

Meeting Summary
Motor Vehicle Dealer Board
Monday, January 11, 2016

Chairman Rick Holcomb called the Dealer Board meeting to order at 12:01 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 12 Board members present. Present were members Ted Bailey, Liza Borches, Gardner Britt, David Duncan, Steve Farmer, David Gripshover, Ron Kody, Chris Maher, Geoff Malloy, Jacques Moore and Joe Tate. (Absent: Boy Boswell, Clay Huber, Art Hudgins, Matt McQueen, George Pelton and Maurice Slaughter). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Lisa Mack-Nelson, Wanda Neely and Ann Majors 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 9, 2015 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.

- **Auto Land Sales, LLC and Ali Bayat.** 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 Auto Land Sales, LLC and Ali Bayat for alleged violations of Va. Code Sections 46.2-1529, 46.2-1530, 46.2-1539, 46.2-1542, and 46.2-1575 (2), (4) and (6). Based on due consideration, the Board believes a civil penalty should be assessed against Auto Land Sales, LLC and Ali Bayat. The Board hereby assesses a \$10,000 civil penalty against Auto Land Sales, LLC and Ali Bayat; and based on due consideration, the Board believes that Mr. Bayat's dealership should be re-inspected and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Bayat's dealership and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Bayat until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative.

David Gripshover seconded. Rick Holcomb abstained. All in favor: 11 (Kody, Bailey, Borches, Britt, Duncan, Farmer, Gripshover, Maher, Malloy, and Moore). Opposed: 1 (Tate). The motion carried.

- **Gary Higgenbotham Auto Sales, LLC and Jeanne Higgenbotham.** Chairman Kody made the motion to table this issue to the March Meeting.

Joe Tate seconded. The motion carried unanimously.

- **Credit Kings Automotive, LLC and Yaseen Syed.** 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 Credit Kings, LLC and Yaseen Syed for alleged violations of Va. Code Sections 46.2-1575 (1) and (6). Based on due consideration, the Board believes a civil penalty should be assessed against Credit Kings, LLC and Yaseen Syed. The Board hereby assesses a \$1,000 civil penalty against Credit Kings, LLC and Yaseen Syed.

Joe Tate seconded. The motion carried unanimously.

- **Tri City Auto Sales and Mohammad S. Mohammad.** Chris Maher made the following substitute 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 Tri City Auto Sales and Mohammad S. Mohammad for alleged violations of Va. Code Sections 46.2-1529, 46.2-1537, 46.2-1547, 46.2-1548, and 46.2-1575 (1) and (2). Based on due consideration, the Board believes a civil penalty should be assessed against Tri City Auto Sales and Mohammad S. Mohammad. The Board hereby assesses a \$4,000 civil penalty against Tri City Auto Sales and Mohammad S. Mohammad; and based on due consideration, the Board believes that Mr. Mohammad's dealership should be re-inspected by April 11, 2016 and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Mohammad's dealership by April 11, 2016 and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Mohammad 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. Mohammad in running his dealership. The Board mandates that Mr. Mohammad successfully complete the dealer-operator course by July 11, 2016. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Mohammad by the Board until such time Mr. Mohammad has successfully completed the course.

Ron Kody seconded. The motion carried unanimously.

- **K's Auto Center and Howard C. Kershaw.** 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 K's Auto Center and Howard C. Kershaw for alleged violations of Va. Code Sections 46.2-1529, 46.2-1550, 46.2-1558, and 46.2-1575 (2). Based on due consideration, the Board believes a civil penalty should be assessed against K's Auto Center and Howard C. Kershaw. The Board hereby assesses a \$250 civil penalty against K's Auto Center and Howard C. Kershaw; and based on due consideration, the Board believes Mr. Kershaw should receive a warning for violations of 46.2-1529 and 46.2-1550. The Board hereby warns Mr. Kershaw that any further violations of 46.2-1529 (Failure to maintain records) and/or 46.2-1550 (Failure to maintain dealer license plate records) could result in the assessment of civil penalties and/or suspension or revocation of all licenses and certificates issued by the Board to Mr. Kershaw; and based on due consideration, the Board believes that Mr. Kershaw's dealership should be re-inspected and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Kershaw's dealership and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Kershaw until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative.

Joe Tate seconded. All in favor: 12 (Holcomb, Kody, Tate, Bailey, Borches, Britt, Duncan, Farmer, Gripshover, Malloy and Moore). Opposed: 1 (Maher). The motion carried.

