to assess a civil penalty of \$2,000 and revocation of all licenses due to the severity of the violations. Joe Tate seconded. The motion carried unanimously.

- **Mr. Rudolph's Auto Group, Inc. and Jevon K. Rudolph.** On November 29, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1533 (failure to maintain posted business hours). Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$250 be assessed and a random inspection of Rudolph's Auto Group, Inc. be conducted. Upon a successful inspection by a MVDB Field Representative, he recommended waiving the \$250 civil penalty.

Motion was made by Joe Tate to accept the hearing officer's recommendation with the exception that the successful inspection be conducted within 30 days. George Pelton seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Pruitt Automotive Wholesale, LLC.** Historical overview leading up to the formal hearing: On July 26, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1533 (failing to maintain business hours) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). At the September 12, 2011 Committee and Full Board meeting, the members passed a resolution issued to Mr. Pruitt by the Board assessing a \$500 civil penalty and to suspend all licenses for 15 days. On October 14, 2011, the Dealer Board received Mr. Pruitt's request for a formal hearing. On November 29, 2011 a formal hearing was conducted to address the above alleged violations. Based on the information provided at the hearing, the hearing officer recommended assessing a civil penalty of \$500 for violations of 46.2-1533 and a civil penalty of \$100 for violating 46.2-1575 (2) for a total civil penalty of \$600.

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

Motion was made by Sally Woodson to accept the hearing officer's recommendation. Rodney Williams seconded. General discussion followed.

Substitute motion made by Kevin Reilly to assess a \$250 civil penalty due to Mr. Pruitt's efforts to correct all violations and his wiliness to obey the dealer laws. Joe Tate seconded. The motion carried unanimously.

- **Lee's Auto and John J. Lee.** Historical overview leading up to the formal hearing: On June 29, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failure to maintain buyer's orders), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1560 (application for temporary license plate) and 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a written warning). At the September 12, 2011 Committee and Full Board meeting, the members passed a resolution assessing a civil penalty of \$8,000 and that all licenses and certificates

issued by the Board to Mr. Lee (Dealer Certificate Numbers 1134 and 22877) be suspended for 90 days and they also mandated that a Motor Vehicle Dealer Board field representative re-inspect Mr. Lee's dealership within 90 days and if the inspection is not satisfactory, the 90 day suspension will continue until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative and that Mr. Lee successfully complete the dealer-operator course within 90 days. Failure to successfully complete the course within 90 days will result in the continued suspension of all licenses and certificates issued to Mr. Lee by the Board until what time Mr. Lee has successfully completed the course. On October 14, 2011, Mr. William T. Lehner, attorney for Mr. Lee, appealed and requested a formal hearing. On November 29, 2011, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the hearing, the hearing officer recommended a civil penalty of \$8,000 be assessed and that both of Mr. Lee's dealerships be inspected within 90 days. It has been noted that Mr. Lee has taken and successfully passed the Dealer-Operator course.

Mr. Lee and his attorney, Bill Lehner was present and Mr. Lehner spoke on his client's behalf.

Motion was made by Joe Tate to reduce the civil penalty to \$6,000, with no further sanctions. Sally Woodson seconded. The motion carried unanimously.

- **Cars Unlimited and Scotty M. Laughlin.** This issue was tabled until the March 12th meeting per Mr. Laughlin's request.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for March 12, 2012.

The meeting adjourned at 9:30 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, January 9, 2012

Chairman Jimmy Whitten called the Dealer Licensing Committee meeting to order in Room 702 at 9:31 a.m., DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Andy Alvarez, Roy Boswell, Art Hudgins, Brian Hutchens, Wanda Lewark, George Pelton, Joe Tate and Sally Woodson. Other Board members present: Rodney Williams, Tommy Woodson, Kevin Reilly, Rick Holcomb, Lynn Hooper, Chip Lindsay, Joe Tate, Ted Bailey . Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 14, 2011 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: Independent Dealer-Operator (IDO) Recertification Program. Ann Majors indicated that of the 1337 Independent Dealer Operators up for recertification (YTD 2011), 91% have recertified through December 31st (1226 have recertified). For the year 2012, 907 dealers are up for recertification. The IDO Recertification Program has processed 257 IDO's since the last board meeting.

