

Meeting Summary
Motor Vehicle Dealer Board
Monday, May 11, 2015

Chairman Rick Holcomb called the Dealer Board meeting to order at 12:03 p.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 Ted Bailey, Gardner Britt, David Duncan, Steve Farmer, Clay Huber, Art Hudgins, Brian Hutchens, Ron Kody, Chip Lindsay, Chris Maher, Matt McQueen, Jacques Moore, George Pelton and Joe Tate. (Absent: Roy Boswell and David Gripshover). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Lisa Mack-Nelson, Kim Garber, Jason McCoy, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon was the recording secretary.

PUBLIC COMMENT

There was no public comment.

The March 9, 2015 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Ron Kody summarized discussions held and actions that were taken during the Committee Meeting.

- **Crown Auto Group, Inc.** Chairman Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Crown Auto Group, Inc. and Mikhail Braslavskiy for alleged violations of VA Code Sections 46.2-1510; 46.2-1529; 46.2-1542; 46.2-1550 (2); 46.2-1561; and 46.2-1575 (1), (2), and (14). Based on due consideration, the Board believes a civil penalty should be assessed against Crown Auto Group, Inc. and Mikhail Braslavskiy. The Board hereby assesses a \$4,500 civil penalty against Crown Auto Group, Inc. and Mikhail Braslavskiy; and based on due consideration, the Board believes that Mr. Braslavskiy's dealership should be re-inspected and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Braslavskiy's dealership by July 11, 2015 and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Braslavskiy until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Braslavskiy in running his dealership. The Board mandates that Mr. Braslavskiy successfully complete the dealer-operator course by November 11, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Braslavskiy by the Board until such time Mr. Braslavskiy has successfully completed the course.

Art Hudgins seconded. The motion carried unanimously.

- **Autoloox and Khashayar Zargham.** Chairman Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Autoloox and Khashayar Zargham for alleged violations of VA Code Sections 46.2-1529; 46.2-1542 (B); 46.2-1559; 46.2-1574; and 46.2-1575 (1), (2) (9) and(14). Based on due consideration, the Board believes a civil penalty should be assessed against Autoloox and Khashayar Zargham. The Board hereby assesses a \$16,000 civil penalty against Autoloox and Khashayar Zargham; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Zargham should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Zargham.

Art Hudgins seconded. The motion carried unanimously.

- **Layne's Used Cars, LLC and Rodney E. Layne.** Chairman Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Layne's Use Cars, LLC and Rodney E. Layne for alleged violations of VA Code Sections 46.2-1529, 46.2-1533, 46.2-1547 and 46.2-1575 (14). Based on due consideration, the Board believes a civil penalty should be assessed against Layne's Use Cars, LLC and Rodney E. Layne. The Board hereby assesses a \$750 civil penalty against Layne's Use Cars, LLC and Rodney E. Layne. Based on due consideration, and an offer by Mr. Layne to close his dealership by August 31, 2015. The Board hereby commends Mr. Layne's many years of dedication to the motor vehicle dealer industry and accepts Mr. Layne's offer to close his dealership by August 31, 21015 and will not process a renewal application should he decide to submit such application.

Matt McQueen seconded. The motion carried unanimously.

- **Access Auto, LLC and Brahim E. Iberkak.** Chairman Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Access Auto, LLC and Brahim E. Iberkak for alleged violations of VA Code Sections 46.2-1529, 46.2-1542 and 46.2-1575 (2). Mr. Iberkak has offered to close his dealership by June 30, 2015; to immediately stop selling vehicles at retail; and to pay a \$6,500 civil penalty and the Board agrees to allow Mr. Iberkak to retain his salespersons certificate of qualification. The Board hereby accepts Mr. Iberkak's offer. The Board believes the hearing officer's recommendation should be implemented if Mr. Iberkak fails to abide by any portion of his offer. If Mr. Iberkak fails to abide by any portion of his offer, the Board assess a civil penalty of \$6,500; suspends for one year all licenses and certificates issued by the Board to Mr. Iberkak and mandates that he successfully complete the Dealer-Operator course within one year of completion of the suspension. Failure to successfully complete the course within this time frame will result in a suspension of all licenses and certificates issued to Mr. Iberkak by the Board until such time Mr. Iberkak has successfully completed the course.

