

Meeting Summary  
**Motor Vehicle Dealer Board**  
Monday, January 12, 2015

Vice-Chairman Ron Kody called the Dealer Board meeting to order at 10:50 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 14 Board members present. Present were members Ted Bailey, Roy Boswell, Gardner Britt, David Duncan, Steve Farmer, David Gripshover, Art Hudgins, Chip Lindsay, Chris Maher, Matt McQueen, Jacques Moore, George Pelton and Joe Tate. (Absent: Rick Holcomb, Clayton Huber and Brian Hutchens). Executive Director Bruce Gould, Peggy Bailey, Ann Majors, Wanda Neely, Lisa Mack-Nelson 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 10, 2014 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.

- **Kennon Auto Sales and Timothy W. Kennon.** Chairman 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 Kennon Auto Sales and Timothy W. Kennon for alleged violations of VA Code Sections 46.2-1533; and 46.2-1575 (2). Based on due consideration, the Board believes a civil penalty should be assessed against Kennon Auto Sales and Timothy W. Kennon. The Board hereby assesses a \$2,750 civil penalty against Kennon Auto Sales and Timothy W. Kennon; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Kennon should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Kennon.

Matt McQueen seconded. The motion carried unanimously.

- **Priced Right Car Sales, Inc. and Claude E. Whited.** Chairman 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 Priced Right Car Sales, Inc. and Claude E. Whited for alleged violations of VA Code Sections 46.2-1529; 46.2-1530; 46.2-1532; 46.2-1575 (2), (6) and (9). Based on due consideration, the Board believes a civil penalty should be assessed against Priced Right Car Sales, Inc. and Claude E. Whited. The Board hereby assesses a \$2,000 civil penalty against Priced Right Car Sales, Inc. and Claude E. Whited; and based on due consideration, the Board believes that Mr. Whited'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. Whited 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. Whited's and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Whited 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. Whited in running his dealership. The Board mandates that Mr. Whited successfully complete the dealer-operator course by June 12, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Whited by the Board until such time Mr. Whited has successfully completed the course.

Joe Tate seconded.

Mr. Whited spoke on his own behalf.

Chris Maher made a substitute motion to reduce the civil penalty to \$1,000. David Gripshover seconded. The motion failed due to no votes. Original motion was then voted on.

Original motion: All in favor: 13 (Bailey, Britt, Duncan, Farmer, Gripshover, Hudgins, Kody, Lindsay, Maher, McQueen, Moore, Pelton and Tate). Opposed: 1 (Boswell). The motion carried.

- **Beach Auto Kings and David P. Maher.** Chairman 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 Beach Auto Kings and David P. Maher for alleged violations of VA Code Sections 46.2-1574 and 46.2-1575 (4) and (6). Based on due consideration, the Board believes a civil penalty should be assessed against Beach Auto Kings and David P. Beach Auto Kings and David P. Maher. The Board hereby assesses a \$3,000 civil penalty against Beach Auto Kings and David P. Maher; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Maher should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Maher.

Steve Farmer seconded. The motion carried unanimously.

## **Licensing Committee**

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

- **Curtis M. Andrews (Sales Applicant).** Chairman 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 Curtis M. Andrews for alleged violations of VA Code Sections 46.2-1575 (6) and (9). Based on due consideration, the Board believes Mr. Andrews's license application should be approved. The Board hereby approves Curtis M. Andrews' application for a salesperson license.

Chris Maher seconded. Ron Kody abstained; Mr. Andrews had applied for a job at his dealership. The motion carried.

- **Mark W. Flory and Mark's Cars, LLC.** Chairman 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 Mark W. Flory for alleged violations of VA Code Section 46.2-1575 (13). Based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Flory should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Flory.

David Gripshover seconded. The motion carried unanimously.

## **Advertising Committee**

Chairman Chip Lindsay summarized discussions that were held during the Committee Meeting.

- **Frog and Towed Auto Sales, LLC and Susan R. Justice.** Chairman Lindsay 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 Frog and Towed Auto Sales, LLC and Susan R. Justice for alleged violations of VA Code Sections 46.2-1535 and 46.2-1575 (7) and 46.2-1581 (8). Based on due consideration, the Board believes a civil penalty should be assessed against Frog and Towed Auto Sales, LLC and Susan R. Justice. The Board hereby assesses a \$1,000 civil penalty against Frog and Towed Auto Sales, LLC and Susan R. Justice.

