

Meeting Summary
Motor Vehicle Dealer Board
Monday, May 9, 2016

Vice-Chairman Joe Tate called the Dealer Board meeting to order at 11:14 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were Board 12 members present. Present were members Liza Borches, Michael Bor, David Duncan, Steve Farmer, Robert Fisher, David Gripshover, Clay Huber, Ron Kody, Chris Maher, Geoff Malloy, Jacques Moore and Joe Tate. (Absent: Rick Holcomb, Ted Bailey, Gardner Britt, Matt McQueen, George Pelton, Senior Saghafi and Maurice Slaughter). Executive Director William Childress, Peggy Bailey, Prin Cowan, Lisa Mack-Nelson and Ann Majors 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 14, 2016 meeting summary was approved. Michael Bor indicated that the Shift comments needed a small correction. The recording secretary acknowledged the correction.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

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

- **Auto Bank II and Afishin Moalem.** 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 Auto Bank II and Afishin Moalem for alleged violations of Va. Code sections §46.2-1508, 46.2-1529, 46.2-1537, 46.2-1539, 46.2-1550, 46.2-1561, 46.2-1574, and 46.2-1575 (1) and (6). Based on due consideration, the Board believes that the following actions should be taken against Auto Bank II and Afishin Moalem: Assessed a civil penalty of seven thousand, seven hundred and fifty dollars (\$7,750); and Auto Bank II shall be re-inspected by a Motor Vehicle Dealer Board field inspector by 9 November 2016 and that inspection shall be satisfactory; and Mr. Moalem shall successfully complete the dealer-operator course by 9 November 2016. Unsuccessful completion of the dealer-operator course by 9 November 2016 will result in the assessment an additional civil penalty of two hundred and fifty dollars (\$250). The Board mandates that Auto Bank II and Afishin Moalem be assessed a civil penalty of seven thousand, seven hundred and fifty dollars (\$7,750), and that the Auto Bank II dealership satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before 9 November 2016, and that Mr. Moalem shall successfully complete the dealer-operator course by 9 November 2016. Unsuccessful completion of the dealer-operator class by the mandated date will result in a civil penalty being assessed, by the board, in the amount of two hundred and fifty dollars (\$250). Failure to pass the inspection and/or successfully complete the dealer-operator course by 9 November 2016 will result in suspension of all licenses and certificates issued to Mr. Moalem by the Board until such time Mr. Moalem successfully complies with the Board's mandates.

Mr. Moalem spoke on his own behalf. **NOTE:** He was not present during the Dealer Practices Committee meeting.

Steve Farmer seconded. The motion carried unanimously.

- **Ray's Auto Recovery Sales Rental, LLC and Raymond A. Wilborne.** 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 Ray's Auto Recovery Sales Rental, LLC and Raymond A. Wilborne for alleged violations of Va. Code section §46.2-1575 (9). Based on due consideration, the Board believes that Ray's Auto Recovery Sales Rental, LLC shall be re-inspected by a Motor Vehicle Dealer Board field inspector by 9 November 2016 and that inspection shall be satisfactory. The Board mandates that Ray's Auto Sales Rental, LLC shall satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before 9 November 2016. Failure to pass the inspection by 9 November 2016 will result in suspension of all licenses and certificates issued to Mr. Wilborne by the Board until such time Ray's Auto Recovery Sales Rental, LLC successfully passes the Board mandated inspection.

Mr. Wilborne thanked the Board Members.

Jacques Moore seconded. The motion carried unanimously.

- **Robert Garten Automotives, LLC and Robert C. Garten.** 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 Robert Garten Automotives, LLC and Robert C. Garten for alleged violations of Va. Code §46.1529, 46.2-1531, 46.2-1550 (1) and (2), 46.2-1574 and 46.2-1575 (2) and (9). Based on due consideration, the Board believes that Robert Garten Automotives, LLC and Robert C. Garten shall be assessed a civil penalty of seven thousand dollars (\$7,000). The Board mandates that Robert Garten Automotives, LLC and Robert C. Garten be assessed a civil penalty of seven thousand dollars (\$7,000).

