

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, May 14, 2007

Chairman D.B. Smit called the Dealer Board meeting to order at 10:10 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 15 Board members present. Present were members Jonathan Blank, Lynn Hooper, Todd Hyman, David Lacy, Wanda Lewark, Chip Lindsay, Hugh McCreight, Thomas Moorehead, Pat Patrick, Frank Pohanka, Kevin Reilly, Larry Shelor, Jimmy Whitten and Robert Woodall. (Absent: Vince Sheehy and Tommy Woodson). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Jim Gurney and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The March 12, 2007 meeting summary was approved.

PUBLIC COMMENT

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee

- **Amanullah Abbasi and Nations Auto Group, LLC.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Amanullah Abbasi and Nations Auto Group, LLC. Based on that discussion, Mr. Patrick 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 Amanullah Abbasi and Nations Auto Group, LLC for alleged violations VA Code Sections 46.2-1518 (failure to display list of salespersons), 46.2-1519 (failure to properly maintain dealer records), 46.2-1542(c) (failure to timely deliver to DMV required title application paperwork and fees.), 46.2-1550 (misuse of dealer license plates.), 46.2-1550(2) (related to the issuance and use of temporary transport plates), 46.2-1559 and 46.2-1561 (Related to temporary license plate records and issuance of these plates); and 46.2-1575(9) (having been convicted of a criminal act involving the sale of vehicles). Based on due consideration, the Board believes a civil penalty should be taken/assessed against Amanullah Abbasi and Nations Auto Group. The Board hereby assesses a \$6,000 civil penalty against Amanullah Abbasi and Nations Auto Group, LLC; and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Amanullah Abbasi should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Amanullah Abbasi.

Robert Woodall seconded. The motion carried unanimously.

Licensing Committee

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **Request for Extension on Dealer-Operator Course for Mike Laughlin.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Mike Laughlin and his request to extend his requirements in taking the Dealer-Operator Course. Based on that discussion, Mr. Hyman made the motion to deny his request.

Kevin Reilly seconded. The motion carried unanimously.

- **Edward J. Bostain, Jr. and Jakmax.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Edward J. Bostain, Jr. and Jakmax. Based on that discussion, Mr. Hyman made the following motion: WHEREAS, 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 Edward J. Bostain, Jr. t/a Jakmax for alleged violations of Virginia Code Sections 46.2-1537 (compensating an unlicensed salesperson) and 46.2-1575(2) (willful failure to comply with the motor vehicle dealer laws). Based on due consideration, the Board believes a civil penalty should be assessed against Edward J. Bostain, Jr. t/a Jakmax. The Board hereby assesses a \$2,100 civil penalty against Edward J. Bostain, Jr. t/a Jakmax. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Edward J. Bostain, Jr. in running his dealership. The Board mandates that Mr. Edward J. Bostain, Jr. successfully complete the dealer-operator course by November 16, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Edward J. Bostain, Jr. by the Board until what time Mr. Edward J. Bostain, Jr. has successfully completed the course

Hugh McCreight seconded.

Substitute motion was made by Jonathan Blank to access a \$5,000 civil penalty along with the Dealer-Operator course. The motion failed due to a lack of a second.

Motion was made by Jimmy Whitten to access \$100 civil penalty for each car sold, which totals \$2,100 as well as completing and passing the Dealer-Operator course. Todd Hyman seconded. The motion carried unanimously.

- **Esmatullah Ali and Nations Auto Group, LLC.** Chairman Hyman summarized for the Board the discussion held in the Committee meeting regarding Esmatullah Ali and Nations Auto Group, LLC. 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 Esmatullah Ali; Dealer-Operator for Nations Auto Group, LLC for alleged violations of Va. Code Section 46.2-1575(9) (convicted of criminal act involving the sale of vehicles). Based on due consideration, the Board believes that all licenses issued by the Board to Mr. Esmatullah Ali should be suspended. The Board hereby suspends all licenses issued by the Board to Mr. Esmatullah Ali for a minimum of sixty (60) days or until Mr. Ali has successfully completed the dealer-operator class, which ever is longer.

