

**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, March 14, 2005

Chairman D.B. Smit called the Dealer Board meeting to order at 10:36 a.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 Carlton Courter, Bobby Joe Dotson, Steve Farmer, Lynn Hooper, Todd Hyman, Clyde King, David Lacy, Pat Patrick, Frank Pohanka, Chris Schroeder and Larry Shelor. (Absent: Rick Hunt, Hugh McCreight, James Mitchell, Max Pearson, Ted Robertson, Vince Sheehy and Robert Woodall). Bruce Gould, Katherine Idrissi and Debbie Allison represented the Dealer Board. Karen Chappell and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The January 10, 2005 meeting summary was approved.

### **PUBLIC COMMENT**

There was no public comment.

### **STATUTORY COMMITTEE REPORTS**

#### **Dealer Practices Committee**

- **Lewis G. Bagwell, Jr.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Lewis G. Bagwell, Jr. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Lewis Bagwell for alleged violation of Va. Code §46.2-1575(9), having been convicted of any criminal act involving the business of selling vehicles. Based on due consideration, and the recommendation of the hearing officer, the Board believes that a civil penalty should be levied against Mr. Bagwell. The Board hereby assesses a civil penalty in the amount of \$300 on Mr. Lewis Bagwell for violations of Va. Code §46.2-1575(9) and that the twenty-five day suspension contemplated by the Board's January 2003 Resolution concerning Mr. Bagwell, not be imposed at this time. However, any future violation of the Dealer Laws by Mr. Bagwell would invoke a twenty-five day suspension of all Board issued licenses.

Frank Pohanka seconded. The motion carried unanimously.

#### **Licensing Committee**

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

- **Sherwood F. Hawks.** Chairman Bobby Joe Dotson summarized for the Board the discussion held in the Committee meeting regarding Sherwood F. Hawks. Based on that discussion and the recommendation in the case, Mr. Dotson made the following motion: The executive director, under the authority granted by the Motor Vehicle Dealer Board, denied the original salesperson license application submitted by Mr. Hawks for alleged violations of Va. Code §46.2-1575 (13) having been convicted of a felony and Mr. Hawks appealed that decision and an informal fact-finding conference was convened. Based on due consideration, and the report of an informal fact-finding conference submitted by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied the salesperson's license application submitted by Mr. Hawks and Mr. Hawks appealed that decision 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 Mr. Sherwood F. Hawks and based on due consideration, the Board believes that Mr. Hawk's application for a motor vehicle salesperson's license should be denied. The Board hereby denies Mr. Hawk's application for a salesperson's license.

Larry Shelor seconded. The motion carried unanimously.

**Advertising Committee**

Committee Member Pat Patrick summarized discussions that were held during the Committee Meeting. There was no quorum; however, there were no issues that required motions.

**Transaction Recovery Fund Committee**

Chairman Steve Farmer summarized discussions held and actions that were taken during the Committee Meeting.

- **Stephanie Cruz, Serena Laury and Charlie Falk.** Chairman Steve Farmer summarized for the Board the discussion held in the Committee meeting regarding Stephanie Cruz, Serena Laury and Charlie Falk. Based on that discussion and the recommendation in the case, Mr. Farmer made the following motions: Pursuant to §46.2-1527.1 et seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund on the claims and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

<b>Stephanie Cruz and Charlie Falk</b>	<b>\$20,000.00</b>
<b>Serena Laury and Charlie Falk</b>	<b>\$20,000.00</b>

Seconded by Lynn Hooper. General discussion followed. It was noted that prior to the Board meeting, staff was notified that the parties had reached a settlement agreement. However, the agreement had not yet been finalized/signed.

Substitute motion was made by Lynn Hooper to table both issues until the May meeting to ensure that Mr. Falk settles the claims for Stephanie Cruz and Serena Laury. Larry Shelor seconded. The motion carried unanimously.

- **Dealer Bond Issue** Motion was made by Steve Farmer for the Board to seek amending VA Code §46.2-1527.2 and §46.2-1527.5 to increase the current \$25,000.00 Dealer Bond requirement for original dealer license to \$50,000.00, effect July 1, 2006. Larry Shelor seconded. The motion carried unanimously.