Liza Borches seconded. The motion carried unanimously.

- **Speedhunters Automotive Group, Inc. and Antonio Jimenez.** 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 Speedhunters Automotive Group, Inc., and Antonio Jimenez for alleged violations of Va. Code sections §46.2-1515, 46.2-1529, 46.2-1574), 46.2-1575 (7) and 46.2-1581 (8). Based on due consideration, the Board believes that the following actions should be taken against Speedhunters Automotive Group, Inc. and Antonio Jimenez: Assessed a civil penalty of five hundred dollars (\$500); and Speedhunters Automotive Group, Inc., and Antonio Jimenez shall be re-inspected by a Motor Vehicle Dealer Board field inspector by 9 November 2016 and that inspection shall be satisfactory. The Board mandates that Speedhunters Automotive Group, Inc., be assessed a civil penalty of five hundred (\$500) dollars and that the Speedhunters Automotive Group, Inc., dealership satisfactorily pass an inspection conducted by a Motor Vehicle Dealer Board field inspector on or before 9 November 2016. Failure to pass the inspection conducted by the Motor Vehicle Dealer Board field inspector by 9 November 2016 will result in suspension of all licenses and certificates issued to Mr. Jimenez by the Board until such time Speedhunters Automotive Group successfully passes the mandate inspection.

Chris Maher seconded. The motion carried unanimously.

Mr. Nash spoke on his own behalf.

- **Nash's Auto Sales, LLC and Rolando Nash.** 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 \$10,000.00 civil penalty against Nash's Auto Sales and Rolando Nash and revoked all licenses and certificates issued by the Board to Mr. Nash. Mr. Nash appealed the Board's decision and requested a formal hearing that was conducted on December 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 Nash's Auto Sales and Rolando Nash for alleged violations of Va. Code sections §46.2-1508, 46.2-1529; 46.2-1537; 46.2-1539; 46.2-1542; 46.2-1547; 46.2-1550; 46.2-1574 and 46.2- 1575 (1), (2), (6), (10), and (14). Based on due consideration, the Board believes that the following actions should be taken against Nash's Auto Sales and Rolando Nash: Assessed a civil penalty of ten thousand (\$10,000) dollars; and all dealer licenses issued by the Board to Mr. Nash be revoked; and Mr. Nash is allowed to retain his salesperson license. The Board mandates that Nash's Auto Sales and Rolando Nash be assessed a civil penalty of ten thousand (\$10,000) dollars and that all dealer licenses issued to Mr. Rolando Nash are revoked. Rolando Nash is allowed to retain his salesperson's license.

Chris Maher seconded. All in favor: 11 (Borches, Duncan, Farmer, Fisher, Gripshover, Huber, Kody, Maher, Malloy, Moore, Tate). Opposed: 1 (Bor). The motion carried.

NOTE: a Substitute motion was made by Michael Bor to assess a civil penalty of \$10,000, remove the revocation, pending a satisfactory inspection. David Gripshover seconded. All in favor: 2 (Bor, Gripshover). Opposed: 10 (Borches, Duncan, Farmer, Fisher, Gripshover, Huber, Kody, Maher, Malloy, Moore, Tate). The motion failed; therefore the above original motion carried.

Licensing Committee

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

- **Robert D. Minnix, Salesperson.** 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 Robert D. Minnix for alleged violations of VA Code Sections 46.2-1575 (1), (6) and (9). Based on due consideration, the Board believes that the following actions shall be taken against Mr. Minnix: Assessed a civil penalty of five hundred (\$500) dollars; and successfully complete the salesperson course by 9 August 2016. The Board mandates that Robert D. Minnix be assessed a civil penalty of five hundred (\$500) dollars and that he successfully completes the salesperson course by 9 August 2016. Failure to successfully complete the salesperson course by 9 August 2016 will result in suspension of the salesperson license issued to Robert D. Minnix by the Board until such time Mr. Minnix successfully complies with the Board's mandates.

Robert Fisher seconded. The motion carried unanimously.