Joe Tate seconded. The motion carried unanimously.

- **VA Motors, LLC and Alfred B. Ankomah.** Chairman Kody made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning VA Motors, LLC and Alfred B. Ankomah for alleged violations of VA Code Sections 46.2-1529; 46.2-1535; 46.2-1537; 46.2-1550; 46.2-1574; and 46.2-1575 (2), (7) and (8). Based on due consideration, the Board believes a civil penalty should be assessed against VA Motors, LLC and Alfred B. Ankomah. The Board hereby assesses a \$2,750 civil penalty against VA Motors, LLC and Alfred B. Ankomah; and based on due consideration, the Board believes that Mr. Ankomah's dealership should be re-inspected and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Ankomah's dealership by August, 11 2015 and if the inspection is not satisfactory the Board suspends for all licenses and certificates issued by the Board to Mr. Ankomah until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Ankomah in running his dealership. The Board mandates that Mr. Ankomah successfully complete the dealer-operator course by November 11, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Ankomah by the Board until such time Mr. Ankomah has successfully completed the course.

Steve Farmer seconded. The motion carried unanimously.

- **Kenon Auto Sales and Timothy W. Kenon.** Chairman Kody made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the Motor Vehicle Dealer Board assessed a \$2,750 civil penalty against Kenon Auto Sales and Timothy W. Kenon and revoked all licenses and certificates issued by the Board to Mr. Kenon. Mr. Kenon appealed the Board's decision and requested a formal hearing that was conducted on March 10, 2015; 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 Kenon Auto Sales and Timothy W. Kenon for alleged violations of VA Code Sections 46.2-1533; and 46.2-1575 (2). Based on due consideration, the Board believes a civil penalty should be assessed against Kenon Auto Sales and Timothy W. Kenon. The Board hereby assesses a \$3,000 civil penalty against Kenon Auto Sales and Timothy W. Kenon; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Kenon should be suspended/revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Kenon.

George Pelton seconded. The motion carried unanimously.

Licensing Committee

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

- **David C. Haskins, A1 Sales, LLC.** Chairman Tate 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 David C. Haskins and A1 Sales for alleged violations of VA Code Sections 46.2-1575 (6) and (13). Based on due consideration, the Board believes no action should be taken against David C. Haskins and A1 Sales. The Board hereby takes no further action against David C. Haskins and A1 Sales.

Jacques Moore seconded. The motion carried unanimously.

- **Mikhail Braslavskiy, Crown Auto Group, Inc.** Chairman Tate 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 Mikhail Braslavskiy and Crown Auto Group for alleged violations of VA Code Sections 46.2-1550; 46.2-1550 (1); and 46.2-1575 (1), (9) and (12). Based on due consideration, the Board believes a civil penalty should be taken/assessed against Mikhail Braslavskiy and Crown Auto Group. The Board hereby assesses a \$1,000 civil penalty against Mikhail Braslavskiy and Crown Auto Group; and based on due consideration, the Board believes a warning should be issued to Mr. Braslavskiy concerning the proper use of dealer license plates. This Resolution will serve as an educational/warning to Mr. Braslavskiy on the proper and legal use of dealer license plates.

Advertising Committee

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

- **Southern Chrysler Jeep Greenbrier and Bradley Hunt.** Chairman Lindsay 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 Southern Chrysler Jeep Greenbrier for alleged violations of VA Code Sections 46.2-1575 (6) and (7); 46.2-1581 (8) and (11). Based on due consideration, the Board believes a civil penalty should be assessed against Southern Chrysler Jeep Greenbrier. The Board hereby assesses a \$1,000 civil penalty against Southern Chrysler Jeep Greenbrier and Bradley Hunt.

Joe Tate seconded. All in favor: 14 (Holcomb, Kody, Tate, Bailey, Duncan, Farmer, Huber, Hudgins, Hutchens, Lindsay, Maher, McQueen, Moore and Pelton) Opposed: 1 (Gardner Britt). The motion carried.