**Attorney Fees Issue Involving the Transaction Recovery Fund** Motion was made by Steve Farmer that the chairman of the Transaction Recovery Fund will convene a special Transaction Recovery Fund Meeting prior to the May meeting for the purpose of forming recommendations for legislation as to the question of paying attorney fees out of the Recovery Fund. Clyde King seconded. The motion carried unanimously.

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

- **Curbstoning Report.** Don Boswell, Chief of Investigations for DMV, gave a brief update on ISO investigations relating to curbstoning since the January Board meeting.
- **New Temporary Tag Procedures.** Karen Chappell of DMV gave an overview of changes that have taken affect. New temporary tag procedures went into effect in mid-December including a limit on the number of temporary tags a dealer can purchase in a 12 month period. Also, if a dealer needed more that the allowed limit, a procedure is in place to request an exception to the limit. Beginning March 30<sup>th</sup>, a new procedure is going into place where the CSC clerks will only sell temporary tags to people that the dealerships has authorized as purchasers on behalf of the dealership. Owners and Owner Operators are automatically authorized. Another change that was made in December was looking at the dealers who are not submitting the title and paperwork within the first 30 days and a report was created to that affect. DMV and the Dealer Board receive this report on a monthly basis. Copies are also going to VADA and VIADA in order to help DMV work with the dealers who are having some difficulties getting the work submitted to DMV within the 30 days. Example of the percentages is: For the month of January, 17% of all titling transactions were over 30 days and 4% were over 60 days. DMV's objective is to improve these percentages on the report. General discussion followed.
- **2005 General Assembly.** Bruce Gould updated the Members on those bills that had a direct and indirect impact on the Dealer Board. He indicated that if they would like a copy of all the bills he would get with them after the meeting.

There was no other old business from the floor.

### **NEW BUSINESS**

The next meeting will be scheduled for May 9, 2005

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

There was no new business from the floor.

- **Executive Director's Report.** Bruce Gould indicated that if any dealer, who sell Honda Accord Hybrids, to please be careful because they are not compliant with the regulations that allow clean fueled drive on HOV lanes in Northern Virginia without having their required number of people in the vehicle.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 11:24 a.m.

**Meeting Summary**  
**Dealer Practices Committee**  
Monday, March 14, 2005

Chairman Todd Hyman called the Dealer Practices Committee meeting to order at 8:39 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Bobby Joe Dotson, Clyde King, Pat Patrick, Frank Pohanka and Chris Schroeder. (Absent: Hugh McCreight, James Mitchell, Vince Sheehy, Ted Robertson and Robert Woodall) Other Board members present: D.B. Smit, Lynn Hooper, David Lacy, Steve Farmer and Larry Shelor. Executive Director Bruce Gould, Katherine Idrissi and Debbie Allison represented the Dealer Board. Eric Fiske was present from the Attorney General's Office.

The January 10, 2005 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Update: January Actions.** Bruce Gould reported on the actions taken at the Dealer Practices Committee meeting on January 10, 2005.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

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

- **Lewis J. Bagwell, Jr.** On September 24, 2004, an informal fact-finding conference was conducted to address the alleged violations of §46.2-1529 (failure to maintain records) against Lewis J. Bagwell, Jr. Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$300.00 be imposed against Mr. Bagwell. Bruce Gould indicated that a resolution was passed on January 13, 2003, regarding Mr. Bagwell for violations §46.2-1575(1) (having made a material statement of an application) and 46.2-1575(9) (having been convicted of any crime involving the business of selling motor vehicles) and recommendation was to assess a civil penalty and to suspend all licenses for 25 days. However, his license was not suspended with the stipulation that he pay all his fines and the 25 days suspension shall be imposed should Mr. Bagwell be found in violation of any of the provisions of the dealer laws in the future. There was no time constraint for this resolution.

Motion was made by Bobby Joe Dotson to accept the hearing officer's recommendation. Clyde King seconded. General discussion followed.

Mr. Bagwell spoke on his own behalf.

