

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 9, 2009

Chairperson D.B. Smit called the Dealer Board meeting to order at 10:38 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 Jonathan Blank, Lynn Hooper, Henry Jones, Wanda Lewark, Chip Lindsay, Hugh McCreight, Pat Patrick, Vince Sheehy, Larry Shelor, Joe Tate, Jimmy Whitten, Robert Woodall and Tommy Woodson. (Absent: Todd Haymore, David Lacy, Thomas Moorehead, Frank Pohanka and Kevin Reilly). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Jo Anne Maxwell represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

PUBLIC COMMENT

The January 12, 2009 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.

- **Michael H. Margulies and MLX Corporation.** Chairman Hugh McCreight summarized for the Board the discussion held in the committee meeting regarding Michael H. Margulies and MLX Corporation. 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 Michael H. Margulies and MLX Corporation for alleged violations of Va. Code Sections 46.2-1533 (failure to maintain posted business hours) on July 29 and November 26, 2008 and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning). Based on due consideration, the Board believes a civil penalty should be assessed against Michael H. Margulies and MLX Corporation. The Board hereby assesses a \$500 civil penalty against Michael H. Margulies and MLX Corporation; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Margulies should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Margulies.

Pat Patrick seconded. The motion carried unanimously.

- **Bradley R. Mowry and Auto Outlet of Manassas, Inc.** Chairman Hugh McCreight summarized for the Board the discussion held in the committee meeting regarding Bradley R. Mowry and Auto Outlet of Manassas, Inc. 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 Bradley R. Mowry and Auto Outlet of Manassas, Inc for alleged violations of Va. Code Sections 46.2-1537 (failure to have salespersons properly licensed), 46.2-1542 (improper issuance of 30 day tags), 46.2-1548/1550 (use of dealer's license plates), 46.2-1559 (record keeping) and 46.2-1561 (related to the use of temporary license plates).

Based on due consideration, the Board believes a civil penalty should be assessed against Bradley R. Mowry and Auto Outlet of Manassas, Inc. The Board hereby assesses a \$1,000 civil penalty against Bradley R. Mowry and Auto Outlet of Manassas, Inc.; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Mowry should be suspended if Mr. Mowry's dealership is not the subject of a satisfactory inspection and a Board field representative will re-inspect the dealership after April 15, 2009. If the inspection is not satisfactory the Board will suspend all licenses and certificates issued by the Board to Mr. Mowry for a minimum of 30 days or until what time Mr. Mowry has a successful inspection, which ever is longer.

Joe Tate seconded. The motion carried unanimously.

Licensing Committee

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

- **Mr. Jay Martin.** Chairman Chip Lindsay summarized for the Board the discussion held in the committee meeting regarding Mr. Jay Martin. Based on that discussion, Mr. Lindsay made the following motion: The Board hereby denies Mr. Martin's request for a refund of the \$5,000 civil penalty that he alleged he paid twice.

Jonathan Blank seconded. The motion carried unanimously.

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.

- **Karl J. Garcia and KJ Auto Group, Scarlet Garcia and Car Quest Auto Sales, Inc., Chadwick & Emily Guyer and RSD Motors, Inc. and Michelle S. Beverly and RSD Motors/Rodney J. Price.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding Karl J. Garcia and KJ Auto Group, Scarlet Garcia and Car Quest Auto Sales, Inc., Chadwick & Emily Guyer and RSD Motors, Inc. and Michelle S. Beverly and RSD Motors/Rodney J. Price. Based on that discussion and the recommendations in these cases, Mr. Shelor made the following motion: 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 a claim 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 amount subject to compliance by the claimant with statutory requirements:

Karl J. Garcia and KJ Auto Group	\$20,000.00
Scarlet Garcia and Car Quest Auto Sales, Inc.	\$20,000.00
Chadwick & Emily Guyer and RSD Motors, Inc.	\$12,620.96
Michelle S. Beverly and RSD Motors/Rodney J. Price	\$486.60

Hugh McCreight seconded. The motion carried unanimously.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