Robert Woodall seconded. The motion carried unanimously.

Advertising Committee

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

Transaction Recovery Fund Committee

Chairman David Lacy summarized discussions held and actions that were taken during the Committee Meeting.

- **(1) Carolyn & Brian Robertson and Romany Faheem and Sanko Auto, Inc., (2) Timothy R. Walker and Michael Fields and Field Auto City.** Chairman David Lacy summarized for the Board the discussion held in the Committee meeting regarding (1) Carolyn & Brian Robertson and Romany Faheem and Sanko Auto, Inc., (2) Timothy R. Walker and Michael Fields and Field Auto City. Based on that discussion and the recommendation in the case, Mr. Lacy 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:

Meeting Summary

Dealer Practices Committee

Monday, May 14, 2007

Chairman Pat Patrick 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, Lynn Hooper, David Lacy, Hugh McCreight, Frank Pohanka, Kevin Reilly, Jimmy Whitten and Robert Woodall. (Absent: Thomas Moorehead). Other board members present: D.B. Smit, Todd Hyman, Wanda Lewark, Chip Lindsay, Larry Shelor. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Jim Gurney represented DMV. Eric Fiske was present from the Attorney General's Office.

The March 12, 2007 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: March Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on March 12, 2007.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Amanullah Abbasi and Nations Auto Group, LLC.** On February 23, 2007, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1518 (failure to display list of salespersons employed in a conspicuous place and keep it current), 46.2-1519 (failure to maintain all dealer records on the premises of the licensed location in a manner that permits systematic retrieval including records regarding employees; lists of vehicles in inventory for sale, resale or on consignment; vehicle purchases, sales, trades, and other transfers of ownership; collections of taxes; titling, uninsured motor vehicle, and registration fee; odometer disclosure statements, records of permanent dealer registration plates assigned to the dealer and temporary transport plates and temporary certificates of ownership), 46.2-1542(c) (failure to, no later than the expiration of the first temporary certificate, deliver to the Department an application for title, copy of the buyer's order, all required fees and a written statement of facts describing the dealer's efforts to secure the certificate of origin to the vehicle), 46.2-1550 (failure to properly limit the use of dealer license plates on vehicles in the dealer's inventory to dealers, their spouses, licensed salespersons and employees of the dealership), 46.2-1550(2) (issuance and use of temporary transport plates, generally), 46.2-1559 (failure to keep a written record of temporary license plates and have them available for inspection. Each record shall be retained for a period of one year) and 46.2-1561 (to who temporary plates shall not be issued; dealer to forward application for current titling and registration; misstatements and false information). Based on the information provided at the conference, the hearing officer recommended that Mr. Amanullah Abbasi should have his dealer license revoked and if Nations Auto Group should continue to operate without Mr. Abbasi, they should be assessed a civil penalty of \$1,000 for each of the Motor Vehicle Code violations cited for a total of \$6,000.

Motion was made by Robert Woodall to assess a \$6,000 civil penalty against Mr. Abbasi and revoke all licenses and certificates issued to Mr. Abbasi. Hugh McCreight seconded. The motion carried unanimously.

Report on Variance Requests (Dealer Hours and Storage of Dealer Records). Bruce Gould reported that there were four requests for keeping records on-line and 4 to consolidate to one location. All variances were approved.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 9, 2007.

The meeting adjourned at 8:47 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, May 14, 2007

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 8:48 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Wanda Lewark, Chip Lindsay, Kevin Reilly, Larry Shelor, Jimmy Whitten and Robert Woodall. (Absent: Vince Sheehy and Thomas Woodson). Other Board members present: Lynn Hooper, Robert Woodall, Thomas Moorehead (came in late), Frank Pohanka, David Lacy, D.B. Smit, Pat Patrick, Jonathan Blank, Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Jim Gurney represented DMV. Eric Fiske represented the Attorney General's Office.