Amended motion was made by Pat Patrick to assess the \$300.00 civil penalty and not enforce the 2003 resolution to suspend the licenses for 25 days; however, should Mr. Bagwell violate the dealer laws one more time, the 25 day suspension shall be imposed. Clyde King seconded. The motion carried unanimously.

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould indicated that there were five requests to store records at an off sight centralized location and that there were four requests for on-line dealer variances to keep metal tags at one location for various locations. All requests were granted.

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

The next meeting was scheduled for May 9, 2005.

The meeting adjourned at 9:11 a.m.

Meeting Summary  
**Dealer Licensing Committee**  
Monday, March 14, 2005

Chairman Bobby Joe Dotson called the Dealer Licensing Committee meeting to order at 9:12 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Frank Pohanka, Steve Farmer, Todd Hyman, David Lacy and Larry Shelor. (Absent: Rick Hunt, James Mitchell and Robert Woodall) Other Board members present: D.B. Smit, Ted Robertson, Vince Sheehy, Pat Patrick, Clyde King, Chris Schroeder, Max Pearson, Hugh McCreight. Executive Director Bruce Gould, Katherine Idrissi and Debbie Allison represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The January 10, 2005 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**Update: January Actions.** Bruce Gould reported on the actions taken at the Licensing Committee meeting on January 10, 2005.

**OLD BUSINESS**

- **Update: Dealer-Operator Test Task Force Committee Meeting.** Bruce Gould indicated that the consensus of the task force is to increase the number of questions asked during the Dealer-Operator portion of the test. At the May Board meeting, a draft of the test should be ready and consensus from this committee will be sought to increase the number of questions asked on the test. Two more issues were brought up relating to the Dealer-Operator testing: A bill passed by the General Assembly will require, by January 2006, those who want to be Dealer-Operators at an Independent dealership, to complete a course of study, this committee must decide if this Task Force would be the group to guide implementation. The second question that was brought up, previously: The Board had stated that when the new test came up, which should be in July of 2005, to discontinue the Dealer-Operator portion of the study guide test. This issue should be addressed rather quickly.

Motion was made by Todd Hyman to direct staff to implement the new test and study guide as of January 2006. Frank Pohanka seconded. The motion carried unanimously.

The Committee also discussed the merits of requiring F&I employees to obtain a license from the Board. A motion was made by Steve Farmer that would require F&I employees to be licensed as a salesperson. Frank Pohanka seconded. General discussion followed. It was concluded that legislation would be required in order to require that F&I employees be licensed. Further, it was the consensus of the Committee that the best way to approach this requirement would be to change the definition of a salesperson to include the functions performed by F&I employees.

Based on the discussion, an amended motion was made by Steve Farmer to prepare a legislative proposal to rewrite the definition of a salesperson to capture those tasks done by a salespersons, F&I employees and sales managers. Larry Shelor seconded. The motion carried unanimously.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

## **NEW BUSINESS**

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

- **Sherwood F. Hawks.** On June 10, 2004, an informal fact-finding conference was convened to address the alleged violations of §46.2-1575(13) (Having been convicted of a felony) against Sherwood F. Hawks. Recommendation by the hearing officer was to defer until the November Board meeting to give Mr. Hawks the opportunity to gather and bring forward all of the additional information that the hearing officer had requested. The Executive Director disagreed with this decision and his decision was to deny Mr. Hawks application for a salesperson's license. Mr. Hawks appealed this decision in September of 2004 and requested a formal hearing. A formal hearing was conducted on October 14, 2004. Based on information provided at the hearing, the hearing officer recommended that the Board deny Mr. Hawk's application for a salesperson's license.

Motion was made by Steve Farmer to accept the hearing officer's recommendation. David Lacy seconded. The motion carried unanimously.

The next meeting was scheduled for May 9, 2005.

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

There was no new business from the floor.

The meeting adjourned at 9:35 a.m.

Meeting Summary  
**Advertising Committee**  
Monday, March 14, 2005

Pat Patrick called the Advertising Committee meeting to order at 9:46 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Steve Farmer, Chris Schroeder and Larry Shelor. (Absent: Vince Sheehy, Ted Robertson, Max Pearson, Hugh McCreight and Rick Hunt). A quorum was not present. Other Board members present: D.B. Smit, Bobby Joe Dotson, Lynn Hooper, Todd Hyman, Frank Pohanka, Clyde King and David Lacy. Executive Director Bruce Gould, Katherine Idrissi, and Debbie Allison represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The January 10, 2005 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

The next meeting will be May 9, 2005.