Transaction Recovery Fund Committee:

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

- **Marcel P. Muders vs. Victory Lane Motors and Shawn O’Dell, Robert Scott** Chairman Bailey summarized for the Board the discussion held in the committee meeting regarding Cody D. Cameron and Coast 2 Coast Auto Sales (Previous t/a Autos and Cycles Biz). Based on that discussion and the recommendations in these cases, Mr. Bailey made the following motion: Pursuant to VA Code Section 46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund (“Fund”), the Board has reviewed and considered the claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund:

Marcel P. Muders and Victory Lane Motors and Shawn O’Dell
\$6,159.01

Matt McQueen seconded. The motion carried unanimously.

- **Robert Scott vs. Towne Automotive Brokers, Inc. and Francis A. Masika.** Chairman Bailey summarized for the Board the discussion held in the committee meeting regarding Towne Automotive Brokers, Inc. and Francis A. Masika. Based on that discussion and the recommendations in these cases, Mr. Bailey made the following motion: Pursuant to VA Code Section 46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund (“Fund”), the Board has reviewed and considered the claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the claim should be denied.

Joe Tate seconded. The motion carried unanimously.

OLD BUSINESS

Update: 2015 General Assembly. Rick Holcomb indicated that the Governor approved a 2% pay increase, as well as one time pay adjustment to all state employees. Bruce indicated that HB 2189 involves moving motorcycles, motor homes and trailers from DMV to MVDB, effective July 1, 2015. The staff is working diligently in the preparation of this move. New forms will be introduced as well. Further updates will be presented at the July meeting.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Lisa Mack-Nelson introduced to the Members the two new field representatives, Kim Garber and Jason McCoy.

Bruce indicated that he would like to attend the National Association of Motor Vehicle Boards and Commissions workshop where many of his peers meet. He requested approval from the Board members to attend. The cost will be approximately \$2,500 for two MVDB staff to attend. There were no objections.

NEW BUSINESS FROM THE FLOOR

The next meeting will be scheduled for July 13, 2015.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Rick Holcomb adjourned the meeting at 12:45 a.m.

Meeting Summary
Dealer Practices Committee
Monday, May 11, 2015

9:06 a.m. Prin Cowan conducted a power point presentation to the Board Members, explaining how Horizons works for the Motor Vehicle Dealer Board staff.

Chairman Ron Kody called the Dealer Practices Committee meeting to order at 9:31 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Gardner Britt, Steve Farmer, Clay Huber, Brian Hutchens, Chip Lindsay, Chris Maher, Matt McQueen, George Pelton and Joe Tate. (Absent: Roy Boswell). Other Board members present: Ted Bailey, Art Hudgins, David Gripshover, David Duncan, Rick Holcomb, Jacques Moore. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Wanda Neely and Lisa Mack-Nelson, Kim Garber, Jason McCoy represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 9, 2015 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Crown Auto Group, Inc. and Mikhail Braslavskiy.** On February 13, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1510 (Failure to maintain established place of business), 46.2-1529 (Dealer records), 46.2-1542 (Title within 30 days), 46.2-1550 (2) (Misuse of transport tags), 46.2-1561 (Misuse of PoD tags) and 46.2-1575 (1) (Material misstatement), (2) (Failure to comply with a written warning or willful failure to comply) and (14) (Failure to submit fees to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$4,500 and a satisfactory inspection of all dealer records.

Mr. Braslavskiy was present and spoke on behalf of himself.

Motion was made by Matt McQueen to assess a civil penalty of \$4,500, satisfactory inspection within 60 days and successfully complete the Dealer-Operator course. George Pelton seconded. The motion carried unanimously.

- **Autoloox and Khashayar Zargham.** On December 17, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Dealer records), 46.2-1542 (B) (Title within 30 days), 46.2-1559 (Records to be kept by dealers; inspection), 46.2-1574 (Acts of officers) and 46.2-1575 (1) (Material misstatement), (2) (Failure to comply with previous warnings), (9) (having been convicted of any criminal act involving the business of selling vehicles) and (14) (Failure to submit fees within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$16,000 and revocation of licenses and certificates.

Lee Arzt, attorney for Mr. Zargham, was present and spoke on behalf of his client. He indicated that his client was out of the country and would like to continue this until the next Board meeting. He also indicated that Mr. Zargham would like to just possess a salesperson's license. Due to Mr. Zargham being already out of business, the request was denied and the members voted accordingly.

Motion was made by Matt McQueen to assess a civil penalty of \$16,000 and revocation of all licenses and certificates. Chris Maher seconded. The motion carried unanimously.

