

**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 10, 2008**

Vice-Chairman Frank Pohanka called the Dealer Board meeting to order at in Room 702 of the DMV Headquarters Building at 11:19 a.m. 2300 West Broad Street in Richmond. The roll was called and there were 13 Board members present. Present were members Jonathan Blank, Lynn Hooper, Todd Hyman, Henry Jones, David Lacy, Chip Lindsay, Hugh McCreight, Pat Patrick, Vince Sheehy, Larry Shelor, Jimmy Whitten and Robert Woodall. (Absent: D.B. Smit, Todd Haymore, Wanda Lewark, Thomas Moorehead, Kevin Reilly, and Tommy Woodson). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Wanda Neely and Frank McCormick represented the Dealer Board. Don Boswell, Gerry Slade and Joe Owsiak represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

**PUBLIC COMMENT**

The January 14, 2008 meeting summary was approved.

**STATUTORY COMMITTEE REPORTS**

**Dealer Practices Committee:**

Chairman Hugh McCreight summarized discussions held and actions that were taken during the Committee Meeting.

- **Reconsideration: Mr. Ron Weatherholtz.** Chairman Hugh McCreight summarized for the Board the discussion held in the Committee meeting regarding Ron Weatherholtz who had previously been required by the Board to complete the dealer-operator course. Based on that discussion, Mr. McCreight made the following motion: The Board voted to lift the suspension without you first completing the dealer-operator course under the condition that Mr. Weatherholtz provide the Executive Director with IRS Form W-2 (Employee's Withholding Allowance Certificate) for the tax years 2005 and 2006.

Vince Sheehy seconded. The motion carried unanimously.

- **Enaytullah Babe and Titan Motors, Inc.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding Enaytullah and Titan Motors. Based on that discussion, Mr. McCreight 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 Enaytullah Babe and Titan Motors, Inc for alleged violations of Va. Code §46.2-1533 (failure to maintain posted business hours). Based on due consideration, the Board believes a civil penalty should be assessed against Enaytullah Babe and Titan Motors, Inc. The Board hereby assesses a \$1,000 civil penalty against Enaytullah Babe and Titan Motors, Inc.

Robert Woodall seconded. The motion carried unanimously.

### Licensing Committee

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

- **Sebghatullah Nassiri, Salesperson License.** Chairman Chip Lindsay summarized for the Board the discussion held in the Committee meeting regarding Sebghatullah Nassiri. Based on that discussion, Mr. Lindsay made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied the application for a salesperson’s license submitted by Mr. Sebghatullah Nassiri. Mr. Nassiri appealed the denial and requested a formal hearing; and 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. Sebghatullah Nassiri and based on due consideration, the Board believes that Mr. Nassiri’s motor vehicle salesperson’s license should be approved. The Board hereby approves the application for a salespersons license submitted by Mr. Sebghatullah Nassiri

Todd Hyman seconded. All in favor: 8 (Jonathan Blank, Todd Hyman, Henry Jones, Chip Lindsay, Vince Sheehy, Larry Shelor, Jimmy Whitten, Robert Woodall). Opposed: 5 (Lynn Hooper, David Lacy, Hugh McCreight, Pat Patrick, and Frank Pohanka). The motion carried.

### Advertising Committee

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

### Transaction Recovery Fund Committee:

Chairman Larry Shelor summarized discussions held and actions that were taken during the Committee Meeting.

- **Revisit Claim: Hollywood Wholesale, Inc. c/o Roger Altland v. Stanley C. Freeman.** Chairman Larry Shelor summarized for the Board the discussion held in Committee meeting regarding Hollywood Wholesale Inc. c/o Roger Altland v. Stanley C. Freeman. Based on that discussion and recommendation in the case, Mr. Shelor indicated that the Committee decided to defer any action on the request for reconsideration until the next meeting so that Mr. Ryan can explore his options and take additional action in an attempt to overcome the problem related to Assignment of Claimants Rights to the Board.