The March 12, 2007 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

- **Update: March Actions.** Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on March 12, 2007.
- **Request for Extension on Dealer Operator Course: Mike Laughlin.** Mr. Laughlin submitted a letter to the Board that indicated at the last dealer board meeting (March), he was mandated to complete the Dealer-Operator course within the next 6 months. However, the next course scheduled for his area is December 5th and 6th, 2007 and is the only location that would not require him to drive and stay out of town for two days. Therefore, he is requesting that the Committee extend his dead line until December 10, 2007.

Motion was made by Jimmy Whitten to deny Mr. Laughlin's request as they believed Mr. Laughlin needs this course sooner rather than later. The Board mandating him to take the course is not a punishment. Wanda Lewark seconded. The motion carried unanimously.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Edward J. Bostain, Jr. and Jakmax.** On January 30, 2007, an informal fact-finding conference was conducted to address the alleged violations of Virginia Code Sections 46.2-1537 (compensating an unlicensed salesperson) and 46.2-1575(2) (failing to comply with the motor vehicle dealer laws of the Commonwealth of Virginia). Based on the information provided at the conference, the hearing officer recommended that Mr. Bostain be assessed a penalty of \$1,000 for sales in which a commission was paid to an unlicensed individual and for the willful violations of 46.2-1537, it is recommended that Mr. Bostain's dealer's license be suspended in accordance with §46.2-1575(2) for a period of 2 days. Also, because Mr. Bostain has never taken the dealer training course, it is recommended that he be required to complete this course within six months of the dealer of the Board's decision.

Mr. Bostain was present and spoke on his own behalf and admitted guilt, but did not agree with the 2-day suspension.

The Committee discussed the hearing officer's recommendation to suspend the dealer license for two days and decided that a civil penalty would be a more appropriate sanction.

Motion was made by Kevin Reilly to modify the hearing officer's recommendation by accessing a civil penalty of \$1,400, and mandating that Mr. Bostain successfully complete the Dealer-Operator Course. Jimmy Whitten seconded. The motion carried unanimously.

- **Esmatullah Ali and Nations Auto Group, LLC.** On March 13, 2007, an informal fact-finding conference was conducted to address the alleged violation of Virginia Code Section 46.2-1575(9) (convicted of criminal act involving the sale of vehicles). Based on the information provided at the conference, the hearing officer recommended that Mr. Ali's license be suspended for a period of sixty (60) days and further recommended that Mr. Ali be required to complete the dealer-operator course and that the Board conduct regular inspections of Nations Auto Group to ensure that it is in compliance with the Board requirements. Given that the General District Court of the City of Alexandria has already imposed a civil penalty on Mr. Ali, the hearing officer does not recommend that the Board impose an additional civil penalty.

Motion was made by made by Jimmy Whitten to suspend all licenses issued to Mr. Ali for a minimum of 60 days or until he successfully completes the Dealer-Operator Course, which ever is longer. Todd Hyman seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for July 9, 2007.

The meeting adjourned at 9:25 a.m.

Meeting Summary
Advertising Committee
Monday, May 14, 2007

Chairman Frank Pohanka called the Advertising Committee meeting to order at 9:26 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Lynn Hooper, Chip Lindsay, Hugh McCreight, Thomas Moorehead, Pat Patrick and Larry Shelor. Other Board members present: D.B. Smit, Kevin Reilly, Todd Hyman, Robert Woodall, David Lacy, Wanda Lewark, Jimmy Whitten. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Jim Gurney and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The March 12, 2007 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

NEW BUSINESS

The next meeting will be July 9, 2007.