- **Layne's Use Cars, LLC and Rodney E. Layne.** On March 16, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Failure to properly maintain dealer records), 46.2-1533 (Failure to maintain business hours) 46.2-1547 (Failure to provide proof of liability insurance on dealer tags) and 46.2-1575 (14) (Failure to submit fees to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,500, a satisfactory inspection of all dealer records and to successfully complete the Dealer-Operator course.

Mr. Layne was present and spoke on his own behalf. Mr. Layne indicated that he will be closing his business in August, which is when the dealership's license expires.

Motion was made by Chris Maher to accept Mr. Layne's comments that the dealership will close and reduced the civil penalty to \$750. If the business is not closed by August 31, all of the dealership license will not be renewed. Joe Tate seconded. The motion carried unanimously.

- **Access Auto, LLC and Brahim E. Iberkak.** On March 30, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Failure to properly maintain dealer records), 46.2-1542 (Failure to provide title within 30 days) and 46.2-1575 (2) (Failure to comply with previous warnings). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$6,500, suspension for one year and to successfully complete the Dealer-Operator course within one year of suspension.

Mr. Iberkak was present and spoke on his own behalf. Mr. Iberkak indicated that he would like to close his business by the end of August.

Motion was made by Joe Tate to assess a civil penalty of \$6,500, cease retail operations, liquidate inventory and close business within 45 days, allow Mr. Iberkak to retain his salesperson license. If Mr. Iberkak hasn't complied by June 30, then the hearing officer's recommendation will be implemented. Steve Farmer seconded. The motion carried unanimously.

- **VA Motors, LLC and Alfred B. Ankomah.** On April 15, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Dealer records), 46.2-1535 (Failure to disclose Virginia dealer in advertising), 46.2-1537 (Prohibited solicitation and Compensation, W2), 46.2-1550 (Misuse of transport tags and dealer tags), 46.2-1574 (Acts of officers, salespersons), 46.2-1575 (2) (Failure to comply with previous warnings), 46.2-1575 (7) (Misleading advertising) and 46.2-1581 (8) (Failure to disclose processing fee in advertising). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,250, satisfactory inspection within 6 months and to successfully complete the Dealer-Operator course within an agreeable time frame by staff and should he successfully complete the course, a reduction of his civil penalty of the amount of the training cost.

Motion was made by Joe Tate to assess a civil penalty of \$2,750, a satisfactory inspection within 90 days and to successfully complete the Dealer-Operator course within 6 months. George Pelton seconded. The motion carried unanimously.

Review and Action: Formal Hearings:

- **Kennon Auto Sales and Timothy W. Kennon.** Historical overview leading up to the formal hearing: On October 22, 2014, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1533 (Business hours) and 46.2-1575 (2) (Failure to comply with a written warning or willful failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,750 and revocation of all licenses and certificates. At the January Board meeting, the Board agreed with the hearing office's findings. On February 9, 2015, the Board received Mr. Kennon's appeal for a formal hearing. On March 10, 2015, a formal hearing was conducted to address the above violations. Based on the information provided at the formal hearing, the hearing officer recommended assessing a civil penalty of \$3,000 and revocation of all licenses and certificates.

Motion was made by Steve Farmer to assess a civil penalty of \$3,000 and revocation of all licenses and certificates. Matt McQueen seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 13, 2015

The meeting adjourned at 10:22 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, May 11, 2015

Chairman Joe Tate called the Dealer Licensing Committee meeting to order at 10:22 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Ted Bailey, David Duncan, Art Hudgins, Chip Lindsay, Jacques Moore and George Pelton. (Absent: David Gripshover). Other Board members present: Gardner Britt, Ron Kody, Rick Holcomb, Brian Hutchens, Matt McQueen, Clay Huber and Chris Maher. Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Kim Garber, Jason McCoy, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 9, 2015 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **David C. Haskins, A1 Sale, LLC.** On February 19, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (6) (Deceptive acts and practices) and (13) (Having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$500.

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

Motion was made by Jacques Moore to allow Mr. Haskins to maintain his license and no penalty. David Duncan seconded. The motion carried unanimously.