- **Carlos Sampayo v. Uptown Auto Sales.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding Carlos Sampayo v. Uptown Auto Sales. Based on that discussion and the recommendation in the case, Mr. Shelor 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 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:

**Carlos Sampayo v. Uptown Auto Sales**

**\$2,500.00**

Robert Woodall seconded. The motion carried unanimously.

### **OLD BUSINESS**

- **Update: General Assembly.** Bruce Gould indicated that the bills involving the Motor Vehicle Dealer Board that were supported by the Board, were all adopted by the General Assembly and passed according to plan. The bill that would have moved the Dealer Board under of DMV was opposed by the Board and did not pass the General Assembly.

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

There was no old business from the floor.

### **NEW BUSINESS**

- **Executive Director’s Report.** Bruce Gould indicated that the office lease has been signed. He also indicated that renovations will begin soon. The office will be painted, new carpet and a completely new kitchen. Mr. Gould reminded the members they are still required to view the Conflict of Interest DVD. He indicated that Alice Weedon has the DVD’s and to see her for a copy.

The next meeting will be scheduled for May 12, 2008.

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

There was no new business from the floor.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Pohanka adjourned the meeting at 11:38 a.m.

**Meeting Summary**  
**Dealer Practices Committee**  
**Monday, March 10, 2008**

Chairman Hugh McCreight called the Dealer Practices Committee meeting to order at 8:35 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Jonathan Blank, Larry Shelor, Chip Lindsay, David Lacy, Vince Sheehy and Robert Woodall. (Absent: Kevin Reilly, Wanda Lewark, Thomas Moorehead and Thomas Woodson). Other board members present: Todd Hyman, Pat Patrick, Lynn Hooper, Frank Pohanka, Henry Jones, Jimmy Whitten. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Joe Owsiak represented DMV. Eric Fiske was present from the Attorney General's Office.

The January 14, 2008 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**Update: January Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on January 14, 2008.

- **Reconsideration: Mr. Ron Weatherholtz.** At the November 2006 Board meeting, a resolution was passed assessing a civil penalty of \$1,400 against Mr. Shahbaz Iqbal and Shawn Auto Sales & Service and mandated that Mr. Iqbal and Mr. Weatherholtz successfully complete the dealer-operator course by May 10, 2007. The civil penalty was paid and Mr. Iqbal successfully completed the dealer-operator course. Mr. Weatherholtz was a salesperson for Shawn Auto Sales, and it appeared that he was running the dealership as well. Mr. Weatherholtz did not appeal the decision and he had not completed the dealer-operator course. His license and certificate of qualification are now suspended.

Mr. Weatherholtz paid a visit to Mr. Gould's office on February 8, 2008 and requested to have his privilege to obtain a salesperson's license restored without first completing the course. Mr. Gould informed Mr. Weatherholtz that he did not have the authority to change a decision made by the Board. Mr. Weatherholtz respectfully requested to be on the agenda to request that the Board reconsider its previous decision. Mr. Gould indicated that he would honor his request, but history indicates that the Board is not likely to reverse its previous decision.

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

Motion was made by Robert Woodall to have Mr. Weatherholtz provide his W-2 statements for the year 2005 and 2006 and present them at the next Committee meeting. Jonathan Blank seconded. The motion carried unanimously.

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

There was no old business from the floor.

### **NEW BUSINESS**

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

- **Enaytullah Babe and Titan Motors, Inc.** On January 30, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Section 46.2-1533 (failure to maintain posted business hours). Based on the information provided at the conference, the hearing officer recommended that Enaytullah Babe and Titan Motors, Inc. be assessed a single civil penalty of \$1,000.

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

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

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

The next meeting was scheduled for May 12, 2008.

The meeting adjourned at 9:25 a.m.

**Meeting Summary**  
**Dealer Licensing Committee**  
**Monday, March 10, 2008**

Chairman Chip Lindsay called the Dealer Licensing Committee meeting to order at 9:40 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Lynn Hooper, Henry Jones, Robert Woodall, Frank Pohanka, Hugh McCreight, Pat Patrick, Todd Hyman and Jimmy Whitten. Other Board members present: Vince Sheehy, David Lacy, Larry Shelor, Jonathan Blank. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Joe Owsiak represented DMV. Eric Fiske represented the Attorney General's Office.