- **Hutchison Motor Company and Dennis R. Hutchison.** Chairman 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 \$5,675 civil penalty against Hutchison Motor Car Co. and Dennis R. Hutchison and require that the Board re-inspect the dealership and that Mr. Hutchison successfully complete the 2-day Dealer Operator course. Mr. Hutchison appealed the Board's decision and requested a formal hearing that was conducted on September 29, 2015. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Hutchison Motor Car Co. and Dennis R. Hutchison for alleged violations of Va. Code Sections 46.2-1510, 46.2-1529, 46.2-1537, and 46.2-1575 (7). Based on due consideration, the Board believes a civil penalty should be assessed against Hutchison Motor Car Co. and Dennis R. Hutchison. The Board hereby assesses an \$8,000 civil penalty against Hutchison Motor Car Co. and Dennis R. Hutchison; and based on due consideration, the Board believes that Mr. Hutchison's dealership should be re-inspected. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Hutchison's dealership and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Hutchison 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. Hutchison in running his dealership. The Board mandates that Mr. Hutchison successfully complete the dealer-operator course by July 11, 2016. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Hutchison by the Board until such time Mr. Hutchison has successfully completed the course.

Steve Farmer seconded. The motion carried unanimously.

- **Falls Church Autos, LLC and Mohri Khanzada.** Chairman 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 \$16,500 civil penalty against Falls Church Autos, LLC and Mohri Khanzada and revoked all licenses and certificates issued by the Board to Mohri Khanzada. Ms. Khanzada appealed the Board's decision and requested a formal hearing that was conducted on November 23, 2015. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Falls Church Autos, LLC and Mohri Khanzada for alleged violations of Va. Code Sections 46.2-1508, 46.2-1518, 46.2-1529, 46.2-1534, 46.2-1539, 46.2-1542, 46.2-1559, 46.2-1574, and 46.2-1575 (1) and (6). Based on due consideration, the Board believes a civil penalty should be assessed against Falls Church Autos, LLC and Mohri Khanzada. The Board assesses an \$11,000 civil penalty against Falls Church Autos, LLC and Mohri Khanzada.

Chris Maher seconded. The motion carried unanimously.

Licensing Committee

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

Advertising Committee

Full Board Vice-Chairman Joe Tate summarized discussions that were held during the Committee Meeting.

Mr. Butler spoke again, on his own behalf.

- **Butler Automotive Sales and Ricky Butler.** Liza Borches 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 Butler Automotive Sales and Ricky Butler for alleged violations of Va. Code Section 46.2-1575 (7). Based on due consideration, the Board believes a civil penalty should be assessed against Butler Automotive Sales and Ricky Butler. The Board hereby assesses an \$800 civil penalty against Butler Automotive Sales and Ricky Butler.

David Gripshover seconded. All in favor: 12 (Holcomb, Kody, Tate, Bailey, Borches, Britt, Duncan, Farmer, Gripshover, Malloy, Moore). Opposed: 1 (Maher). The motion carried.

Transaction Recovery Fund Committee:

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

- **Thomas W. Rathjen vs. Auto Madi & Mohammad Y. Ghatri.** Chairman Bailey made the following motion. Chairman Ted Bailey summarized for the Board the discussion held in the committee meeting regarding Thomas W. Rathjen vs. Auto Madi & Mohammad Y. Ghatri. 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:

Thomas W. Rathjen vs. Auto Madi & Mohammad Y. Ghatri	\$21,966.00
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Jacques Moore seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

At this time, Rick Holcomb requested that William Childress work with Bruce Gould on speaking with the vendors of the On-Demand program and to report back at the next meeting.

General Assembly. Bruce Gould indicated that the only bill going before the General Assembly is a Relief Bill being represented by Delegate McQuinn, relating to the denied Transaction Recovery claim by Robert Scott. Mr. Scott's claim was presented at the May 11, 2015 Full Board Meeting. The amount that is being requested is \$23,000. VADA indicated that their legislation consists of Franchise matters (no impact on the Board) and recalls. VIADA indicated that their legislation is relating to recalls as well and a small bill relating to state inspections.

At this time, Pete Iaracci of VIADA indicated that the requirement of salespersons be issued a W-2 needs written policy and that selling on-line needs some sort of written procedures. Mr. Gould indicated that salespersons must be employees and that being issued a W-2 shows that a salesperson is an employee. No further discuss or suggestions at this time.

The next meeting will be scheduled for March 14, 2016.

Motion was made by Ron Kody to go into Executive Session to discuss the Executive Director's position. Jacques Moore seconded. The motion carried unanimously.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Rick Holcomb adjourned the meeting at 1:00 p.m.