- **Mikhail Braslavskiy, Crown Auto Group, Inc.** On April 21, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1550 (Use of dealer's and manufacturer's license plates), 46.2-1550 (1) (Use of dealer's license plates and temporary transport plates), 46.2-1575 (1) (Material misstatement), (9) (Convicted of a criminal act) and (12) (Leasing, lending, allowing use of a dealer's license not authorized). Based on the information provided at the conference, the hearing officer recommended a warning for the violations of 46.2-1550, 1550 (1) and 1575 (12). Also recommended assessing a civil penalty of \$750 for the violation of 46.2-1575 (1) (Material misstatement).

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

Motion was made by Jacques Moore to assess a \$1,000 civil penalty and an administrative warning. George Pelton seconded. All in favor: 6 (Hudgins, Bailey, Duncan, Lindsay, Moore, Pelton). Opposed: 1 (Tate). The motion carried.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 13, 2015

The meeting adjourned at 10:35 a.m.

Meeting Summary
Advertising Committee
Monday, May 11, 2015

Chairman Chip Lindsay called the Advertising Committee meeting to order at 10:35 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members David Duncan, Clay Huber, Art Hudgins, Brian Hutchens, Ron Kody and Matt McQueen. (Absent: Roy Boswell). Other Board members present: Jacques Moore, Steve Farmer, Rick Holcomb, Joe Tate, Ted Bailey, George Pelton and Chris Maher. Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Kim Garber, Jason McCoy, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 9, 2015 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **UPDATE: Rebate Advertising:** Bruce Gould indicated that since the recommendations have been recommended at the last Board meeting, when an advertisement is discovered on incorrect rebate advertising, an email is sent to the dealer. To date, around 21 emails have been issued. Their main objective is to ensure that if a dealer advertises a rebate, every one qualifies for that rebate.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Southern Chrysler Jeep Greenbrier and Bradley Hunt.** On February 11, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (6) (Having used deceptive acts or practices), (7) (Misleading advertising), 46.2-1581 (8) (Failure to disclose Processing Fee in their advertising) and (11) (Using the term "free" in a prohibited manner). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$2,000.

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

Motion was made by Clay Huber to assess a civil penalty of \$1,000. Matt McQueen seconded. The motion carried unanimously.

The next meeting was scheduled for July 13, 2015.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 11:11 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, May 11, 2015

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

The March 9, 2015 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Marcel P. Muders and Victory Lane Motors and Shawn O'Dell.** In December, 2013, Mr. Muders purchased a 2007 Infiniti from Victory Lane Motors, Inc. for a total purchase price of \$19,644.10 (inclusive of title, taxes & tags). Mr. Muders' currently has possession of the vehicle and has continued to make his loan payments to Navy Federal Credit Union. On December 1, 2014, the General District Court for the City of Norfolk awarded Mr. Muders' judgment against Victory Lane Motors, Inc. for a total amount of \$25,000.00 (\$20,000 actual fraud and \$5,000 for attorney fees). After a long process the DMV Investigative Services were able to issue Mr. Muders' a Non-Negotiable Virginia Title, which made Mr. Muders whole, other than his legal fees and fees he paid to the dealership in order to obtain title to the vehicle.

Pursuant to Va. Code §46.2-1527.5, excluded from the amount of any unpaid final judgment on which a claim against the Fund is based shall be any sums representing (i) interest, (ii) punitive damages, and (iii) exemplary damages. Further, under Va. Code §46.2-1527.5 the maximum claim of one judgment debtor against the Fund involving a single transaction shall be limited to \$25,000.00, regardless of the amount of the unpaid judgment. Further, under Va. Code §46.2-1527.5 the maximum claim of one judgment debtor against the Fund involving a single transaction shall be limited to \$25,000.00, regardless of the amount of the unpaid judgment. In addition, under Va. Code §46.2-1527.5, the Fund is liable "only after the dealer's bond has been exhausted".

Therefore, due to the statutes governing the Fund the Dealer Board staff is recommending that the Recovery Fund Committee and Full Board approve Mr. Mudders claim in the amount of \$6,159.01, which is based on the fees paid directly to dealership in connection with the purchase (\$299.00 processing fee, \$751.76 sales tax, \$37.50 business license tax, \$60.75 title & license fees) and \$5,000.00 in attorney fees, plus \$10.00 fee for a Va. Non-Negotiable title.