Jacques Moore seconded. The motion carried unanimously.

- **A & R Automobile Sales, LLC and Nidal J. Ramadan.** Chairman Lindsay 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 A & R Automobile Sales, LLC and Nidal J. Ramadan for alleged violations of VA Code Sections 46.2-1535; 46.2-1574; 46.2-1575 (7) and (8). Based on due consideration, the Board believes a civil penalty should be taken/assessed against A & R Automobile Sales, LLC and Nidal J. Ramadan. The Board hereby assesses a \$1,000 civil penalty against A & R Automobile Sales, LLC and Nidal J. Ramadan.

Matt McQueen seconded. The motion carried unanimously.

### **Transaction Recovery Fund Committee:**

Chairman Ted Bailey summarized discussions held and actions that were taken during the Committee Meeting.

- **Redel Gabriel Badillo Avila and Victory Lane Motors and Shawn O'Dell.** Chairman Bailey made the following motion: Chairman Ted Bailey summarized for the Board the discussion held in the committee meeting regarding Redel Gabriel Badillo Avila and Victory Lane Motors and Shawn O'Dell. Based on that discussion and the recommendations in these cases, Mr. Bailey 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:

**Redel Gabriel Badillo Avila and Victory Lane Motors and Shawn O'Dell**  
**\$17,591.42**

David Gripshover seconded. The motion carried unanimously.

### **OLD BUSINESS**

**Advertising:** Bruce addressed the typical procedures of issuing civil penalties. He indicated that if it's willful intent to deceive the consumer, the policy does require the 3 step process, which consists of an educational call, written warning, and then the assessment of a civil penalty. Mike Charapp indicated that his concern is assessing a civil penalty without first siting a warning. He indicated that dealers "depend" on the educational warning process. There was a suggestion to create a Task Force to discuss the policy of the 3 step process. One suggestion was, for example, on rebate pricing, issue one educational warning, then if that doesn't work, assess a civil penalty. It was suggested to try this way for about 2 months. After the 2 month trial, then discuss if a Task Force is needed to further discuss ideas to handle advertising issues regarding pricing on Craigs List and Internet advertising.

## **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

## **NEW BUSINESS**

- **Update: 2015 General Assembly.** Bruce Gould indicated that if the Board's legislation proposal passes, motor cycle, trailer and RV dealers will be handled at the Dealer Board. No other bills will impact the Board, except for some possible word changes under Code regarding the Transaction Recovery Fund. This issue will be updated at the March meeting.

## **NEW BUSINESS FROM THE FLOOR**

Bruce Gould took this opportunity to recognize Frank McCormick, who is retiring at the end of January. Frank has a total of 41 years of public service, including serving in the Army, law enforcement patrolman in Henrico County, Division of Consumer Protection and finally a field representative and supervisor with the Dealer Board. He also introduced Lisa Mack-Nelson as Frank's replacement. Lisa has been with the Dealer Board as a Field Representative since 1998.

The next meeting will be scheduled for March 9, 2015.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Ron Kody adjourned the meeting at 11:56 a.m.

Meeting Summary  
**Dealer Practices Committee**  
Monday, January 12, 2015

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 Roy Boswell, Gardner Britt, Steve Farmer, Chip Lindsay, Chris Maher, Matt McQueen, George Pelton and Joe Tate. (Absent: Clay Huber and Brian Hutchens). Other Board members present: Ted Bailey, David Duncan, Art Hudgins, David Gripshover, Jacques Moore. Executive Director Bruce Gould, Peggy Bailey, Ann Majors, Wanda Neely, Lisa Mack-Nelson and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 10, 2014 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:**

- **Kennon Auto Sales and Timothy W. Kennon.** On October 22, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1533 (Business hours); and 46.2-1575 (2) (Failure to comply with a written warning or willful failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,750 and revocation of all licenses and certificates.

Motion was made by George Pelton to accept the hearing officer's recommendation of assessing a civil penalty of \$2,750 and revocation of all licenses and certificates. Joe Tate seconded. The motion carried unanimously.

- **Priced Right Car Sales, Inc. and Claude E. Whited.** On November 5, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Dealer records), 46.2-1530 (Safety inspection required), 46.2-1532 (Odometer disclosure), 46.2-1575 (2) Failure to comply with a written warning or willful failure to comply), (6) (Having used deceptive acts and practices and (9) (Having been convicted of any criminal act). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,600 and revocation of all licenses and certificates.