Meeting Summary
Dealer Practices Committee
Monday, January 11, 2016

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, Liza Borches, Chris Maher, Geoff Malloy and Joe Tate. (Absent: Roy Boswell, Clay Huber, Matt McQueen and George Pelton). Other Board members present: Ted Bailey, David Duncan Rick Holcomb, David Gripshover, Jacques Moore and Maurice Slaughter. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors and Lisa Mack-Nelson represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 9, 2015 meeting summaries were approved.

PUBLIC COMMENT

There was no public comment.

During the Dealer Practices meeting, The Honorable Aubrey Layne, Secretary of Transportation, discussed Bruce Gould's position and the search to find a successor. He praised Bruce on his integrity, his job well done and he wished Bruce all the best in his retirement. He indicated that this Board will be the ones who will select his successor and also the Secretary's office is open in the search to find a successor. He also indicated that the key is getting the right person in making the Board a continued success. He thanked Bruce for leaving the Board in a very good place. He further discussed upcoming legislation and around 3,500 bills will be introduced. His parting words to the members were "Be honest and trust the system".

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Auto Land Sales, LLC and Ali Bayat.** On October 21, 2015, an informal fact-finding conference was conducted to address the alleged violation of VA Code Section 46.2-1529 (Failure to maintain dealer records on site for inspection), 46.2-1530 (Failure to maintain completed buyers records), 46.2-1539 (Safety inspections of vehicle required), 46.2-1542 (Failure to provide titles within 30 days) and 46.2-1572 (2) (Failure to comply with previous warnings), (4) (Defrauding any retail buyer) and (6) (Deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$10,000 and a satisfactory inspection.

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

Motion was made by Chris Maher to accept the hearing office's recommendation of assessing a \$10,000 civil penalty and a satisfactory inspection. Steve Farmer seconded. All in favor: 6 (Kody, Borches, Britt, Farmer, Maher, Malloy). Opposed: 1 (Tate). The motion carried.

- **Gary Higgenbotham Auto Sales, LLC and Jeanne Higgenbotham.** On October 22, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Dealer records), 46.2-1532 (Open titles), 46.2-1537 (Prohibited solicitation and compensation), 46.2-1547 (Failure to maintain insurance on D-tags) and 46.2-1575 (1) (Material misstatement). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,500, satisfactory inspection and to successfully complete the Dealer-Operator course.

Motion was made by Joe Tate to table this issue to the March meeting, due to family health issues of the dealer, which prevented her from attending meeting. Chris Maher seconded. The motion carried unanimously.

It was at this point where Board Member Maurice Slaughter left due to illness.

- **Credit Kings Automotive, LLC and Yaseen Syed.** On October 26, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (1) (Material misstatement) 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 \$1,000.

Wayne Travell, Esquire and Mr. Syed were present and Mr. Travell spoke on behalf of Mr. Syed.

Motion was made by Chris Maher to accept the hearing officer's recommendation of assessing a civil penalty of \$1,000. Joe Tate seconded. The motion carried unanimously.

- **Tri-City Auto Sales and Mohammad S. Mohammad.** On November 19, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Failing to maintain records), 46.2-1537 (Salesperson to be employed, W-2 required), 46.2-1547 (Failure to maintain insurance on D-tags), 46.2-1548 (Failure to maintain D-tag records) and 46.2-1575 (1) (Material misstatement) and (2) (Failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$6,250, suspension, a satisfactory inspection, and to successfully complete the Dealer-Operator course.

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

Motion was made by Joe Tate to accept the hearing officer's recommendation with the modification of not suspending the dealer's license, but still assess a civil penalty of \$6,250, satisfactory inspection in 90 days and to successfully complete the Dealer-Operator course. Steve Farmer seconded. All in favor: 5 (Borches, Britt, Farmer, Malloy, Tate). All Opposed: 2 (Kody and Maher). The motion carried.

- **K's Auto Center and Howard C. Kershaw.** On November 10, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Failure to maintain records), 46.2-1550 (Failure to maintain D tags), 46.2-1558 (Failure to comply with PoD requirements) and 46.2-1575 (2) (Failure to comply with previous warnings). Based on the information provided at the conference, the hearing officer recommended warnings for violations of 46.2-1529 and 1550, assessing a civil penalty of \$1,000 and a satisfactory inspection.

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

Motion was made by Steve Farmer to assess a civil penalty of \$500, satisfactory inspection, administrative warning. Motion died to lack of a second.

Motion was made by Chris Maher to issue an administrative warning for the violations. Motion died to lack of a second.

Motion was made by Joe Tate to assess a civil penalty of \$250, satisfactory inspection. Gardner Britt seconded. All in favor: 6 (Kody, Borches, Britt, Farmer, Malloy, Tate). Opposed: 1 (Maher). The motion carried.