The January 14, 2008 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

**Update: January Actions.** Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on January 14, 2008.

**NEW BUSINESS**

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

- **Sebghatullah Nassiri, Salesperson License.** On December 28, 2007, a formal hearing was conducted to address the alleged violations of VA Code Sections 46.2-1575(2) (failure to comply subsequent to receipt of a written warning by the Board or any willful failure to comply with any provision of this chapter or any regulation promulgated by the Commissioner or the Board under this chapter) and 46.2-1507 (failing or refusing to pay civil penalties imposed by the Board). Based on the information provided at the conference, the hearing officer recommended that Mr. Nassiri be denied a salesperson's license.

Motion was made by Lynn Hooper to accept hearing officer's recommendation. Pat Patrick seconded. All in favor: 4 (Lynn Hooper, Hugh McCreight, Pat Patrick, Frank Pohanka). Opposed: 5 (Chip Lindsay, Todd Hyman, Henry Jones, Jimmy Whitten, and Robert Woodall). The motion failed. Mr. Nassiri's salesperson's license will be granted.

**NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for May 12, 2008

The meeting adjourned at 10:13 a.m.

**Meeting Summary**  
**Advertising Committee**  
**Monday, March 10, 2008**

Chairman Lynn Hooper called the Advertising Committee meeting to order at 10:14 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Larry Shelor, Jonathan Blank, Jimmy Whitten, Vince Sheehy and Todd Hyman (Absent: Todd Haymore, Thomas Woodson, and Kevin Reilly). Other Board members present: Pat Patrick, David Lacy, Hugh McCreight, Frank Pohanka, Chip Lindsay, Henry Jones, Robert Woodall. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Joe Owsiak represented DMV. Eric Fiske represented the Attorney General's Office.

The January 14, 2008 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 was scheduled for May 12, 2008.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 10:15 a.m.

**Meeting Summary**  
**Transaction Recovery Fund Committee**  
**Monday, March 10, 2008**

Chairman Larry Shelor called the Transaction Recovery Fund Committee meeting to order at 10:16 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Henry Jones, Jonathan Blank, Todd Hyman, Pat Patrick, Frank Pohanka and David Lacy. (Absent: Todd Haymore and Wanda Lewark). Other Board members present: Vince Sheehy, Jimmy Whitten, Hugh McCreight, Chip Lindsay, Lynn Hooper, Robert Woodall. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Don Boswell, Gerry Slade and Joe Owsiak represented DMV. Eric Fiske represented the Attorney General's Office.

The January 14, 2008 summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Revisit Claim for Approval of Payment: Hollywood Wholesale, Inc. c/o Roger Altland v. Stanley C. Freeman.** At the September 10, 2007 Board meeting, the Recovery Fund committee and Full board had approved payment on Hollywood Wholesale, Inc. claim against the Fund. However, counsel for the claimant is unable to provide the Assignment of Claimant's Rights as required by Virginia code §46.2-1527.6. On February 11, 2008, Counsel for Hollywood Wholesale requested a review of conclusion by the full Motor Vehicle Dealer Board.

Mr. John Ryan was present and spoke on behalf of Hollywood Wholesale, Inc. c/o Roger Altland's behalf.

Motion was made by Frank Pohanka to deny the claim until what time Mr. Ryan provides a personal judgment against Stanley Freeman. NO SECOND.

Motion was made by Pat Patrick to deny the claim. David Lacy seconded. Vote was not taken. The Committee decided to defer any action on the request for reconsideration until the next meeting so that Mr. Ryan can explore his options and take additional action in an attempt to overcome the problem related to Assignment of Claimants Rights to the Board.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

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

**Carols Sampayo and Uptown Auto Sales, Inc. & Milton E. Gue.** On August 26, 2004, Mr. Sampayo purchased a 1999 Dodge Intrepid from Uptown Auto Sales for a total purchase price of \$2,400.00. At the time of purchase it was presented to Mr. Sampayo that the vehicle was merchantable and fit for transportation. When Mr. Sampayo left the dealership, the vehicle began smoking from the engine and stopped running, leaving Mr. Sampayo stranded and had to push the vehicle home. The next day, Mr. Sampayo contacted the dealership and complained of the vehicle. At that time, Uptown Auto Sales arranged for the vehicle to be towed back to a repair shop they use in Norfolk.