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

Motion was made by Joe Tate to assess a civil penalty of \$2,000, to have a satisfactory inspection and to successfully complete the dealer-operator course. Steve Farmer seconded. All in favor: 8 (Kody, Boswell, Britt, Farmer, Lindsay, McQueen, Pelton, Tate). Opposed: 1 (Maher, he felt the civil penalty was too severe and indicated it should have been reduced to \$1,000). The motion carried.

- **Beach Auto Kings and David P. Maher.** On December 2, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1574 (Acts of officers, directors, partners and salespersons) and 46.2-1575 (4) (Defrauding any retail buyer), 1575 (6) (Deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,000 and revocation of all licenses and certificates. He also indicated that action should be taken through the Transaction Recovery Fund because that is beyond his scope of making a formal recommendation.

Motion was made by Steve Farmer to accept the hearing officer's recommendation to assess a civil penalty of \$3,000 and revocation of all licenses and certificates. Matt McQueen 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 9, 2015

The meeting adjourned at 9:36 a.m.

Meeting Summary  
**Dealer Licensing Committee**  
Monday, January 12, 2015

Chairman Joe Tate called the Dealer Licensing Committee meeting to order at 9:36 a.m. in Room 702 in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Ted Bailey, David Duncan, David Gripshover, Art Hudgins, Chip Lindsay, Jacques Moore and George Pelton. Other Board members present: Steve Farmer, Ron Kody, Roy Boswell, Gardner Britt, Matt McQueen and Chris Maher. Executive Director Bruce Gould, Frank McCormick, Peggy Bailey, Lisa Mack-Nelson, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 10, 2014 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**Tabled Issues from the November Meeting:**

- **Curtis M. Andrews (Salesperson applicant).** On July 22, 2014, an informal fact-finding conference was conducted to determine if Mr. Andrews' license application should be approved. It is alleged that Mr. Andrews was in violation of VA Code Sections 46.2-1575 (2) (Failure to comply with a written warning or willful failure to comply), (6) (Having used deceptive acts and practices and (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 a conditional approval of a salesperson license. Upon receipt of a letter of approval from the dealership acknowledging awareness of convictions and willingness to employee Mr. Andrews.

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

Motion was made by Art Hudgins to approve his license request on the condition that an Applicant/Employer Affidavit is completed. David Duncan seconded. The motion failed when the chair requested all those in favor say I and there was no response.

Motion was made by David Gripshover to approve his license and no affidavit requests. George Pelton seconded. All in favor: 5 (Tate, Duncan, Gripshover, Moore, Pelton). Opposed: 3 (Hudgins, Bailey, Lindsay). The motion carried.



- **Mark W. Flory and Mark's Cars, LLC.** On August 26, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section 46.2-1575 (13) (Having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended revocation of all licenses and certificates.

Motion was made by David Gripshover to accept the hearing officer's recommendation to revoke all licenses and certificates. Art Hudgins seconded. The motion carried unanimously.

**OLD BUSINESS FROM THE FLOOR:**

There was no old business from the floor.

**NEW BUSINESS**

There was no new business.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for March 9, 2015

The meeting adjourned at 10:08 a.m.

**Meeting Summary**  
**Advertising Committee**  
Monday, January 12, 2015

Chairman Chip Lindsay called the Advertising Committee meeting to order at 10:08 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Roy Boswell, David Duncan, Art Hudgins, Ron Kody and Matt McQueen. (Absent: Clayton Huber, Brian Hutchens). Other Board members present: Gardner Britt, Joe Tate, Ted Bailey, David Gripshover, Chris Maher. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Lisa Mack-Nelson, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 10, 2014 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:**

- **Frog and Towed Auto Sales, LLC and Susan R. Justice.** On October 21, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1535 (Failure to disclose name of dealership in advertising), 46.2-1575 (7) (Misleading advertising) and 46.2-1581(8) (Failure to disclose processing fee in the advertisement). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000.

Motion was made by Ron Kody to accept the hearing officer's recommendation and assess a civil penalty of \$1,000. David Duncan seconded. The motion carried unanimously.

- **A & R Automobile Sales, LLC and Nidal J. Ramadan.** On December 3, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1535 (Advertisements), 46.2-1574 (Acts of officers, directors, partners, and salespersons), 46.2-1575 (7) (Deceptive acts and practices specifically when seeking licenses or registrations and 46.2-1581 (8) (Regulated advertising practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000.