On March 16, 2015, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended a payment of \$6,159.01 should be considered.

Motion was made by Steve Farmer to accept the hearing officer's recommendation in paying the \$6,159.01 claim. Brian Hutchens seconded. The motion carried unanimously.

- **Robert Scott and Towne Automotive Brokers, Inc. and Francis A. Masika.** On July 21, 2009, Robert Scott entered into a contract with Towne Automotive Brokers and Francis Masika for the purchase of a 2006 BMW 750, for a purchase price of \$28,500.00. Mr. Scott paid with a check for the full purchase price of the vehicle. Francis Masika deposited the check on July 22, 2009. In August, 2009, Mr. Scott was having problems with the BMW and Francis Masika picked up the vehicle and promised Mr. Scott he would find a replacement vehicle. Mr. Scott has not seen the BMW since August, 2009. Mr. Scott decided to purchase another vehicle from Francis Masika. Mr. Scott inquired about a 2006 Honda Odyssey van that Francis Masika was selling for a purchase price of \$27,500.00. Mr. Scott paid Mr. Masika with a check for the full purchase price that was deposited by Mr. Masika on August 14, 2009.

Within a few weeks, Francis Masika represented to Mr. Scott that the van was unsafe. Mr. Scott returned the van to Mr. Masika and he promised to find a suitable replacement vehicle. Mr. Scott never saw the van again. In a signed statement, dated April 12, 2010 Francis Masika admitted to owing Mr. Scott \$56,000.00 (\$28,500 for BMW and \$27,500 for the van). Unfortunately, Mr. Masika's fraudulent inducement and misrepresentations throughout these transactions has left Mr. Scott liable for (2) two loans to repay for vehicles he has not had possession of since the purchases. On July 28, 2010, the Circuit Court of the City of Chesapeake awarded Robert Scott a default judgment against Towne Automotive Brokers, Inc. in the amount of \$44,000.00 for damages. However, due to court actions involving multiple claimants that had obtained judgments against Towne Automotive Brokers, Inc. payments from surety bonding company were delayed.

On February 22, 2012, the Circuit Court for the City of Chesapeake issued an Order regarding the funds that had been previously placed on deposit by the bonding company of the (\$50,000) with the clerk of the court. The Order set out payment to five claimants totaling \$50,000 to include \$13,632.50 to Mr. Scott.

Proceeds from the surety bonding company were distributed from the court on March 20, 2012. On April 10, 2012, the Dealer Board staff spoke with counsel for Mr. Scott and requested copies of the (2) Buyer's Order for the 2 vehicles and an attested copy of final judgment order. **(Claim held in abeyance until documentation received)**

On February 13, 2015, Stricker Sanford, IV, counsel for Robert Scott, submitted the attested copy of judgment. Pursuit to Va. Code §46.2-1527.3 (1), the claim shall be filed with the Board no sooner than 30 days and no later than 12 months after the judgment becomes final. However, after a careful preliminary review, it is staff's opinion that Robert Scott's claim does not fully meet the requirement of Va. Code §46.2-1527.3. A judgment was awarded in a court of competent jurisdiction in the Commonwealth, however the judgment was awarded in July, 2010 and the claim was not submitted to the Dealer Board until April, 2012.

In February, 2012 the disbursement of surety bond funds was approved and Mr. Scott received \$13,632.50 on his claim. Counsel on behalf of Mr. Scott is requesting consideration of reimbursement from the Fund on the remaining balance of his judgment. However, given the facts and code sections governing the Fund, the Dealer Board staff is recommending that the Recovery Fund Committee and Board deny Robert Scott's claim, pursuant to Va. Code §46.2-1527.3, judgment was already over the 12 month limitation for recovery from the Fund.

On April 24, 2015, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended denying claim due to exceeding the time period allowed for consideration.

Note: The dealer's surety bonding company (Platte River) \$50,000.00 liability has been exhausted. Currently, the Transaction Recovery Fund has paid a total of \$36,766.66 on (4) four claims against Francis Masika & Towne Automotive Brokers.

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

Motion was made by Matt McQueen to deny the claim; however, to present this case to the General Assembly to pay this claim under a relief bill. Brian Hutchens seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for July 13, 2015

The meeting adjourned at 11:53 a.m.