In late September, Uptown contacted Mr. Sampayo and indicated that the vehicle had been repaired and ready to pick up. When Mr. Sampayo arrived at the repair facility, the vehicle was not fully operable. Mr. Sampayo went to the dealership complaining how the vehicle was not repaired and they indicated that they would provide him with another vehicle if the Intrepid could not be repaired.

In late December of 2004, the dealership had not contacted Mr. Sampayo about the status of his vehicle. In returning to the dealership, Mr. Sampayo discovered that the salesperson that assisted him had left the dealership and no one else at the dealership had any knowledge of him or his vehicle. He later learned that on October 2, 2004, the dealership had sold the vehicle he had initially purchased to another individual for \$1,700.00. Mr. Sampayo then sought legal counsel to pursue Uptown Auto Sales civilly in court in order to be reimbursed for the monies he paid in connection with the purchase.

On January 14, 2006, the General District Court for the City of Norfolk determined that Uptown Auto Sales willfully violated the Virginia Consumer Protection Act and committed fraud during the course of the consumer transaction. Judgment was awarded to Mr. Sampayo against Uptown Auto Sales in the amount of \$10,113.00 (Breakdown of Judgment \$2,500 actual damages, \$5,000 for willful violations, \$113 court costs and \$2,500 attorney fees). On March 15, 2006, Counsel for Mr. Sampayo submitted the Dealer Board a letter with copies of the Warrant in Debt and the final Judgment Order requesting consideration of payment regarding their client's claim against the Motor Vehicle Transaction Recovery Fund (Fund). On March 20, 2006, after a careful preliminary review, the Dealer Board staff sent a letter to counsel referring their client's claim to the dealer's surety bonding company. On May 16, 2006, counsel submitted a letter to Western Surety (Uptown's surety bonding company) with the supporting documents supporting Mr. Sampayo's claim for reimbursement.

On December 11, 2006 the Dealer Board received a letter from Western Surety and on December 12, 2006 from counsel, both letters indicating that Western Surety paid \$3,656.00 in regards to Mr. Sampayo's claim against Uptown Auto Sales. In December of 2007, counsel contacted the Dealer Board in regards to filing for payment of the attorney fees on Mr. Sampayo's judgment. The Dealer Board sent a Judgment of Claim Request form to be returned with the attested copy of the final judgment order. On January 7, 2008, counsel submitted to the Dealer Board the judgment claim regarding Mr. Sampayo's claim for consideration of payment of the attorney fees from the Fund.

After carefully reviewing all documentation, staff recommended that the Recovery Fund Committee and Full Board approve the Mr. Sampayo's judgment in the amount of \$2,500 for award of attorney fees. On March 4, 2008, an informal fact-finding conference was conducted and based on the information presented at the conference, the hearing officer conducting the conference concurred with the staff's recommendation that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$2,500 in attorney fees.

Motion was made by Frank Pohanka to accept the hearing officer's recommendation. Todd Hyman seconded. The motion carried unanimously.

- **Annual Fund Fee for Dealers and Salespersons.** Bruce Gould indicated that the current \$100 annual fee for dealers paying into the Transaction Recovery Fund, that have been in business more than three years, is currently waived, but the salespersons are still paying \$10 for the first three years they are licensed. He proposed that the \$10 salesperson fee into the Fund should be waived as well. He indicated that the Fund is in good standings and he feels comfortable in requesting that the \$10 fee be waived.

Motion was made by Henry Jones to accept Bruce's proposal of waiving the salesperson's fee that goes into the Transaction Recovery Fund. Jonathan Blank seconded. The motion carried unanimously.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for May 12, 2008.

The meeting adjourned at 11:10 a.m.