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

Review and Action: Formal Hearing:

- **Imperial Auto 2 and Najib U. Ahmad.** Historical overview leading up to the formal hearing: On May 17, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (6) (having used deceptive acts or practices), 46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles and 46.2-1575(13) (having been convicted of a felony). During the informal, it was determined that 46.2-1575(9) was not applicable, as the matter did not stem from the business of selling vehicles. The Board's representative, Peggy Bailey, agreed, at the time of the hearing, to drop that charge from consideration.

The hearing officer recommended that Mr. Ahmad be given no additional fines, penalties or warnings. After carefully reviewing the findings of facts, the conclusion of law, the evidence from the courts and the testimonies presented at the conference, on August 1, 2011, the executive director disagreed with the hearing officer's conclusion as he did not find Mr. Ahmad's testimony credible that he was not aware that he was breaking the law when he decided to structure bank deposits in such a way that the IRS could detection of the deposits. Mr. Gould concluded that all licenses issued to him and Imperial Auto 2 should be revoked. On August 12, 2011, Mr. Hugo Blankingship, III, attorney for Mr. Ahad, appealed and requested a formal hearing. On November 14, 2011, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the hearing, the hearing officer recommended assessing a civil penalty of \$1,000 for violations of 46.2-1575(13) and that his application for a salesperson license should be favorably considered by the Board.

Mr. Ahmad and his attorney, Hugo Blankinship were present and Mr. Blankinship spoke on his client's behalf.

Motion was made by Joe Tate to accept the hearing officer's recommendation. George Pelton seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for March 12, 2012.

The meeting adjourned at 9:40 a.m.

Meeting Summary
Advertising Committee
Monday, January 9, 2012

Chairman Kevin Reilly called the Advertising Committee meeting to order in Room 702 at 9:41 a.m., DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Tommy Woodson, Andy Alvarez, Chip Lindsay, George Pelton, Rodney Williams and Sally Woodson. (Absent: Ronald Kody and Matt McQueen). Other Board members present: Art Hudgins, Brian Hutchens, Roy Boswell, Rick Holcomb, Lynn Hooper, Jimmy Whitten, Joe Tate, Wanda Lewark, Ted Bailey. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 14, 2011 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **TrueCar.** Bruce Gould introduced Aaron Jacoby of TrueCar. Mr. Jacoby indicated that TrueCar does not buy, sell or exchange vehicles because the transaction starts and is completed at the dealership. TrueCar merely publishes information about the sales price of a particular vehicle for consumers. TrueCar does not charge for arranging or negotiation the sale of a vehicle. There is no participation in vehicle sales negotiations by TrueCar. TrueCar's website is interactive and functions as a synthesizer of data inputted by customers by filtering such data and advertising "no haggle" dealer pricing. After much discussion, the Committee determined that dealers paying fees to TrueCar under its current pricing model are in violation of VA Code Section 46.2-1537.

Motion was made by George Pelton indicated that it is a violation to pay a 3rd party for leads as is done in TrueCar's current pricing model. Tommy Woodson seconded. The motion carried unanimously. TrueCar requested the Committee to consider an alternative pricing model. General consensus was to give Bruce Gould the opportunity to consider another proposal.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **Charles Barker Infiniti, Inc. and Nathan Drory.** This issue was tabled to the March 12, 2012 Committee and Full Board meeting per Mr. Barker's request.