- **New Driver's License Process.** D.B. Smit indicated that the new process of obtaining a driver's license will change as of July 1, 2009. You will no longer be able to get your driver's license the day you renew. Instead, you will receive a receipt and in 3 to 5 business days, you will receive your actual driver's license in the mail.
- **Executive Director's Report.** Bruce Gould indicated that in order to help dealers maintain their hours, especially the smaller independent dealers, staff created a template for the dealers to use when they have to leave their office for a short period of time. Bruce also indicated that the Board members have the opportunity to give their board books back for recycling. If ever the members need to refer to a past Board book, he has a copy of all the books.

The next meeting will be scheduled for May 11, 2009.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 11:04 a.m.

Meeting Summary
Dealer Practices Committee
Monday, March 9, 2009

Chairman Hugh McCreight 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 Jonathan Blank, Wanda Lewark, Chip Lindsay, Vince Sheehy, Larry Shelor, Robert Woodall and Tommy Woodson. (Absent: David Lacy, Thomas Moorehead and Kevin Reilly). Other Board members present: D.B. Smit, Joe Tate, Pat Patrick, Jimmy Whitten, Henry Jones, Lynn Hooper. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Jo Anne Maxwell from the Attorney General's Office.

The January 12, 2009 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: November Actions. Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on January 12, 2009.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Michael H. Margulies and MLX Corporation.** On February 9, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1533 (failure to maintain posted business hours and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning). Based on the information provided at the conference, the hearing officer recommended that the Board revoke Mr. Margulies licenses and assess a civil penalty of \$500. The hearing officer also indicated that if Mr. Margulies is serious about his business he can reapply, however, he must attend the Dealer Operator course.

Motion was made Jonathan Blank to accept the hearing officer's recommendation. Robert Woodall seconded. The motion carried unanimously.

- **Bradley R. Mowry and Auto Outlet of Manassas, Inc.** On January 21, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1537 (failure to have salespersons properly licensed), 46.2-1542 (improper issuance of 30 day tags), 46.2-1548/1550 (use of dealer's license plates, generally), 46.2-1559 (Records to be kept by dealers; inspection) and 46.2-1561 (to whom temporary plates shall not be issued). Based on the information provided at the conference, the hearing officer recommended that Mr. Mowry be permitted to continue to operate his dealership with the following conditions: (1) Employ a "records" employee as soon as possible, (2) Locate and issue the missing titles, (3) Pass his next inspection and (4) Keep his brother, Bobby, out of the office. Mr. Mowry should also be assessed a civil penalty of \$500.

Motion was made by Robert Woodall to assess a civil penalty of \$500 and to be re-inspected by April 15th. Should the dealer fail the inspection, all licenses will be suspended for 30 days. Vince Sheehy 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 11, 2009.

The meeting adjourned at 9:13 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, March 9, 2009

Chairman Chip Lindsay called the Dealer Licensing Committee meeting to order at 9:13 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, Hugh McCreight, Pat Patrick, Joe Tate, Jimmy Whitten and Robert Woodall. (Absent: Frank Pohanka) Other Board members present: D.B. Smit, Vince Sheehy, Larry Shelor, Wanda Lewark, Henry Jones, Jonathan Blank, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Jo Anne Maxwell represented the Attorney General's Office.

The January 12, 2009 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: November Actions. Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on January 12, 2009.

Update: Dealer-Operator Continuing Education. Bruce Gould indicated that the first draft of the proposed regulations are closer to completion. The Committee will be able to review the draft before it is submitted for publication.

- **Mr. Jay Martin - Jay Martin.** In 1999, the Board levied a \$5,000 penalty on Mr. Martin. Mr. Martin claims that he paid the \$5,000 at a DMV Customer Service Center in 2001 or 2002. The Board has no indication/anything on file that shows he paid the \$5,000. He did pay \$5,000 a year ago in order to get his salesperson's license. In working with Mr. Martin, Mr. Gould requested some sort of evidence, a bank statement show that he withdrew the money. To this date, he has not been able to produce any tangible evidence. His primary evidence is a letter from DMV stating that he will not be able to renew his driver's license his vehicle registration will be revoked unless he paid the \$5,000. Mr. Martin's evidence that he paid the penalty is the fact that he as a driver's license and a car registered in his name.

