

Meeting Summary  
**Motor Vehicle Dealer Board**  
Monday, January 13, 2014

Chairman Rick Holcomb called the Dealer Board meeting to order at 12:00 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 Board members present. Present were members Ted Bailey, M. Gardner Britt, Jr., David Duncan, Steve Farmer, David Gripshover, Clayton Huber, Art Hudgins, Brian Hutchens, Ron Kody, Chip Lindsay, Chris Maher, Matthew McQueen, Jacques Moore, Jr., George Pelton and Joe Tate. (Absent: Andy Alvarez and Roy Boswell). 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 4, 2013 meeting summary was approved.

**STATUTORY COMMITTEE REPORTS**

**Dealer Practices Committee:**

Chairman Ron Kody summarized discussions held and actions that were taken during the Committee Meeting.

- **Franco Auto Sales and Marden Vasconcelos.** Ron Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Franco Auto Sales and Marden Vasconcelos for alleged violations of VA Code Sections 46.2-1547; 46.2-1574; and 46.2-1575 (1), (2) and (18). Based on due consideration, the Board believes a civil penalty should be assessed against Franco Auto Sales and Marden Vasconcelos. The Board hereby takes assesses a \$1,000 civil penalty against Franco Auto Sales and Marden Vasconcelos.

Matt McQueen seconded. The motion carried unanimously.

- **Carmaster's of Arlington and Theron & Erica Lusk.** Ron Kody made a motion to table this issue so that a formal hearing can be conducted and the Lusk's can provide more evidence to support their case. Theron and Erica Lusk, through their attorney, agreed to waive a decision being made from the informal fact-finding conference and to proceed to a formal hearing.

Chris Maher seconded. The motion carried unanimously.

- **M&M Autobrokers and Mark Malek.** Ron Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning M&M Autobrokers and Mark Malek for alleged violations of VA Code Sections 46.2-1550.1, 46.2-1550.2, 46.2-1575, and 46.2-1575 (18). Based on due consideration, the Board believes a civil penalty should be assessed against M&M Autobrokers and Mark Malek. The Board hereby assesses a \$1,000 civil penalty against M&M Autobrokers and Mark Malek; and based on due consideration, the Board believes that Mr. Malek's dealership should be re-inspected within 60 days and that the inspection must be satisfactory and that all licenses and certificates issued by the Board to Mr. Malek should be suspended until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Malek's dealership within 60 days and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Malek until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative.

George Pelton seconded. The motion carried unanimously.

- **Fahad Auto Sales and Jassam M. Sarhan.** Ron Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Fahad Auto Sales and Jassam Mohammed Sarhan for alleged violations of VA Code Sections 46.2-1529; 46.2-1533; 46.2-1542 (B); 46.2-1548; 46.2-1550; 1550.2; 46.2-1559; 46.2-1561; and 46.2-1575 (2), (4), (6), (10), and (14). Based on due consideration, the Board believes a civil penalty should be assessed against Fahad Auto Sales and Jassam Mohammed Sarhan. The Board hereby assesses an \$8,000 civil penalty against Fahad Auto Sales and Jassam Mohammed Sarhan; and based on due consideration, the Board believes that Mr. Sarhan's dealership should be re-inspected and that the inspection must be satisfactory and that all licenses and certificates issued by the Board to Mr. Sarhan should be suspended until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Sarhan's dealership and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Sarhan until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Sarhan in running his dealership. The Board hereby suspends licenses and certificates issued to Mr. Sarhan until such time that Mr. Sarhan successfully complete the dealer-operator course.

Joe Tate seconded. The motion carried unanimously.

- **Supermax Autos and Chadi Chit Dirani.** Ron Kody 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 \$5,000 civil penalty against Supermax Autos and Chadi Chit Dirani and revoked all licenses and certificates issued by the Board to Mr. Dirani; and Mr. Dirani appealed the Board's decision and requested a formal hearing that was conducted on October 23, 2013. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Supermax Autos and Chadi Chit Dirani for alleged violations of VA Code Sections 46.2-1510; 46.2-1518; 46.2-1529; 46.2-1532; 46.2-1537; 46.2-1548; 46.2-1550; 46.2-1574; and 1575 (2) and (18). Based on due consideration, the Board believes a civil penalty should be assessed against Supermax Autos and Chadi Chit Dirani. The Board hereby assesses a \$5,000 civil penalty against Supermax Autos and

Chadi Chit Dirani; and based on due consideration, the Board believes all licenses and certificates issued by the Board to Mr. Dirani should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Dirani.