- **David W. Hall, Country Motor Sales.** 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 W. Hall and Country Motor Sales for alleged violations of Va. Code sections §46.2-1575 (1) and (9). Based on due consideration, the Board believes that the following actions shall be taken against David W. Hall: Assessed a two hundred and fifty (\$250) dollar civil penalty; and Country Motors Sales be inspected by a Motor Vehicle Dealer Board field inspector and a Department of Motor Vehicles Special Agent by 9 July 2016 and that inspection shall be satisfactorily. The Board mandates that David W. Hall and Country Motors Sales be assessed a civil penalty of two hundred and fifty (\$250) dollars and that the Country Motors Sales dealership satisfactorily pass a joint inspection conducted by a Motor Vehicle Dealer Board field inspector and a Department of Motor Vehicle Special Agent on or before 9 July 2016. Failure to achieve a satisfactory inspection conducted by a Motor Vehicle Dealer Board field inspector and a Department of Motor Vehicles Special Agent by 9 July 2016 will result in suspension of all licenses and certificates issued to Country Motors Sales and Mr. Hall by the Board until such time as Country Motors Sales successfully complies with the Board's mandates

Robert Fisher seconded. The motion carried unanimously.

- **Edward S. Riley, Salesperson Applicant.** 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 Edward Riley for alleged violations of Va. Code section §46.2-1575 (1). Based on due consideration, the Board believes the following actions shall be taken against Edward Riley: Assessed a two hundred and fifty (\$250) dollar civil penalty and Mr. Riley is denied a salesperson license. The Board mandates that Edward Riley be assessed a civil penalty of two hundred and fifty (\$250) dollars and that Edward Riley be denied a salesperson license.

Liza Borches seconded. The motion carried unanimously.

Mr. Ducote thanks the Board Members

- **John V. Ducote, Salesperson.** Chairman Tate made a motion to take no further action against Mr. Ducote's licenses.

David Duncan seconded.

Substitute Motion was made by Ron Kody: 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 John V. Ducote for alleged violations of Va. Code §46.2-1575 (1), (4) and (8). Based on due consideration, the Board believes that a civil penalty of two hundred and fifty (\$250) dollars should be assessed against John V. Ducote. The Board assesses John V. Ducote a two hundred and fifty (\$250) civil penalty.

David Gripshover seconded. All in favor: 8 (Borches, Duncan, Farmer, Fisher, Gripshover, Huber, Kody, Malloy). Opposed: 4 (Bore, Maher, Moore, Tate). The motion carried.

- **Scottie L. Austin, Salesperson Applicant.** 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 Scottie L. Austin for alleged violations of Va. Code sections §46.2-1575 (6) and (13). Based on due consideration, the Board believes Mr. Austin license application should be approved and that he and his employer and all future employers shall complete an affidavit and submit it to the Board before a license will be issued or transferred. The Board hereby approves Scottie L. Austin's application for a salesperson license and mandates that he and all future employers complete and submit an affidavit to the Board before a license will be issued or transferred.

Robert Fisher seconded. The motion carried unanimously.

Advertising Committee

Chairman David Duncan summarized discussions that were held during the Committee Meeting.

- **National Motors Dealer, Inc. and Amin Barek and Lida Barekzi.** Chairman Duncan 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 National Motors Dealer, Inc., and Amin Barek and Lida Barekzi for alleged violations of Va. Code sections §46.2-1535, 46.2-1574 and 46.2-1575 (7) and (8). Based on due consideration, the Board believes that the following actions should be taken against National Motors Dealer, Inc., and Amin Barek and Lida Barekzi: Assessed a civil penalty of two hundred and fifty (\$250) dollars; and issued a formal warning. The Board mandates that National Motors, Inc., and Amin Barek and Lida Barekzi be assessed a civil penalty of two hundred and fifty (\$250) dollars and that the National Motors Dealer, Inc., and Amin Barek and Lida Barekzi shall be issued a formal warning.

Clay Huber seconded. The motion carried unanimously.