Review and Action: Formal Hearing:

- **Hutchison Motor Company and Dennis R. Hutchison.** Historical overview leading up to the formal hearing: On May 13, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1510 (Selling vehicles from an unlicensed location), 46.2-1529 (Failure to properly maintain dealer records), 46.2-1537 (Failure to provide proof of W-2) and 46.2-1575 (7) (Deceptive acts and practices in advertising). At the July 13, 2015 Board meeting, the Board assessed a \$5,675 civil penalty, re-inspection by August 16, 2015 and successfully complete the dealer-operator course by January 13, 2016. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Hutchinson by the Board until such time Mr. Hutchinson has successfully completed the course and the assessment of an additional civil penalty of \$325. On August 18, 2015, the Board received Mr. Hutchison's appeal for a formal hearing. On September 29, 2015, a formal hearing was conducted to address the above violations. Based on the information provided at the formal hearing, the hearing officer recommended assessing a civil penalty of \$8,000, suspension, satisfactory inspection and completion of the Dealer-Operator course.

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

Motion was made by Joe Tate to accept the hearing officer's recommendation of assessing a civil penalty of \$8,000, satisfactory inspection and completion of the Dealer-Operator course, modifying the recommendation by removing the suspension. Chris Maher seconded. The motion carried unanimously.

- **Falls Church Autos, LLC and Mohri Khanzada.** Historical overview leading up to the formal hearing: On July 14, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1508 (License required), 46.2-1518 (Display of license), 46.2-1529 (Dealer records), 46.2-1534 (Signs), 46.2-1539 (Inspection, penalty), 46.2-1542 (Temporary registration), 46.2-1559 (Records kept by dealer), 46.2-1574 (Acts of offices and salespersons) and 46.2-1575 (1) (Material misstatement) and (6) (Deceptive acts or practices). At the September 21, 2015 Board meeting, the Board assessed a \$16,500 civil penalty against Falls Church Autos, LLC and Mohri Khanzada and revoked all licenses and certificates issued to Falls Church Autos, LLC and Mohri Khanzada. On October 20, 2015, the Board received Ms. Khanzada's appeal for a formal hearing. On November 23, 2015, a formal hearing was conducted to address the above violations. Based on the information provided at the formal hearing, the hearing officer recommended assessing a civil penalty of \$11,000 and revocation of all licenses and certificates issued to Falls Church Autos, LLC.

Mr. and Mrs. Khanzada were present and Mrs. Khanzada spoke on her own behalf.

Motion was made by Gardner Britt to accept the hearing officer's recommendation of assessing a civil penalty of \$11,000 and revocation of all licenses and certificates. Chris Maher 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 14, 2016

The meeting adjourned at 11:24 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, January 11, 2016

Chairman Joe Tate called the Dealer Licensing Committee meeting to order at 11:24 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Ted Bailey, Liza Borches, David Duncan, David Gripshover, Jacques Moore. (Absent: Art Hudgins, George Pelton and Maurice Slaughter). Other Board members present: Rick Holcomb, Gardner Britt, Steve Farmer, Ron Kody, Chris Maher and Geoff Malloy. Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 9, 2015 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for March 14, 2016

The meeting adjourned at 11:25 a.m.

Meeting Summary
Advertising Committee
Monday, January 11, 2016

Full Board Vice-Chairman Joe Tate called the Advertising Committee meeting to order at 11:26 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Liza Borches, David Duncan, Ron Kody and Geoff Malloy. (Absent: Roy Boswell, Clay Huber, Art Hudgins, Matt McQueen and Maurice Slaughter). Other Board members present: Gardner Britt, Jacques Moore, Steve Farmer, Rick Holcomb, David Gripshover, Chris Maher, Ted Bailey. Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 9, 2015 meeting summary was not approved. A quorum was not present.

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:

- **Butler Automotive Sales and Ricky Butler.** On October 30, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section 46.2-1575 (7) (Knowingly advertising in a misleading or deceptive manner). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,250.

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

Consensus of the Committee was to accept the hearing officer's recommendation of assessing a civil penalty of \$1,250. The recommendation will be voted on during Full Board.