Jacques Moore seconded. The motion carried unanimously.

- **Preowned Luxury Vehicles, LLC and Wilson Goode.** Ron Kody 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 \$3,500 civil penalty against Preowned Luxury Vehicles, LLC and Wilson M. Goode; that have has a good inspection; and require that he successfully complete the 2-day Dealer Operator course. Mr. Goode appealed the Board's decision and requested a formal hearing that was conducted on September 17, 2013. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Preowned Luxury Vehicles, LLC and Wilson M. Goode for alleged violations of VA Code Sections 46.2-1518; 46.2-1529; 46.2-1532; 46.2-1537; 46.2-1539; 46.2-1550 (2); and 46.2-1575 (2), and (6). Based on due consideration, the Board believes a civil penalty should be assessed against Preowned Luxury Vehicles, LLC and Wilson M. Goode. The Board hereby assesses a \$3,500 civil penalty against Preowned Luxury Vehicles, LLC and Wilson M. Goode.

George Pelton seconded. The motion carried unanimously.

### **Licensing Committee**

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

- **Tarik Gurel and Towne Auto Brokers, Inc.** Joe Tate 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 Tarik Gurel for alleged violations of VA Code Sections 46.2-1575 (1) and 46.2-1575 (9). Based on due consideration, the Board believes a civil penalty should be assessed against Tarik Gurel. The Board hereby assesses a \$250 civil penalty against Tarik Gurel.

Jacques Moore seconded. The motion carried unanimously.

- **Zaki M. Stwodah and The Auto Connection.** Joe Tate 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 Zaki Mohamed Stwodah for alleged violations of VA Code Sections 46.2-1575 (1), 46.2-1575 (6) and 46.2-1575 (9). Based on due consideration, the Board believes a civil penalty should be assessed against Zaki Mohamed Stwodah. The Board hereby assesses a \$3,000 civil penalty against Zaki Mohamed Stwodah; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Stwodah should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Stwodah.

Ron Kody seconded. The motion carried unanimously.

Rick Holcomb indicated that he would like for this issue to be referred to DMV to review Mr. Stwodah's salvage license.

- **Jay I. Martin and Mannie's Auto Center.** Joe Tate 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 Jay I. Martin for alleged violations of VA Code Sections 46.2-1575(1) and 46.2-1575 (9). Based on due consideration, the Board believes a civil penalty should be assessed against Jay I. Martin. The Board hereby assesses a \$750 civil penalty against Jay I. Martin; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Martin. The Board mandates that Mr. Martin successfully complete the dealer-operator course by July 13, 2014. Failure to successfully complete the course by this date will result in the suspension of his dealer operator and salesperson certificates of qualification until such time Mr. Martin has successfully completed the course.

Brian Hutchens seconded. The motion carried unanimously.

- **Francis A. Masika, Salesperson.** Joe Tate 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 Francis A. Masika for alleged violations of of VA Code Sections 46.2-1527.7; and 46.2-1575 (4), (6) (Having used deceptive acts or practices) and (13). Based on due consideration, the Board believes a civil penalty should be assessed against Francis A. Masika. The Board assesses a \$5,000 civil penalty against Francis A. Masika; and based on due consideration, the Board believes that Mr. Masika's application for a salespersons license should be denied. The Board hereby denies Mr. Masika's application for a salespersons license.

Art Hudgins seconded. The motion carried unanimously.

- **Kelly D. Horton, Salesperson.** Joe Tate 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 Kelly D. Horton for alleged violations of VA Code Sections 46.2-1575 (4) and 46.2-1575 (6). Based on due consideration, the Board believes no action should be taken against Kelly D. Horton. The Board hereby takes no further action against Kelly D. Horton.