- **Coastline Automotive, LLC and William M. Ward.** Chairman Duncan 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 Coastline Automotive, LLC and William M. Ward for alleged violations of Va. Code §46.2-1535, 46.2-1574, 46.2-1575 (7) and 46.2-1581 (8). Based on due consideration, the Board believes that a civil penalty of one thousand two hundred and fifty (\$1,250) dollars should be assessed against Coastline Automotive, LLC and William M. Ward. The Board mandates that Coastline Automotive, LLC and William M. Ward be assessed a civil penalty of one thousand two hundred and fifty (\$1,250) dollars.

Liza Borches seconded. The motion carried unanimously.

Transaction Recovery Fund Committee:

Chairman Chris Maher summarized discussions held and actions that were taken during the Committee Meeting.

- **Carolyn P and Tichia M. Brown vs. Chesbay Auto Sales, LLC/Chesapeake Bay Auto Sales, LLC and Robert Upton, III.** Chairman Maher summarized for the Board the discussion held in the committee meeting regarding Carolyn P. and Tichia M. Brown vs. Chesbay Auto Sales, LLC/Chesapeake Bay Auto Sales, LLC and Robert Upton, III. Based on that discussion and the recommendations in these cases, Mr. Maher 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:

Carolyn P and Tichia M. Brown vs. Chesbay Auto Sales, LLC/Chesapeake Bay Auto Sales, LLC & Robert Upton, III **\$10,214**

David Gripshover seconded. The motion carried unanimously.

UPDATE: Robert Scott – William Childress. Mr. Childress indicated that on April 4, 2016, payment was made to Mr. Scott. Mr. Childress spoke to Mr. Scott and he reported that Mr. Scott was extremely grateful for all the Board had done for him.

OLD BUSINESS

UPDATE: Insured Tags – William Childress. Mr. Childress indicated that this issue is still on-going, pending more research. He hopes that he will have a full report by the July Board meeting.

UPDATE: Shift – William Childress. Robert Fisher requested if anything has been done about Shift and Mr. Childress indicated that this is still an on-going investigation and as soon as the investigation is finished, he will report to the Board Members.

NEW BUSINESS

The next meeting will be scheduled for July 11, 2016.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Joe Tate adjourned the meeting at 12:37 p.m.

Meeting Summary
Dealer Practices Committee
Monday, May 9, 2016

Chairman Ron Kody called the Dealer Practices Committee meeting to order at 9:00 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Michael Bor, Steve Farmer, Robert Fisher, Clay Huber, Liza Borches, Chris Maher, Geoff Malloy and Joe Tate. (Absent: Gardner Britt, Matt McQueen and Senior Saghafi). Other Board members present: David Duncan, David Gripshover and Jacques Moore. Executive Director William Childress, Peggy Bailey, Prin Cowan, Ann Majors and Lisa Mack-Nelson represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 14, 2016 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:

- **Auto Bank II and Afishin Moalem.** On March 4, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1508 (License required), 46.2-1529 (Failure to maintain dealer record), 46.2-1537 (Prohibited solicitation and compensation), 46.2-1539 (Safety inspection of vehicles required), 46.2-1550 (Misuse of PoD tags), 46.2-1561 (PoD temporary plates), 46.2-1574 (Acts of officers) and 46.2-1575 (1) (Material misstatement) and (6) (Deceptive acts and practices). Based on the information provided at the conference, the hearing officer recommended a formal warning, assessing a civil penalty of \$8,000 with a reduction of \$250 should he provide proof of taking the Dealer Operator course and a satisfactory inspection within 6 months.

Motion was made by Chris Maher to accept the hearing officer's recommendation of assessing a civil penalty of \$8,000, with a reduction of \$250, should he provide proof of taking the Dealer Operator course, a written warning and a satisfactory inspection within 6 months. Liza Borches seconded. The motion carried unanimously.

- **Ray's Auto Recovery Sales Rental, LLC and Raymond A. Wilborne.** On April 15, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended a satisfactory inspection.

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

Motion was made by Steve Farmer to accept the hearing officer's recommendation of a satisfactory inspection. Robert Fisher seconded. The motion carried unanimously.