What complicates matters is that DMV did not have the authority to take the action as outlined in the letter and when this was brought to DMV's attention back then - DMV discontinued sending the generic letter. The Board does not know if Mr. Martin was able to renew his driver's license, etc. because he paid the \$5,000 or because DMV withdrew the actions of the letter when it was discovered that they did not have the authority to suspend the driver's license and revoke vehicle registration for unpaid MVDB civil penalties. Mr. Gould does know that Mr. Martin renewed his driver's license at the Altivista CSC in June of 2003. Mr. Gould respectfully requested that the Committee and Full Board make the final decision on this issue.

Mr. Martin was present and spoke on his own behalf. General discussion followed.

Motion was made by Jimmy Whitten to deny reimbursing the \$5,000 civil penalty that Mr. Martin claims he paid twice. Lynn Hooper seconded. All in favor: 7 (Lindsay, Hooper, McCreight, Patrick, Tate, Whitten, Woodall). Opposed: 1 (Jones). The motion carried.

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 May 11, 2009

The meeting adjourned at 9:34 a.m.

Meeting Summary
Advertising Committee
Monday, March 9, 2009

Chairman Lynn Hooper called the Advertising Committee meeting to order at 9:35 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Vince Sheehy, Larry Shelor, Joe Tate, Jimmy Whitten and Thomas Woodson (Absent: Todd Haymore, Kevin Reilly) Other Board members present: D.B. Smit, Pat Patrick, Hugh McCreight, Henry Jones, Wanda Lewark, Chip Lindsay, Robert Woodall, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely and Frank McCormick represented the Dealer Board. Jo Anne Maxwell represented the Attorney General's Office.

The January 12, 2009 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

- **Sinclair Broadcast Group Proposal - Barry Faber.** Mr. Faber could not be present at the meeting, so Mr. Bruce Gould gave a brief description of what Sinclair Broadcast Group is all about: The concept Sinclair has developed is to create and market an Internet website where participating dealers provide consumers with a virtual coupon providing \$100 off the price of an auto purchased from a participating dealership. Participating dealers will be charged a marketing fee composed of two components, a small fixed fee to participate, coupled with a variable fee that is determined based on the individual success of the advertising campaign to each dealer. Sinclair is prepared to establish that the variable charge for dealers will be based on the number of coupons actually redeemed. Each dealer will pay Sinclair the back-end portion of the advertising fee based on the success of the advertising to that dealer as measured by the number of coupon redeemed at that dealer's dealership. Sinclair will also facilitate the payout of the coupon (which will function as a rebate redeemable online) on behalf of the dealership where a car was purchased.

Sinclair does not believe that the fee is a commission, but rather is being compensated for a dealership's participation in a marketing campaign. No transactional business will be able to take place on the Sinclair website. Purchasing any such vehicle will require either visiting the dealership in person, calling the dealership or visiting the dealership's website. A portion of the fee paid upon coupon redemption will merely pass through to the redeeming consumer on the dealer's behalf (much as grocery store redeems a coupon). The remainder will compensate the television station for the dealer's participation in the marketing campaign and for the mechanics of handling the coupon redemption. The committee members had some concerns about the \$100 coupon being a rebate and also would this be considered an actual transaction, which would be selling the vehicle away from the dealer's location and compensating Sinclair in connection with the sale of a motor vehicle.

There was no consensus on this issue.

- **Driveway2Driveway - Matthew Walker.** Mr. Walker indicated that Driveway2Driveway (D2D) combines web technology and localized personal service to provide a convenient, safe, and easy-to-use system for consumers to sell their car directly to another consumer. Customers register vehicle online through D2D web site, control all pricing decisions and select final buyer and sale price of vehicle. Driveway2Driveway fields all buyer inquiries, conducts test drives on behalf of seller, passes all offers (above seller's floor price) on and provides all closing documents to complete sale. The committee members had some concerns about this being a consignment deal or even curbstoning. The committee felt this is as close as you can get in being a dealer without a license and they also indicated there is no way the consumer is protected, as well.