Art Hudgins seconded. The motion carried unanimously.

- **Frank Morales, Salesperson.** Joe Tate 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 Frank Morales for alleged violations of VA Code Sections 46.2-1537; 46.2-1538; and 46.2-1575 (1), 46.2-1575 (2) and (6). Based on due consideration, the Board believes a civil penalty should be assessed against Frank Morales. The Board hereby assesses a \$7,500 civil penalty against Frank Morales; and based on due consideration, the Board believes that Mr. Morales' application to transfer his salesperson's license should be denied. The Board hereby denies Morales' application to transfer his salespersons license.

Matt McQueen seconded. The motion carried unanimously.



### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

### **NEW BUSINESS**

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

There was no new business from the floor.

**Executive Director's Report.** Bruce Gould indicated that the advertising regulations are being updated and they will be sent to the members once they are complete.

The next meeting will be scheduled for March 10, 2014.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 1:05 p.m.

**Meeting Summary**  
**Dealer Practices Committee**  
Monday, January 13, 2014

Chairman Ron Kody 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 Gardner Britt, Steve Farmer, Clayton Huber, Brian Hutchens, Matthew McQueen, Chris Maher, George Pelton and Joe Tate. (Absent: Roy Boswell). Other Board members present: Rick Holcomb, David Duncan, Jacques Moore, Art Hudgins, Ted Bailey and David Gripshover. 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 July 8, 2013, September 9, 2013 and November 4, 2013 meeting summaries were 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:**

- **Franco Auto Sales and Marden Vasconcelos.** On August 28, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1547 (Insurance), 46.2-1574 (Acts of officers) and 46.2-1575 (1) (material misstatement), (2) (failure to comply) and (18) (insurance). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000.

Motion was made by Matt McQueen to accept the hearing officer's recommendation of assessing a \$1,000 civil penalty. Steve Farmer seconded. The motion carried unanimously.

- **Carmaster's of Arlington and Theron and Erica Lusk.** On November 18, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (Dealer records), 46.2-1530 (Buyer's order), 46.2-1532 (Odometer disclosure), 46.2-1537 (Licensed salesperson/birddog), 46.2-1542 (Temporary registration), 46.2-1544 (Certificate of title issued to dealers or reassignment), 46.2-1550 (Use of D-tags), 46.2-1559 (Records to be kept by dealers for inspection), 46.2-1574 (Acts of officers), 46.2-1575 (1) (Material misstatement), (2) (Failure to comply with a written warning), (4) (Defrauding of a retail buyer), (6) (Having used deceptive acts or practices), (10) (Possessing titles which have not been completely and legally assigned to dealer), (14) (Failure to submit fees to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$12,750.00, revocation of all licenses at Carmaster's of Arlington and Theron and Erica must submit all Buyer's Orders for the time period noted in the 640 Temporary Tags printout submitted in the conference.

Theron and Erica Lusk, as well as their attorney, David Mahdavi, were present and Mr. Mahdavi spoke on behalf of his clients.

Motion was made by Joe Tate to table this issue so that a formal hearing can be conducted and the Lusks can provide more evidence to support their case. Matt McQueen seconded. The motion carried unanimously.

- **M&M Autobrokers and Mark Malek.** On October 23, 2013 an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1550.1 (Use of temporary transport tags), 1550.2 (Transport tag record of usage and issuance), 46.2-1575 (Acts of officers) and 46.2-1575 (18) (Failure to maintain D-tag liability insurance). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000 and a satisfactory inspection.

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

Motion was made by Steve Farmer to accept the hearing officer's recommendation of a \$1,000 civil penalty and satisfactory inspection within 60 days. Brian Hutchens seconded. The motion carried unanimously.