- **Robert Garten Automotives, LLC and Robert C. Garten.** On March 29, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.1529 (Failure to maintain dealer record), 46.2-1531 (Consignment contracts), 46.2-1550 (1) (Misuse of transport plates), 46.2-1550 (2) (Transport plates record of usage),), 46.2-1574 (Acts of officers) and (46.2-1575 (2) (Failure to comply with a written warning) and (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$7,000.

Motion was made by Joe Tate to accept the hearing officer's recommendation of assessing civil penalty of \$7,000. Robert Fisher seconded. The motion carried unanimously.

- **Speedhunters Automotive Group, Inc. and Antonio Jimenez.** On April 18, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1515 (Location to be specified), 46.2-1529 (Dealer records), 46.2-1574 (Acts of officers), 46.2-1575 (7) (Grounds for denying; advertising; untrue, misleading or deceptive) and 46.2-1581 (8) (Regulated advertising practices; terms). Based on the information provided at the conference, the hearing officer recommended a formal warning, assessing a civil penalty of \$500 and a satisfactory inspection within 6 months.

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

Motion was made by Robert Fisher to accept the hearing officer's recommendation of assessing a civil penalty of \$500, verbal warning and a satisfactory inspection within 6 months. Steve Farmer seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Nash's Auto Sales, LLC and Rolando Nash.** Historical overview leading up to the formal hearing: On August 18, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Dealer records), 46.2-1537 (Failure to provide proof of W-2), 46.2-1539 (Inspection of vehicles required), 46.2-1542 (Failure to provide title within 30 days), 46.2-1547 (Failure to provide proof of liability insurance on D-tags), 46.2-1550 (Misuse of D-tags), 46.2-1574 (Acts of officers and salespersons) and 46.2-1575 (2) (Failure to comply with previous warnings), (6) (Deceptive acts and practices), (10) (Open titles) and (14) (Failure to pay fees

to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$18,500 and revocation of all licenses and certificates. At the September 14, 2015 Committee and Full Board meetings, a resolution was adopted to assess a civil penalty of \$10,000 against Nash's Auto Sales, LLC and Rolando Nash and revocation of all licenses and certificates issued by the Board to Nash's Auto Sales, LLC and Rolando Nash. On October 26, 2015 Mr. Nash appealed and requested a formal hearing. On December 10, 2015 a formal hearing was conducted to address the above alleged violations of the VA Code Section. Based on the information provided at the hearing, the hearing officer recommended assessing a civil penalty of \$14,000 and revocation of all licenses and certificates.

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

Motion was made by Joe Tate to assess a civil penalty of \$10,000, revoke his Dealer Operator license, allow him to maintain his salesperson's license. Clay Huber seconded. All in favor: 8 (Kody, Farmer, Fisher, Huber, Borches, Maher, Malloy and Tate). Opposed: 1 (Bor) The motion carried.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 11, 2016

The meeting adjourned at 9:48 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, May 9, 2016

Chairman Joe Tate called the Dealer Licensing Committee meeting to order at 9:49 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Liza Borches, David Duncan, David Gripshover and Jacques Moore. (Absent: Ted Bailey, George Pelton, Senior Saghafi and Maurice Slaughter). Other Board members present: Michael Bor, Steve Farmer, Robert Fisher, Clay Huber, Ron Kody, Chris Maher and Geoff Malloy. Executive Director William Childress, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 14, 2016 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Tabled Issued: Robert D. Minnix, Salesperson.** On February 9, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (1) (Material misstatement), 1575 (6) (Deceptive acts and practices) and 1575 (9) (Having been convicted of any criminal act involving the sale of an automobile). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$500 and he should be required to take the Salesperson Test within the next 90 days.

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

Motion was made by David Gripshover to accept the hearing officer's recommendation of assessing a civil penalty of \$500 and to take the salesperson's test within 90 days. David Duncan seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

- **David W. Hall, Country Motor Sales.** On March 10, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (1) (Material misstatement) and 1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$250, to reinforce the importance of complete and correct paperwork as well as accountability for all parties involved and a joint satisfactory inspection involving a MVDB Field Representative and a DMV Special Agent.

Janet Hall was present and spoke on behalf of Mr. Hall.