Motion was made by Ron Kody to accept the hearing officer's recommendation and assess a civil penalty of \$1,000. Art Hudgins seconded. The motion carried unanimously.

The next meeting was scheduled for March 9, 2015.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 10:13 a.m.

**Meeting Summary**  
**Transaction Recovery Fund Committee**  
**Monday, January 12, 2015**

Chairman Ted Bailey called the Transaction Recovery Fund Committee meeting to order at 10:13 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: David Gripshover, Steve Farmer, Art Hudgins, Ron Kody and Matt McQueen. (Absent: Brian Hutchens). Other Board members present: Chris Maher, Clay Huber, Joe Tate, Chip Lindsay, Boy Boswell, Gardner Britt and David Duncan. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Lisa Mack-Nelson, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 10, 2014 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:**

- **Redel Gabriel Badillo Avila and Victory Lane Motors and Shawn O'Dell.** On June 4, 2014 Mr. Avila purchased a 2008 Cadillac CTS from Victory Lane Motors, Inc. for a purchase price of \$25,000. Victory Lane issued Mr. Avila multiple sets of 5-day temporary transport tags. He had tried on numerous occasions to obtain the proper paperwork, in order to have the vehicle titled and registered in his name. He was later advised that he needed to return the vehicle to the previous owner (Mr. Dade) and that the dealership (Victory Lane Motors, Inc.) had closed and was being investigated by the Department of Motor Vehicles. Unfortunately, Mr. Avila is being held liable for the loan with Navy Federal Credit Union for a vehicle he no longer has possession of and that was never properly registered in his name. On September 9, 2014, the Norfolk General District Court awarded Mr. Avila judgment against Victory Lane Motors, Inc. for a total amount of \$29,448.00 [\$25,000.00 for actual damages; \$4,251.00 in attorney fees; and \$197.00 court costs]. Mr. Avila's counsel made a claim against the dealership's surety bonding company (Platte River). In October 2014 the surety bonding company paid \$7,983.58 on Mr. Avila's claim, which exhausted their liability. Counsel for Mr. Avila then filed a claim with the Dealer Board for consideration of payment from the Fund in the amount of \$21,464.42. **[This claim falls under the Va. Motor Vehicle Dealer Licensing Laws of July, 2012].**

Under Virginia Code §46.2-1527.2, which states in part, that person shall have a claim against the dealer and the dealer's bond and may recover such damages as may be awarded to such person by a final judgment. The dealer's surety bond shall be liable pursuant to this section; the surety shall be liable only for the first \$50,000 in claims against the dealer. Thereafter, the Fund shall be liable for the next \$50,000. The maximum claim of one judgment creditor against the Fund based on an unpaid final judgment arising out of any loss or damage by reason of a claim submitted under §46.2-1527.2 or §46.2-1527.3 involving a single transaction shall be limited to \$25,000, including any amount paid from the dealer's surety bond, regardless of the amount of the unpaid final judgment of one judgment creditor. Under Virginia Code §46.2-1527.5, excluded from the amount of any unpaid final judgment on which a claim against the Fund is based shall be any sums representing (i) interest, (ii) punitive damages, and (iii) exemplary damages. Further, under Virginia Code §46.2-1527.5 the maximum claim of one judgment debtor against the Fund involving a single transaction shall be limited to \$25,000.00, regardless of the amount of the unpaid judgment. In addition, under Va. Code §46.2-1527.5, the Fund is liable "only after the dealer's bond has been exhausted".

**Notification of claims paid by the dealer's surety bonding company (Platte River)**

- (1) Maria Flores - surety paid \$12,295.91 on 6/29/14
- (2) Daniel Griffin - surety paid \$5,245.35 on 7/2/14
- (3) Nextgear - surety paid \$24,475.16 on 9/22/14 [**Note: Nextgear is a floor planner with a Judgment Order from the state of Indiana**]
- (4) Redel Gabriel Avila - surety paid \$7,983.58 on 10/8/14

On December 14, 2014, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended a payment of \$17,591.42 should be considered, which is based on the maximum \$25,000.00 times (2.3% Consumer Price Index) equals \$25,575.00 minus \$7,983.58 paid from Surety Company.

John Gayle, attorney for Mr. Avila, spoke on behalf of his client.

Motion was made by David Gripshover to accept the hearing officer's recommendation of a payment of \$17,591.42 to Mr. Avila. Art Hudgins seconded. The motion carried unanimously.

**NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for March 9, 2015

The meeting adjourned at 10:42 a.m.