- **Fahad Auto Sales and Jassam Mohammed Sarhan.** On December 3, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (Dealer records), 46.2-1533 (Business hours), 46.2-1542 (B) (Title within 30 days), 46.2-1548 (Transferable license plates), 46.2-1550 (Use of D-tags), 1550.2 (Use of D-tags for transporting), 46.2-1559 (Records to be kept by dealers for inspection), 46.2-1561 (Issuing temp tags using misstatements and false information), 46.2-1575 (2) (Failure to comply with a written warning), (4) (Defrauding of a retail buyer), (6) (Having used deceptive acts or practices), (10) (Possessing titles which have not been completely and legally assigned to dealer) and (14) (Failure to submit fees to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$8,000, revocation of all licenses and should the members think Fahad Auto is salvageable, then completed the 2-day Dealer-Operator course and a suspension until the course has been completed.

Jassam Sarhan, Mauwia Dames and Nasser Al saadun were present and Mr. Dames spoke on behalf of Mr. Sarhan.

Motion was made by Matt McQueen to assess a civil penalty of \$8,000, suspension of all licenses and certificates until a satisfactory inspection is conducted and Mr. Sarhan successfully completed the Dealer-Operator course. Chris Maher seconded. The motion carried unanimously.

#### **Review and Action: Formal Hearings:**

- **Supermax Autos and Chadi Chit Dirani.** Historical overview leading up to the formal hearing: On June 3, 2013, an informal fact-finding conference was conducted to address the alleged violations VA Code Section(s) 46.2-1510 (Dealers required to have established place of business), 46.2-1518 (Display of salesperson's license notice on termination), 46.2-1529 (Dealer records), 46.2-1532 (Odometer disclosure statements), 46.2-1537 (Prohibited solicitation and compensation), 46.2-1548 (Transferable license plates), 46.2-1550 (Use of dealer's license plates) 46.2-1574 (failure to be responsible for the acts of the dealers salespersons) and 1575 (1) (material misstatements), 46.2-1575 (2) (failure to comply), and (18) (failure to maintain auto liability insurance for all dealer plates assigned). Based on the information provided at the conference, the Board passed a resolution at its July 2013 meeting to assess a \$5,000 civil penalty and revoke all licenses and certificates issued to Mr. Dirani. On August 12, 2013, Mr. Dirani appealed the decision and requested a formal hearing. On October 23, 2013, a formal hearing was conducted to address the above violations. Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,250 and revocation.

Motion was made by Chris Maher to assess a civil penalty of \$8,000 due to the severity of the penalties and revocation of all licenses. Steve Farmer seconded. The motion carried unanimously.



- **Preowned Luxury Vehicles, LLC and Wilson M. Goode.** Historical overview leading up to the formal hearing: On May 24, 2013, an informal fact-finding conference was conducted to address the alleged violations VA Code Section(s) 46.2-1518 (Display of salesperson's license notice on termination), 46.2-1529 (Dealer records), 46.2-1532 (Odometer disclosure statements), 46.2-1537 (Prohibited solicitation and compensation), 46.2-1539 (Inspection of vehicles required), 46.2-1550 (2) (Issuance and use of temporary transport plates), and 46.2-1575 (2) (Non compliance to written warning) and (6) (Having used deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$250, successfully complete the 2 day Dealer-Operator course and have a satisfactory inspection as soon as possible. On July 22, 2013, Mr. Goode appealed the decision and requested a formal hearing. On September 17, 2013, a formal hearing was conducted to address the above violations. Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,500.

Motion was made by Chris Maher to accept the hearing officer's recommendation of assessing a civil penalty of \$1,500. Brian Hutchens seconded. All in favor: 9 (Kody, Britt, Farmer, Huber, Hutchens, McQueen, Maher, Pelton and Lindsay). Opposed: 1 (Tate: due to the severity of the penalties). The motion carried.

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

There was no new business from the floor.

The next meeting was scheduled for March 10, 2014

The meeting adjourned at 10:45 a.m.

Meeting Summary  
**Dealer Licensing Committee**  
Monday, January 13, 2014

Chairman Joe Tate called the Dealer Licensing Committee meeting to order in Room 702 at 10:45 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Art Hudgins, Ted Bailey, David Duncan, David Gripshover, Chip Lindsay, Jacques Moore and George Pelton. (Absent: Andy Alvarez). Other Board members present: Gardner Britt, Steve Farmer, Ron Kody, Brian Hutchens, Matt McQueen, Clayton Huber and Chris Maher. Executive Director Bruce Gould, Frank McCormick, Peggy Bailey, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 4, 2013 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:**

- **Tarik Gurel of Towne Auto Brokers, Inc.** On October 9, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575(1) (Having made a material misstatement on a renewal application) and 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$250 and to approve Mr. Gurel's application for renewal of sales license.