NEW BUSINESS FROM THE FLOOR

The meeting adjourned at 9:27 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, May 14, 2007

Chairman David Lacy called the Transaction Recovery Fund Committee meeting to order at 10:07 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, Wanda Lewark, Larry Shelor. (Absent: Vince Sheehy and Tommy Woodson) Other Board members present: Kevin Reilly, Robet Woodall, Todd Hyman, Thomas Moorehead, Frank Pohanka, D.B. Smit, Pat Patrick, Chip Lindsay, Hugh McCreight, Jimmy Whitten. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Jim Gurney and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The March 12, 2007 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:

- **Carolyn & Brian Richardson and Romany Faheem and Sanko Auto, Inc.** On September 6, 2005, Carolyn and her son Brian Richardson purchased a 1995 Ford Concord from John Royal, a licensed salesperson for Sanko Auto, Inc. for a total purchase price of \$2,500.00. After all the appropriate taxes and fees the total purchase price was \$2,624.75. On September 9, 2005, the Richardson's took possession of the vehicle, along with the bill of sale, 30-day temporary certificate and a hand written warranty to cover ½ off on any service labor rates for the life of ownership and a 30-day or 1,000 mile warranty on the power train of the vehicle. The next day, they began to experience mechanical problems with the vehicle so they returned the vehicle on September 13 and Mr. Royal indicated he would order the parts and have the vehicle repaired. On September 28, 2005, they picked the vehicle up and realized that nothing had been done to correct the problems, so the Richardson's took the vehicle to Bill Talley Ford to have a diagnostic analysis done to determine the mechanical problems with the vehicle. The diagnostic report found the following problems with the vehicle: (1) speed sensor was bad (2) EGR and DPFE sensor was bad (3) coolant flush dirty (4) transmission needed to be replaced and (5) the vehicle had not been inspected.

On October 1, 2005, the vehicle was towed from the Ford dealership to Sanko Auto with the key and detailed instructions on what was found wrong with the vehicle. On October 5, 2005, they were told that the vehicle would be worked on by a mechanic. On October 7, 2005, the Richardson's were told that their vehicle was ready for pickup, that the vehicle had been inspected and the fluids where changed. However, they did not order the sensors because the mechanic couldn't find any problems with the sensors or the transmission. On October 8, 2005, the Richardson's were informed that the title documentation had not been submitted from the dealer. They returned to Sanko's and were issued another set of 30-day tags and were told that they were still waiting on the title to be delivered to them. When they left, the vehicle was still not running properly. In calling Sanko, they were told to bring vehicle back.

In November of 2005, the Richardson's learned that Sanko had sent the vehicle to Auto Pro Switch from the repairs to be completed. Sometime in January of 2006, Auto Pro Switch had moved their company and had asked Sanko to pickup the vehicle. In March of 2006, Carolyn Richardson had on numerous occasions tried to reach Sanko Auto by phone and by fax inquiring on the status of the vehicle or the refund of their money. In April of 2006, Ms. Richardson contacted filed a complaint with the Office of Consumer Affairs, who forwarded her complaint to the Dealer Board. On July 20, 2006, Ms. Richardson filed a Warrant in Debt against Sanko Auto, Inc. On August 21, 2006, the City of Richmond General District Court awarded judgment to Carolyn Richardson against Sanko Auto, Inc in the amount of \$2,624.75 with 6% interest from the date of September 6, 2005 until paid plus \$38.00 in costs. On October 16, 2006, Ms. Richardson submitted to the Dealer Board the Judgment Claim Request form and a copy of the default judgment order against Sanko Auto, Inc. requesting consideration of payment from the Motor Vehicle Transaction Recovery Fund. Between October 18 and November 21, 2006, requested paperwork had been sent to the Dealer Board by Ms. Richardson. On December 7, 2006, Robert Edley, Esquire, counsel for Sanko Auto contacted the Dealer Board and indicated that he was submitting documentation to the City of Richmond General District Court to overturn the default judgment. Therefore, the Dealer Board indicated that Ms. Richardson's claim would be held in abeyance pending the Court's decision. On January 3, 2007, Mr. Edley again contacted the Dealer Board and indicated they would be proceeding with a Motion to Set Aside the Judgment by Default. On February 14, 2007, a 3-way conference call with Robert Edley, Carolyn Richardson, Chris Hewlett, Ms. Richardson's counsel and Wanda Neely from the Dealer Board was conducted and Mr. Edley indicated that there was a possibility that Mr. Romany Faheem, owner of Sanko Auto, Inc may be interested in satisfying the judgment within the week.