There was no consensus on this issue.

The next meeting was scheduled for May 11, 2009.

NEW BUSINESS FROM THE FLOOR

There was no other new business from the floor.

The meeting adjourned at 10:03 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, March 9, 2009

Chairman Larry Shelor called the Transaction Recovery Fund Committee meeting to order at 10:03 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Henry Jones, Wanda Lewark and Pat Patrick. (Absent: Todd Haymore, David Lacy, Frank Pohanka). Other Board members present: D.B. Smit, Vince Sheehy, Jimmy Whitten, Hugh McCreight, Chip Lindsay, Lynn Hooper, Robert Woodall, Tommy Woodson. Executive Director Bruce Gould, Peggy Bailey, Wanda Neely and Frank McCormick represented the Dealer Board. Jo Anne Maxwell represented the Attorney General's Office.

The January 12, 2009 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 Conference Results:

- **Karl J. Garcia and KJ Auto Group.** On January 5, 2007, Mr. Garcia purchased a 2002 BMW 745 from KJ Auto Group, Inc. for total purchase price of \$38,363.52. Mr. Garcia obtained a loan from Arlington Federal Credit Union and paid KJ Auto Group the full purchase price of the vehicle. In March of 2007, Mr. Garcia consigned the 2002 BMW to KJ Auto Group. Following the consignment, without knowledge of or permission from Mr. Garcia, KJ Auto allowed Tyson's Ford to take possession of the vehicle and on April 13, 2007, the vehicle was sold at auction by Tyson's Ford, without permission or knowledge of Mr. Garcia. On May 19, 2008, Mr. Garcia obtained legal counsel, Mr. Stephen Swann and filed a complaint against KJ Auto Group, Inc. in the Circuit Court for Fairfax County. On July 1, 2008, the Dealer Board received from the Fairfax Circuit Court "Notice of Scheduling Conference" which was placed on the docket for July 22, 2008. On July 30, 2008, the Dealer Board sent Mr. Swann acknowledging receipt of his client's claim and requested addition information in order to complete the review process. On August 25, 2008 and November 13, 2008, the Dealer Board received all the appropriate documentation.

After carefully reviewing all the documentation, the staff recommends that the Recovery Fund Committee and Full Board approve Mr. Garcia's claim in the amount of \$20,000.00, the maximum allowed to claim. On February 18, 2009, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board pay Mr. Garcia's claim of \$20,000.00.

Motion was made Pat Patrick to accept the hearing officer's recommendation. Joe Tate seconded. The motion carried unanimously.

- **Scarlet Garcia and Car Quest Auto Sales, Inc.** On May 2, 2006, Ms. Garcia purchased a 2003 Jeep Grand Cherokee for a purchase price of \$12,445.00. She also purchased an extended warranty issued by Guardian Warranty Corporation, for an additional \$1,429.00. She was told the vehicle was in good working condition and failed to provide written notification that the vehicle was unsafe and could not properly pass a safety inspection prior to the sale. In December of 2007, after a minor collision to the driver's side door, Mr. Garcia was informed by her body shop that the vehicle had substantial frame damage, deficient spot-welding as well as other defects causing it to be unsafe for transportation. She also learned that the vehicle had been severely damaged and totaled in July of 2005. Ms. Garcia obtained legal counsel, Mr. Stephen Swann and in January of 2008 filed a complaint against Car Quest in the Circuit Court of Fairfax County. On March 14, 2008, the Dealer Board received from the Fairfax Circuit Court a "Notice of Scheduling Conference", which was held April 10, 2008. On August 25, 2008 and November 13, 2008, the Dealer Board received all the appropriate paperwork in order for Ms. Garcia to file a claim against the Transaction Recovery Fund. Ms. Garcia received a judgment for \$22,636.00, \$13,248 in actual damages, \$8,975 in attorney fees, \$150 expert fees and \$163 in court costs.