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

Motion was made by George Pelton to accept the hearing officer's recommendation to approve Mr. Gurel's application for renewal of his sales license. Art Hudgins seconded. The motion carried unanimously.

- **Zaki Mohamed Stwodah of The Auto Connection.** On September 5, 2013, an informal fact-finding conference was conducted to address the alleged violations VA Code Section(s) 46.2-1575(1) (Having made a material misstatement on a renewal application), 46.2-1575 (6) (Having used deceptive acts or practices) and 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$4,000 and revocation of all licenses and certificates.

Mr. Stwodah and his attorney, James Whitlock were present and Mr. Whitlock spoke on behalf of his client.

Motion was made by Art Hudgins to assess a civil penalty of \$3,000 and revocation of all licenses. George Pelton seconded. The motion carried unanimously.

- **Jay I. Martin of Mannie's Auto Center.** On December 8, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575(1) (Having made a material misstatement on a renewal application) and 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$750 and suspension of license for 30 days, unless he completes the Dealer-Operator class within 120 days. Also recommended was a satisfactory inspection.

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

Motion was made by David Gripshover to assess a civil penalty of \$1,000 and to successfully complete the Dealer-Operator course. David Duncan seconded. The motion carried unanimously.

- **Francis A. Masika, Salesperson.** On November 20, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1527.7 (Revocation of license or certificate of registration on payment from the Fund), 46.2-1575 (4) (Defrauding or damaging a retail buyer), 46.2-1575 (6) (Having used deceptive acts or practices) and 46.2-1575 (13) (Having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$5,000 and revocation of sales license and certificate.

Motion was made by Jacques Moore to accept the hearing officer's recommendation of assessing a civil penalty of \$5,000 and revocation of all licenses and certificates. David Gripshover seconded. The motion carried unanimously.

- **Kelly D. Horton, Salesperson.** On November 20, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575 (4) (Defrauding or damaging a retail buyer) and 46.2-1575 (6) (Having used deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended allowing Mr. Horton to maintain his license and no further action taken.

Mr. Horton and his attorney, Bill Lehner were present and Mr. Lehner spoke on behalf of his client.

Motion was made by Art Hudgins to accept the hearing officer's recommendation to take no further action. George Pelton seconded. The motion carried unanimously.

- **Frank Morales, Salesperson.** On September 26, 2013, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1537 (Prohibited solicitation), 46.2-1538 (Salesman selling for other than employer prohibited), 46.2-1575 (1) (Material misstatement, 46.2-1575 (2) (Failure to comply) and 46.2-1575 (6) (Deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$7,500 and denial of license transfer.

Motion was made by David Gripshover to accept the hearing officer's recommendation of assessing a civil penalty of \$7,500 and denial of license transfer. Jacques Moore 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 10, 2014

The meeting adjourned at 11:41 a.m.

Meeting Summary  
**Advertising Committee**  
Monday, January 13, 2014

Chairman Chip Lindsay called the Advertising Committee meeting to order at 11: 41 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members David Duncan, Clayton Huber, Art Hudgins, Ronald Kody, Matthew McQueen and Brian Hutchens. (Absent: Roy Boswell and Andy Alvarez). Other Board members present: Jacques Moore, Gardner Britt, Steve Farmer, Chip Lindsay, Joe Tate, Ted Bailey, George Pelton, David Gripshover, Chris Maher. 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 July 8, 2013, September 9, 2013 and November 4, 2013 meeting summaries were 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, 2014.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 11:42 a.m.