**NEW BUSINESS FROM THE FLOOR**

- **Hyundai Advertisement.** An advertisement was handed out to the Committee for review. Staff is questioning whether or not the term "Free" used in this ad is in violation of the Advertising Laws and Rules and Regulations. The question is, is a purchase required to obtain the "Free" services advertised? The advertisement is directed to "all" Hyundai owners, not necessarily the owners who purchased from this particular dealership. General consensus was that the advertisement was not in violation.

The meeting adjourned at 9:53 a.m.

**Meeting Summary**  
**Transaction Recovery Fund Committee**  
Monday, March 14, 2005

Chairman Steve Farmer called the Transaction Recovery Fund Committee meeting to order at 9:54 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Bobby Joe Dotson, Clyde King, David Lacy, Chris Schroeder and Larry Shelor. Other Board members present: D.B. Smit, Lynn Hooper, Todd Hyman, Frank Pohanka and Pat Patrick. Executive Director Bruce Gould, Katherine Idrissi and Debbie Allison represented the Dealer Board. Karen Chappell and Don Boswell were present from DMV. Eric Fiske represented the Attorney General's Office.

The January 10, 2005 summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

There was no old business.

Steve Farmer referred to a letter received from Charlie Falk's counsel, referencing Stephanie Cruz, Serena Laury and Charlie Falk. Wanda Neely then reported that counsel for Charlie Falk indicated that a settlement had been reached over the weekend. The claimant's attorney, John Gayle, is in agreement with the settlement. The agreement is that Charlie Falk will pay \$81,500 within a week for both claims. Bruce Gould suggested that the Committee and Board still review the claims and act on them as if the settlement has not yet been carried out. A resolution should indicate a 10 day delay in action until the settlement is finalized.

Motion was made by Steve Farmer to accept the hearing officer's recommendation. Chris Schroeder seconded. General discussion followed.

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

- **Stephanie Cruz and Charlie Falk.** On September 29, 2001, Ms. Cruz purchased a 1994 Plymouth Duster for \$6,800.00. During the negotiations, Ms. Cruz questioned as to whether or not the vehicle had been wrecked. Mr. Smiley (salesperson assisting Ms. Cruz) indicated that the vehicle had never been in an accident. She was also told that the warranty she purchased would cover any problems with the vehicle during the warranty period. Ms. Cruz made a \$1,000.00 down payment and financed the rest of the vehicle.

After the purchase, Ms. Cruz started to experience problems with the vehicle. She took the vehicle back for the repairs; however, nothing effective was accomplished. About a year after the purchase, Ms. Cruz was involved in an accident. The insurance company (GEICO) totaled the vehicle and informed Ms. Cruz that the vehicle had been totaled once before by them. The vehicle was sold to GEICO after it was totaled and its location is unknown. After Ms. Cruz was informed that the vehicle had been totaled previously, she obtained legal counsel for the misrepresentations that had been made to her. The matter was then referred to the American Arbitration Association pursuant to the Arbitration Agreement.

On February 2 and 3, 2004, arbitration was held before the Honorable Robert R. Merhige and on May 28, 2004, Judge Merhige rendered an award to Ms. Cruz in the amount of \$36,800.00 (\$3,800.00 in actual damages, \$1,000.00 in punitive damages and \$32,000.00 for attorney fees). Having received no payment of the award, Ms. Cruz's counsel then filed on July 6, 2004 a Petition for Confirmation of the Arbitration Award. On July 16, 2004, Daniel Carrell, counsel for Charlie Falk, filed its Opposition to the Petition for Confirmation and on August 26, 2004, Mr. Carrell filed its Motion to Vacate the Arbitration Award. A hearing was held on September 2, 2004 for these motions. On September 13, 2004, a Judgment Order was awarded to Ms. Cruz against Charlie Falk Auto Wholesale, Inc. for \$36,800.00.