The next meeting was scheduled for March 14, 2016.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 11:48 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, January 11, 2016

Chairman Ted Bailey called the Transaction Recovery Fund Committee meeting to order at 11:48 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Steve Farmer, David Gripshover, Rod Kody and Geoff Malloy. (Absent: Art Hudgins, Matt McQueen and Maurice Slaughter). Other Board members present: Rick Holcomb, Liza Borches, David Duncan, Gardner Britt, Chris Maher, Jacques Moore and Joe Tate. Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The November 9, 2015 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

- **Thomas W. Rathjen vs. Auto Madi and Mohammad Y. Ghatri.** In September 2014, Mr. Rathjen contacted Auto Madi, LLC to inquire about an advertisement they had for a 2001 Porsche 911 with a sale price of \$18,799 online at the website www.cars.com. On September 27, 2014, Mr. Rathjen went to Auto Madi's place of business to discuss the possibility of purchasing the 2001 Porsche 911. Based on Auto Madi's representations, Mr. Rathjen decided to purchase the vehicle for \$18,798. [Buyer's Order reflects the base price \$18,500 + processing fee of \$298, making the total purchase price of \$18,798]. Auto Madi indicated to Mr. Rathjen that the vehicle had a clear title which would be forwarded to him. However, over several weeks, Mr. Rathjen experienced significant difficulty in obtaining title and registration for the 2001 Porsche. Auto Madi repeatedly advised Mr. Rathjen that there were no legal problems with the title, but simply needed more time. Mr. Rathjen later learned that the vehicle did not have a clear title. In fact, the title was encumbered by a car title loan from Fast Auto Loans prior to Mr. Rathjen purchasing the vehicle. The lien on the title to the vehicle was fraudulently removed by the prior owner, Charles Wigington, which Auto Madi knew about and intentionally concealed from Mr. Rathjen. Due to the encumbrance of the car title loan and the fraudulent title given by Auto Madi, Mr. Rathjen has not been able to register or title the vehicle in his name.

Mr. Rathjen sought legal counsel, Erin Witte, Esquire, in order to pursue the dealer civilly in court for his monetary loss or obtain a valid title to the vehicle he purchased. On December 12, 2014, Ms. Witte, on behalf of her client, pursuant to Virginia Code §46.2-1527.4 submitted to the Dealer Board a stamped copy of a Warrant in Debt that was filed against Auto Madi, LLC in the Fauquier General District Court and a demand letter outlining the facts. On May 8, 2015, the Fauquier General District Court awarded Mr. Rathjen a default judgment against Auto Madi, LLC and Mohammed Ghatri in the amount of \$25,000, plus attorney fees of \$6,250.00 and costs of \$56.00. On October 1, 2015, Ms. Witte, on behalf of her client, submitted to the Dealer Board the documentation for consideration of relief through the Fund.

In December, 2013 Diane Sossaman with Fast Auto Loans filed a fraud report with DMV, indicating that they held a valid lien against the vehicle in the prior owners name, Charles Wigington and have in their possession the original Va. title that was issued in July, 2012. Ms. Sossaman indicated they had received information that their lien had been fraudulently released and that they have been unsuccessful in repossessing the vehicle due to a clear Va. title being issued in January, 2013. On November 12, 2015, the Dealer Board staff contacted DMV Agent Ohrnberger regarding the stop (for fraud) that had been placed against the prior owner of the vehicle record. DMV is unable to issue another title to Mr. Rathjen due to the stop, unless Fast Auto Loans releases their lien. On November 17, 2015, the Dealer Board staff spoke with Ms. Witte regarding the location of the vehicle, and the actual damages of her client's claim. She indicated that the vehicle was still parked in his garage, because he has been unable to title/register the vehicle in his name. Ms. Witte indicated that her client would prefer to keep the vehicle verses the vehicle being repossessed by the prior lien holder. The Dealer Board staff discussed alternative ways in which to make Mr. Rathjen whole. Staff provided counsel with the telephone number of Diane Sossaman with Fast Auto Loans. On November 19, 2015, Ms. Witte contacted the Dealer Board staff and indicated that she and her client had reached a settlement with Fast Auto Loans in the amount of \$11,000 in order to have title released to Thomas Rathjen.

After a careful review, Thomas Rathjen's claim meets the requirement of Virginia Code §46.2-1527.3. Therefore, due to the statues governing the Fund the Dealer Board staff is recommending that the Recovery Fund Committee and Full Board approve Mr. Rathjen's claim in the amount of \$21,466, which is based on the \$11,000 settlement agreement with Fast Auto Loans for title, \$6,250 in attorney fees, \$56.00 in court costs, \$3,650 for loss of use and \$510 for insurance.

On December 17, 2105, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended a payment of \$21,466 should be considered for Thomas Rathjen from the MVTRF.

Ms. Erin Witte, attorney for Mr. Rathjen, spoke on behalf of her client. She brought to light that the actual damages are \$21,966.00, not \$21,466.00 as presented.

Motion was by Steve Farmer to approve the claim and pay the \$21,966.00 to Mr. Rathjen. Ron Kody seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for March 14, 2016

The meeting adjourned at 12:00 p.m.