Meeting Summary  
**Transaction Recovery Fund Committee**  
Monday, January 13, 2014

Chairman Ted Bailey called the Transaction Recovery Fund Committee meeting to order at 11:42 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Brian Hutchens, Steve Farmer, David Gripshover, Ron Kody, Matthew McQueen and Art Hudgins. (Absent: Andy Alvarez). Other Board members present: Rick Holcomb, David Duncan, Jacques Moore, Gardner Britt, Chip Lindsay, Joe Tate, George Pelton, Clayton Huber and Chris Maher. 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 4, 2013 summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

Eric Fiske presented a report to the Board on the status of Motor Vehicle Dealer Board v. Barton. The case involved a claim against the Recovery Fund which the Board denied at its January, 2010 meeting. The claimant had previously filed a civil lawsuit against Terry Timmerman, a dealer who became licensed on January 31, 2007. But, the Complaint filed against the dealer in the Virginia Beach Circuit Court only alleged, in the opinion of the Board, fraud which occurred before the dealer became licensed. One of the prerequisites of a claim against the Fund is that the judgment must be against a licensed dealer and this Complaint did not appear, on its face, to be compensable. But the Circuit Court entered a judgment against Timmerman based on facts not pled -- that the dealer was guilty of fraud that occurred after he became licensed. When the claim came before the Board, on advice of counsel, the Board denied the claim because under case law, a judgment cannot be entered on facts not pled, and hence, is void. The claimant appealed that decision to the Virginia Beach Circuit Court (same court which entered the original judgment). The Circuit Court reversed the Board's decision and ordered the Board to pay \$20,000 from the Fund. The Board, by counsel, appealed that decision to the Virginia Court of Appeals. The Virginia Court of Appeals affirmed the Circuit Court decision, and unless the Board stated otherwise, counsel for the Board will continue with an appeal filed with the Virginia Supreme Court. The Board allowed the appeal to proceed.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

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

- **Henry A. Pickens vs. SA Auto Sales and Waleed Aslam.** On December 1, 2012 Mr. Pickens purchased a 2001 BMW from SA Auto Sales for a purchase price of \$7,400.00. The dealer had advertised the vehicle to be in very good mechanical condition, it also had passed the Va. Safety inspection and he was offered a 3 month unlimited warranty. At the time of purchase, the dealer provided Mr. Pickens with two Buyer's Guides, one indicating the vehicle came with a 3 month warranty for unlimited mileage and another indicating the vehicle was sold "As Is". Five (5) days

after the purchase, Mr. Pickens took the vehicle to Chesapeake Import Service to have the Maryland Safety Inspection (MSI), which revealed that the vehicle had serious mechanical problems which needed to be corrected before it could pass the MSI and in order for the vehicle to operate correctly. The estimated costs of repairs came to \$7,177.22. When Mr. Pickens discovered the numerous mechanical problems with the vehicle he contacted the dealer to repurchase it and return his money. The dealer refused, explaining that the warranty that came with the vehicle would take care of everything. However, the Penn Warranty Company refused to pay for the repairs due to exclusions in the service contract since among other things, it determined that these problems were the result of pre-existing conditions, and some were the failure of a non-covered part.

As a result of the dealer's conduct, Mr. Pickens paid for the vehicle and has suffered damages in that the vehicle was not worth what he paid for it and has had to pay for the repairs to the vehicle including additional repairs to correct the emissions control system. On August 30, 2013, the Circuit Court for the City of Fredericksburg awarded Mr. Pickens judgment against SA Auto Sales for actual fraud and willful violations of the VCPA in the amount of \$10,396.35 actual damages and attorney fees in the amount of \$13,143.00, for a total judgment of \$23,539.35.

Staff believed Mr. Pickens' claim met the requirement of the law. Therefore, the Dealer Board staff recommended that the Recovery Fund Committee and Full Board approve Mr. Pickens' claim against the Fund in the amount of \$23,539.35, which is based on the full judgment amount of \$10,396.35 plus legal fees in the amount of \$13,143.00.

On November 12, 2013, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer agreed with the staff recommendation for the payment of \$23,539.35 from the Fund to Mr. Pickens.

Motion was made by Steve Farmer to accept the hearing officer's recommendation for payment of \$23,539.35 from the Fund to Mr. Pickens. David Gripshover seconded. The motion carried unanimously.

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

The next meeting was scheduled for March 10, 2014.

The meeting adjourned at 12:00 p.m.