The next meeting was scheduled for March 12, 2012.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 11:20 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, January 9, 2012

Chairman Lynn Hooper called the Transaction Recovery Fund Committee meeting to order at 11:20 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Andy Alvarez, Ted Bailey, Roy Boswell, Brian Hutchens and Kevin Reilly. (Absent: Thomas Moorehead, Matt McQueen). Other Board members present: Rodney Williams, Sally Woodson, Tommy Woodson, Rick Holcomb, Jimmy Whitten, Chip Lindsay, Joe Tate, Wanda Lewark, George Pelton. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Frank McCormick, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 14, 2011 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: Legislative Study Committee. Bruce Gould indicated that per the Committee report, a legislative proposal has been developed. By the March meeting, Bruce will be able to indicate if the proposal was successful at the General Assembly.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

- **William E. McMillan, III and Automix, Inc.** On January 20, 2010, Mr. McMillan entered into a contract from Automix to purchase a 2004 Infinity for a total delivery price of \$16,999.00. Prior to the sale to Mr. McMillan by Automix, the vehicle was located in South Carolina and had been sold five days earlier to a customer by Saverance Family Auto Center and thereafter titled in South Carolina. Automix neither possessed a lien free title for the vehicle, nor had the right to sell this vehicle to Mr. McMillan or anyone else. When Mr. McMillan confronted Automix for the scheduling of the delivery date of the vehicle, for which full payment had been made by a check from Navy Federal Credit Union, Automix refused to deliver the 2004 Infinity and refused to refund its purchase price or any other amounts paid, as demanded by Mr. McMillan.

Mr. McMillan is being held liable for the loan to Navy Federal Credit Union for a vehicle he never received from Automix. On April 29, 2011, Stephen L. Swann, Esquire, on behalf of Mr. McMillan, submitted to the Dealer Board the "Complaint" that was filed in the Circuit Court for Fairfax County against Automix, Inc. On May 3, 2011, the Dealer Board staff acknowledged receipt of Mr. McMillan's possible claim against the Motor Vehicle Transaction Recovery Fund. However, after careful preliminary review of the Complaint, the staff referred and provided Mr. McMillan's legal counsel with the dealers surety bonding company.

On June 17, 2011, the Circuit Court for Fairfax County awarded Mr. McMillan a default judgment against Automix for multiple fraudulent misrepresentations in the amount of \$30,542.64 actual damages, \$91,627.92 treble damages; \$10,000 exemplary and punitive damages, \$8,347.50 in attorney fees and \$250 in court costs.

On July 5, 2011, Mr. Swann submitted a letter to Nova Casualty Company, the dealers surety bond at the time of the transaction for his client, requesting payment on the judgment order for the actual damages of \$30,542.64. On this same date, Mr. Swann sent a letter to the Dealer Board for consideration of payment from the Fund for attorney fees and court costs. On September 16, 2011, Mr. Swann submitted a letter to the Board regarding his clients claim and provided a copy of Nova Casualty Company's check in the amount of \$16,999.99 for the vehicle's purchase price. Counsel is requesting reimbursement of \$17,822.50 from the Fund for loss-of-use amounts (\$9,225) attorney fees (\$8,347.50) and court costs (\$250). Staff concluded that Mr. Griffin's claim met the requirement for consideration of payment from the Fund. However, the maximum amount involving a single transaction is \$20,000.00, minus the \$16,999.00 that was received from the surety bonding company, leaves \$3,000.01. Therefore, this amount should be approved by the Board.

On December 12, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider all or part of Mr. McMillan's request for payment from the Fund for loss-of-use (\$9,225) attorney fees (\$8,347.50) and court costs (\$250) totaling \$17,822.50.

Motion was made by Kevin Reilly to pay the \$17,822.50. Brian Hutchens seconded. The motion carried unanimously.

- **Lorenzo C. Reid and Automix, Inc.** On July 31, 2009, Mr. Reid entered into a contract to purchase a 2003 Audi. As part of the transaction, Mr. Reid wanted to trade-in his 2008 Chevrolet Impala for the purchase of the 2003 Audi. During the negotiations, Gerald Kazembe, salesperson and Warren Gulick, an officer for Automix, Inc. indicated they would take the Chevrolet Impala in trade for \$12,000.00, pay off the existing loan to Sun Trust in the amount of \$18,000.00 and a \$6,000.00 down payment to offset the negative equity. In reliance on the promises and warranties regarding the 2003 Audi, as well as the promises regarding the pay-off on the loan for the trade-in (2008 Chevrolet), Mr. Reid purchased the Audi and left the Chevrolet as a trade-in with the keys at the dealerships (Automix) lot. Automix, Inc. completed a "Bill of Sale" reflecting that the total sales price and balance

owed on the Audi was \$15,628.78 with payment due on August 31, 2009. Further, on the "Bill of Sale" the description of the trade-in was left blank, however it does reflect the trade-in amount of \$12,000.00, the payoff amount for the trade-in of \$18,000.00 and a \$6,000.00 down payment to offset the negative equity.