On October 20, 2004, John Gayle, attorney for Ms. Cruz, submitted to the Dealer Board all the required documents in order to file a claim against the Transaction Recovery Fund. On October 25, 2004, the Dealer Board sent the Notice of Verified Claim the Charlie Falk requesting that the judgment be satisfied within 30 days of receiving the notice. On November 24, 2004, Daniel Carrell sent a letter via fax to the Dealer Board and indicated that Charlie Falk Auto Wholesale, Inc. vigorously denied the claim and will continue to do so. However, there are no rights of appeal on the merits of an arbitration award, thus Charlie Falk is left with the judgment. Counsel for Charlie Falk requested that the Board keep him informed of the Board's decision for disbursement from the Fund.

After carefully reviewing all the documentation, it was recommended that the Committee and Board approve payment from the Fund in the amount of \$20,000. An informal fact-finding conference was conducted on February 14, 2005 and based on the information provided at the conference, the hearing officer agrees with the Board staff's claim approval and recommended that the Board approve payment to Ms. Cruz in the amount of \$20,000.00.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to approve payment from the Fund in the amount of \$20,000.00 to Ms. Cruz, if the issue is not settled within ten (10) days as indicated by Charlie Falk's counsel. Bobby Joe Dotson seconded. All in favor: 5 (Farmer, Dotson, King and Schroeder). Opposed: 3 (Hooper, Lacy and Shelor). The motion carried.

- **Serena Laury and Charlie Falk.** On November 1, 2000, Ms. Laury was shown a 1995 Dodge Neon for \$8,995.00. During the negotiations, Ms. Laury questioned as to whether or not the vehicle had been wrecked. "John" (salesperson assisting Ms. Laury) indicated that the vehicle did not have any problems and had never been in an accident. Sales manager Percy Giles, who also assisted in the negotiation, indicated, as well, that the vehicle had no problems. After several hours of negotiations, Mr. Giles indicated that he could not obtain financing without a co-signor. Ms. Laury left the dealership upset after being there all day and was not able to purchase the vehicle. Later that evening, Mr. Giles called Ms. Laury and indicated that he was able to pull some strings and get her financing for the vehicle. She went back the next day, November 2, 2000, and signed all the documents in order to purchase the vehicle and agreed to make a \$1,300 down payment and financed the rest of the vehicle. Ms. Laury paid \$500 in cash at the time of the purchase and agreed to a "pick-up" payment of \$500 due on November 3 and \$300 due on November 27. plus the traded-in allowance of \$300 for her 1988 Oldsmobile.

After the purchase, Mr. Laury began to notice that the vehicle swayed when driving, the back tires leaned outward at the bottom and there were other items that needed repairing. In December of 2000, Ms. Laury, on numerous occasions, had taken the vehicle back to the dealership hoping to have the vehicle fixed under the Service Contract. In keeping the vehicle four to five days, the problems were never fixed.

Finally, in the Spring or late Summer of 2001, Ms. Laury temporarily lost control of the vehicle as it slid sideways as if she was on ice. Mr. Laury took the vehicle to Conner Brothers Body Shop to have it checked out. Scott, the mechanic, advised Mr. Laury that the vehicle had been in a wreck and that it was unsafe to drive. At this point, she stopped driving the vehicle, except for emergencies. Mr. Laury later took the vehicle back to Charlie Falk and spoke with the service manager (Ray) to have the vehicle fixed. He refused to fix it indicating that there was frame damage and that since she had owned the vehicle for almost a year,

she could have done the damage to the frame. She decided to complain to Charlie Falk's corporate office in Norfolk. In speaking with Fred Haley, an officer for the Falk Corporation, he indicated that Falk did not know if it was damaged before or after she purchased the vehicle and since she had owned it for almost a year, there was nothing they could do. At this time, she told Mr. Haley that due to the prior damage and Falk's unwillingness to correct the problem, she no longer wanted the vehicle and wanted her money back. They refused.