After carefully reviewing all the documentation, the staff recommends that the Recovery Fund Committee and Full Board approve Ms. Garcia's claim of \$20,000, the maximum allowed to claim. On February 18, 2009, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board pay Ms. Garcia's claim of \$20,000.00.

Motion was made by Pat Patrick to accept the hearing officer's recommendation. Joe Tate seconded. The motion carried unanimously.

- **Chadwick & Emily Guyer and RSD Motors, Inc.** On December 4 and 11, 2007, the Guyer's purchased two vehicles from Rodney J. Price, owner of RSD Motors, Inc., namely a 1999 Jeep Wrangler (December 4) and a 2005 Honda Accord (December 11). The Guyer's paid \$9,401.53 for the Jeep and \$15,453.70 for the Honda. The Guyer's traded-in a 2004 Mazda and was given an allowance of \$12,000, making the total balance for the Honda in the amount of \$3,453.79. The Guyer's later learned that Mr. Price never paid any of the DMV fees and he did not complete any of the paperwork necessary for obtaining titles reflecting the appropriate liens, in their names on both vehicles. In July of 2008, the Guyer's, with the help of DMV agent Brent Uzdanovics, was able to get a replacement title for the 2005 Honda, but they had to repay the DMV fees. As of this date, they have been unsuccessful in obtaining title and registration to the 1999 Jeep.

In July of 2008, counsel for the Guyer's filed a Warrant in Debt in the General District Court of Waynesboro against Rodney J. Price for fraudulent sale of vehicles, failing to clear titles and failing to pay DMV fees for title, tax and registration. In October and November of 2008, the Board received the appropriate paperwork in order for the Guyer's to file a claim against the Transaction Recovery Fund. In October of 2008, the General District Court awarded the Guyer's judgment in the amount of \$18,053.00, \$14,500 actual damages, \$53.00 in costs and \$3,500.00 in attorney fees.

After carefully reviewing all the documentation, staff recommended that the Recovery Fund Committee and Board approve payment in the amount of \$12,620.96. \$8,292.77 pay-off amount in order to obtain title to the 1999 Jeep, \$313.00 (Jeep) and \$461.59 (Honda) DMV fees that were paid to RSD Motors, \$53.00 in costs and \$3,500.00 in attorney fees. On February 23, 2009, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board pay the Guyer's claim of \$12,620.96.

Motion was made by Joe Tate to accept the hearing officer's recommendation. Henry Jones seconded. The motion carried unanimously.

Michelle S. Beverly and RSD Motors & Rodney J. Price. On July 6, 2007, Michelle & Christopher Beverly purchased a 2002 Chevrolet Trailblazer for a total purchase price of \$13,529.53, which includes \$79.95 processing fee \$392.10 sales tax, \$25.98 dealer's business tax, \$31.50 license fee and \$10.00 title fee. In late March or early April, the Beverly's were contacted by DMV and were told they were victims of automobile fraud regarding RSD Motors and Rodney J. Price indicating that Mr. Price failed to pay the taxes and other DMV fees regarding their purchase. On July 30, 2008, the Beverly's filed a Warrant in Debt in the Waynesboro General District Court against Rodney J. Price for the DMV fees that they had to repay again. On October 3, 2008, the Beverly's were awarded judgment against Mr. Price for fraud in the amount of \$433.60 plus \$53.00 in costs. In December of 2008, the Beverly's submitted the appropriate paperwork in order for them to file a claim against the Transaction Recovery Fund.

After carefully reviewing all the documentation, staff recommends that the Recovery Fund Committee and Full Board approve the Beverly's claim in the amount of \$486.60, \$433.60 in DMV fees and \$53.00 in costs. On February 23, 2009, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board pay Ms. Beverly's claim of \$486.60.

Motion was made by Joe Tate to accept the hearing officer's recommendation. 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 11, 2009

The meeting adjourned at 10:29 a.m.