In August, 2009 Mr. Reid financed the Audi with Navy Federal Credit Union and provided the loan proceeds check in the amount of \$15,000.00 which was to pay for the Audi to Automix. In December, 2009 Sun Trust contacted the co-signor (Joseph Legette), Mr. Reid's uncle indicating that the payments were late on the Chevrolet Impala. Joseph Legette co-signed on the loan with Sun Trust with the understanding that Lorenzo Reid would make all the payments, insure the vehicle, and title the vehicle in Lorenzo Reid's name. Sun Trust attempted to repossess the Chevrolet Impala from the lot at Automix but the vehicle was not there and once the payments were late, they added \$1,000.00 to the existing lien. After hearing from Joseph Legette that Sun Trust had called about the late payments, Mr. Reid's wife contacted Automix about their failure to pay-off the lien on the Chevrolet. Automix advised her that she had to pay the \$1,000.00 that Sun Trust tacked on to the payoff amount due to the late payments before they would pay off the loan.

Sun Trust has demanded payment of the lien from Joseph Legette, who in turn has sued Mr. Reid in the Circuit Court of the County of Stafford, in the amount of \$20,000, plus interest, costs and attorney fees. Mr. Reid had signed an Arbitration Agreement with Automix on the date of purchase. Therefore, he filed for Arbitration with the American Arbitration Associates (AAA) on December 7, 2010 and dismissed on February 18, 2011 due to Automix, Inc. failure to pay the required fees to AAA. Therefore, Mr. Reid obtained legal counsel in order to pursue Automix in the Circuit Court for Arlington County for reimbursement owed on the existing loan for the vehicle he traded-in to the dealership.

On July 28, 2011, John Gayle, Esquire via email submitted to the Dealer Board on behalf of his client, Mr. Reid, the notice of the "Complaint" that was filed in the Circuit Court for the County of Arlington for fraud and for violations of the Virginia Consumer Protection Act (VCPA). On July 29, 2011, the Dealer Board staff acknowledged receipt of Lorenzo Reid's possible claim against the Motor Vehicle Transaction Recovery Fund (Fund). However, after a preliminary review of the Complaint, staff referred and provided Mr. Reid's legal counsel with the dealers surety bonding company.

On August 8, 2011, the Circuit Court for the County of Arlington awarded Lorenzo C. Reid a default judgment against Automix, Inc. for its actual fraud and willful violation of the VCPA. The Court awarded Mr. Reid damages in the amount of \$27,500.00; actual damages in the amount of \$15,000.00 for his inconvenience, embarrassment, pain & anguish for a total of \$42,500.00 and pursuant to the willful violations of VCPA, they were trebled; punitive damages of \$30,000.00 making the total award of \$127,500.00 plus attorney fees in the amount of \$14,120.00.

On August 19, 2011, John Gayle, Esquire contacted the Dealer Board staff and indicated that "Nova" the dealer's surety bonding company had denied his client's claim because the transaction predated the bond. The Dealer Board staff researched the records again and via facsimile provided counsel with another surety bonding company (Merchants Bonding

Co/Mutual) that was in effect from November 1, 2008 until December 16, 2009. On September 8, 2011, the Dealer Board received notice from “Nova Casualty” of payment of (5) five claims that had been filed against their bond, totaling \$48,704.99. Further, Nova indicated they had denied Lorenzo Reid’s claim because the transaction predated their bond.