In September of 2001, Mr. Laury had Conner Brothers re-inspect the vehicle to determine the extent of the damages and it was determined that the vehicle had signs of multiple collisions, with significant damage to the unibody structure and that the vehicle was unsafe to drive. After learning of the damages, Mr. Laury obtained legal counsel (John Gayle) for the misrepresentation made regarding the accident history of the vehicle. On September 24, 2001, John Gayle sent a letter to Falk's counsel (T. J. Edlich) and to Future Finance (the company that financed Ms. Laury's vehicle) notifying them of his client's intention to deduct from the balance due on her loan contract for the damages suffered based on Charlie Falk Auto Wholesale, Inc.'s fraud and breach of contract. In October, the vehicle was repossessed, although Mr. Edlich had agreed not to sell the vehicle until the matter could be resolved. The matter was referred to the American Arbitration Association pursuant to the Arbitration Agreement.

On March 26 and 27, 2004, arbitration was held before the Honorable Janice Burnham. On July 15, 2004, Judge Burnham rendered an award to Ms. Laury in the amount of \$55,649.50 (\$12,990.00 in actual damages for fraud and violation of VCPA, \$2,500 for punitive damages and \$39,906.50 for attorney fees, plus \$253.00 for court costs). Having received no payment of the award, counsel for Ms. Laury filed on July 19, 2004, a Petition for Confirmation of Arbitration Award. A hearing was scheduled for October 1, 2004, but was canceled when counsel for Falk advised that he would not oppose the Confirmation.

On October 8, 2004, a Judgment Order was awarded to Ms. Laury against Charlie Falk Auto Wholesale, Inc. for \$55,649.50. On October 20, John Gayle, submitted to the Dealer Board all the required documents in order to file a claim against the Transaction Recovery Fund. On October 25, 2004, the Dealer Board sent the Notice of Verified Claim to Charlie Falk requesting that the judgment be satisfied within 30 days of receiving the notice. On November 24, 2004, Mr. Daniel Carrell, counsel for Charlie Falk Auto Wholesale, Inc. sent a letter to the Dealer Board and indicated that Charlie Falk had no resources from which to satisfy the judgment. Counsel further indicated that they vigorously denied the claim and will continue to do so. However, there are no rights of appeal on the merits of an arbitration award, thus Charlie Falk is left with the judgment. Counsel for Charlie Falk requested that the Board keep him informed of the Board's decision for disbursement from the Fund.

After carefully reviewing all the documentation, it was recommended that the Committee and Board approve payment from the Fund in the amount of \$20,000. An informal fact-finding conference was conducted on February 14, 2005 and based on the information provided at the conference, the hearing officer agrees with the Board staff's claim approval and recommended that the Board approve payment to Ms. Laury in the amount of \$20,000.00.

After further discussion and review of the information provided to the Committee in their notebooks, a substitute motion was made by Steve Farmer to approve payment from the Fund in the amount of \$20,000.00 to Ms. Laury, if the issue is not settled within ten (10) days as indicated by Charlie Falk's counsel. Bobby Joe Dotson seconded. General discussion followed. All in favor: 5 (Farmer, Dotson, King, Schroeder). Opposed: 3 (Hooper, Lacy and Shelor). The motion carried.

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

There was no old business from the floor.

## **NEW BUSINESS**

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

- Steve Farmer indicated that over the last 6 months, there have been discussions about independent dealers and the \$25,000 bond. Many believe that the bond amount must be increased, however, any changes to the bond requirement must go through the General Assembly. He made a motion to that affect.

Motion was made by Steve Farmer to seek an amendment to VA Code Section 46.2-1527.2 and 46.2-1527.5 to increase the current \$25,000 dealer bond requirement for a new dealer license to \$50,000 and reduce the \$75,000 Recovery Fund requirement to \$50,000 and make it effective July 1, 2006. Lynn Hooper seconded. The motion carried unanimously.

- At this point, Lynn Hooper suggested that a special meeting be convened to discuss attorney fees. He made a motion to this affect.

Motion was made by Lynn Hooper to convene a Recovery Fund meeting before the May meeting to discuss attorney fees and bring a recommendation to the May meeting on the results. Chris Schroeder seconded. The dealer associations (VADA and VIADA) and a representative from the Attorney General's Office were also invited to attend this meeting. The motion carried unanimously.

The next meeting was scheduled for May 9, 2005.

The meeting adjourned at 10:34 a.m.