On March 9, 2007, Mr. Edley contacted the staff at the Dealer Board and indicated that the Court had turned down the request to Set-Aside the Judgment by Default. He also inquired on how long Sanko Auto had in order to pay the Fund. Ms. Neely explained the process and what actions the Dealer Board would take should the Fund makes payment on the judgment that had been originally awarded to Ms. Richardson. With the verification of the Court's denial to Set-Aside the Judgment, the Dealer Board staff will proceed with the Informal Fact-Finding Conference and request consideration of payment from the Fund on Ms. Richardson's claim.

After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Ms. Richardson's claim in the amount of \$2,662.75. This amount is based on the judgment amount of \$2,624.75 and \$38.00 in costs. On April 4, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$2,662.75.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Jonathan Blank seconded. The motion carried unanimously.

- **Timothy R. Walker and Field Auto City.** On October 1, 2004, Mr. Walker entered into a contract to purchase a 2004 GMC Sierra from Field Auto City with a total sales price of \$34,690.00. In addition to all the appropriate fees and taxes the total delivery price is \$36,842.91. Mr. Walker traded in a 2002 Lincoln LS and 2001 Honda S2000. The Lincoln was registered in his name with a lien through Capital One/Auto Finance and the Honda was a lease vehicle through the American Honda Finance Corporation. The paperwork provided to Mr. Walker identified the Lincoln as a trade-in but did not mention the Honda because it was a leased vehicle. However, the negative equity applied to the deal included the negative equity of both vehicles. On the loan contract it listed the payoff amount on the Lincoln as \$29,656.00, but the purchase price of that vehicle was only \$23,468.57 with a remaining balance owed on the loan of \$22,638.06. Field Auto City failed to pay off the lien on the Lincoln in a timely fashion and failed to turn in the Honda and pay the early termination fee. Just before they were about to repossess the Lincoln, Field Auto City paid the lien off, but continued to retain the Honda until it was ultimately repossessed by the leasing company.

On May 4, 2005, American Honda Finance Corporation sent Mr. Walker an invoice for a balance of \$11,716.69 on the 2001 Honda. This amount was due when Mr. Walker traded-in the Honda to Field Auto City and was included in his new loan as well as the additional amounts that came due as a result of Fields Auto failure to return the vehicle to the leasing company and pay the early termination fee. Since May of 2005, the amount due has continued to accrue interest and has caused Mr. Walker major damage to his credit rating because he was unable to pay the balance. In December of 2005, Mr. Walker filed suit against Field Auto City for breach of contract, violation of the Virginia Consumer Protection Act, constructive and actual fraud. On March 1, 2006, the court awarded Mr. Walker judgment against Field Auto City, Inc. in the amount of \$15,000.00 for actual damages plus \$2,700 in attorney fees and \$66.00 in costs. On February 8, 2006, Thomas Christiano, attorney for Mr. Walker, submitted a letter providing notice of a potential claim against the Motor Vehicle Transaction Recovery Fund, along with copies of the Warrant in Debts that had been filed against Field Auto City, Inc. The Board, in turn, requested additional documentation in order to complete the review process. On February 12, 2007, Mr. Christiano submitted to the Dealer Board the additional documentation as requested.

After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Mr. Walker's claim in the amount of \$14,482.69. This amount is based on the judgment amount of \$11,716.69 actual damages in connection with the leased vehicle that was traded-in, \$2,700 in attorney fees and \$66.00 in costs. On April 11, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$14,482.69.

Motion was made by Jonathan Blank to accept hearing officer's recommendation. Wanda Lewark abstained for having done business with Mr. Fields. The motion carried.

NEW BUSINESS FROM THE FLOOR

There was no old business from the floor.

The next meeting was scheduled for July 9, 2007.

The meeting adjourned at 10:07 a.m.