On September 18, 2011, the Dealer Board received a letter from the firm representing Merchants Bonding Co/Mutual of the claims that had been paid by the dealer’s bond totaling \$35,108.40. Merchant’s has paid Mr. Reid’s claim for actual damages up to the current penal limit of the bond in the amount of \$14,891.60. Therefore, exhausting the \$50,000 liability against the bond.

On September 22, 2011, John Gayle, Esquire submitted to the Dealer Board on behalf of his client (Mr. Reid) documentation for consideration of payment from the Fund in the amount of \$20,000.00.

Staff concluded that Mr. Griffin’s claim met the requirement for consideration of payment from the Fund. However, the maximum amount involving a single transaction is \$20,000.00, minus the \$14,891.60 that was received from the surety bonding company, leaves \$5,108.40. Therefore, this amount should be approved by the Board.

On December 14, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider the payment on the claim in the amount of \$5,108.40 as recommended by staff. This is the amount less the price of the 2003 Audi which the Bond Company has paid.

Motion was made by Andy Alvarez to accept the hearing officer’s recommendation. Kevin Reilly seconded. The motion carried unanimously.

- **Laetitia Lukanda and City Auto Sales.** On December 23, 2010, Laetitia Lukanda entered into a contract to purchase a 2008 Nissan Sentra, City Auto Sales for the total purchase price of \$8,300.00. In addition, City Auto Sales sold and collected an extra-cost for an extended warranty for \$1,300.00.

Shortly, after the purchase Ms. Lukanda discovered that the vehicle had multiple unrepaired defects and deficiencies, including a history of substantial body/frame damage. On January 19, 2011, Ms. Lukanda obtained a “Carfax Report” that confirmed that the vehicle was determined to be a total loss in April 2010. Upon learning this, she confronted City Auto Sales and requested a rescission of the contract, in which City Auto Sales rejected.

On June 7, 2011, Stephen Swann, Esquire on behalf of his client, Ms. Lukanda, submitted to the Dealer Board the “Complaint” that had been filed in the Circuit Court for Fairfax County against City Auto Sales. On June 13, 2011, the Dealer Board staff acknowledged receipt of Ms. Lukanda’s claim against the Motor Vehicle Transaction Recovery Fund. However, after

a preliminary review of the Complaint, staff provided and referred counsel to the dealer's surety bonding company.

On July 22, 2011, the Circuit Court for Fairfax County awarded Ms. Lukanda a default judgment against City Auto Sales for fraudulent inducement, violations of the VCPA, breach of warranties and attorney fees. The judgment amounts awarded were for \$11,322.13 actual damages; \$33,966.39 treble damages; \$5,000.00 punitive damages; \$8,645.00 attorney fees and \$150.00 in court costs.

On July 26, 2011, Mr. Swann, on behalf of his client Ms. Lukanda, submitted a letter to Western Surety Company regarding his client's judgment against City Auto Sales for payment of the claim for actual damages (\$11,332.13) under the liability of the dealer's bond.

On August 8, 2011, Mr. Swann, submitted a letter with documentation to the Dealer Board for reimbursement from the Fund for attorney fees, costs and any amounts remaining unpaid by the bond. On September 19, 2011, the dealer's surety bonding company (Western Surety Company) denied Ms. Lukanda's claim for actual damages in the amount of \$11,322.13, due to the fact they had cancelled the bond effective April 21, 2010 and the transaction occurred December 23, 2010 which was after the bond was no longer in effect. Counsel is requesting reimbursement on his client's claim from the Fund for actual damages of \$11,322.13, attorney fees of \$8,645.00 and the court costs of \$150.00, which comes to a total of \$20,127.13. Staff concluded that Ms. Lukanda's claim met the requirement for consideration of payment from the Fund in the amount of \$20,000.00, which is the maximum amount allowed involving a single transaction.

On December 19, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Ms. Lukanda's request for \$20,000.00 should be granted.

City Auto Sales was present and spoke on their own behalf.

Motion was made by Andy Alvarez to accept the hearing officer's recommendation. Art Hudgins seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for March 12, 2012.

The meeting adjourned at 11:57 a.m.