Motion was made by Liza Borches to accept the hearing officer's recommendation of assessing a civil penalty of \$250 and a joint satisfactory inspection involving a MVDB Field Representative and a DMV Special Agent. David Gripshover seconded. The motion carried unanimously.

- **Edward Riley, Salesperson Applicant.** On March 21, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section 46.2-1575 (1) (Having material misstatements on application). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$250 and denial of his salesperson application request.

Motion was made by David Gripshover to accept the hearing officer's recommendation of assessing a civil penalty of \$250 and denial of his salesperson application. David Duncan seconded. The motion carried unanimously.

- **John V. Ducote, Salesperson.** On March 15, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (1) (Having material misstatements on application), 1575 (4) (Defrauding any buyer to the buyer's damage) and 1575 (8) (Having been convicted of any fraudulent act in connection of the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended revocation of all licenses and certificates.

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

Motion was made by Jacques Moore to take no further action against his license. David Gripshover seconded. The motion carried unanimously.

- **Scottie L. Austin, Salesperson Applicant.** On March 22, 2016, an informal fact-finding conference was conducted to address the alleged violations of 46.2-1575 (6) (having engaged in deceptive acts or practices) and 1575 (13) (having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended granting Mr. Austin a salesperson's license.

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

Motion was made by David Gripshover to accept the hearing officer's recommendation of granting him a salesperson's license. Jacques Moore 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 11, 2016

The meeting adjourned at 10:18 a.m.

Meeting Summary
Advertising Committee
Monday, May 9, 2016

Chairman David Duncan called the Advertising Committee meeting to order at 10:19 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Michael Bor, Liza Borches, Clay Huber, Ron Kody and Geoff Malloy. (Absent: Ted Bailey, Matt McQueen, George Pelton and Maurice Slaughter). Other Board members present: Steve Farmer, Robert Fisher, David Gripshover, Chris Maher, Jacques Moore and Joe Tate. Executive Director William Childress, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 14, 2016 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:

- **National Motors Dealer, Inc. and Amin Barek and Lida Barekzi** On March 1, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1535 (Disclosing name of dealership), 46.2-1574 (Acts of officers) and 46.2-1575 (7) (Misleading advertising) and 1575 (8) (Regulated Advertising Practices [processing fee disclosure]). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000 and a written warning.

Mr. Barek and Ms. Barekzi were present and they both spoke on their own behalf.

Motion was made by Liza Borches to assess a civil penalty of \$250. Geoff Malloy seconded. The motion carried unanimously.

- **Coastline Automotive, LLC and William M. Ward.** On March 13, 2016, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1535 (Advertisements), 46.2-1574 (Acts of officers), 46.2-1575 (7) (Misleading advertising) and 46.2-1581 (8) (Regulated advertising practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,250.

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

Motion was made by Clay Huber to accept the hearing officer's recommendation of assessing a civil penalty of \$1,250. Ron Kody seconded. The motion carried unanimously.

The next meeting was scheduled for July 11, 2016.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:40 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, May 9, 2016

Chairman Chris Maher called the Transaction Recovery Fund Committee meeting to order at 10:40 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Michael Bor, Steve Farmer, Robert Fisher, David Gripshover, Rod Kody and Geoff Malloy. (Absent: Matt McQueen and Maurice Slaughter). Other Board members present: Liza Borches, David Duncan, Clay Huber, Jacques Moore and Joe Tate. Executive Director William Childress, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 14, 2016 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

- **Carolyn P. Brown and Tichia M. Brown vs. Chesbay Auto Sales, Inc./Chesapeake Bay Auto Sales, LLC.** In late 2012, Tichia Brown had previously purchased a 2001 Pontiac Aztec from Chesbay Auto Sales (Chesbay) and was looking to trade the Aztec for another vehicle. At the time she was interested in an Audi that Chesbay had for sale and put down \$500.00, only to have it sold out from under her. John Stakes, the licensed salesperson for Chesbay offered another vehicle, a 2001 Lincoln LS. The vehicle appeared to be sound, other than a dent near the gas tank. Mr. John Stakes indicated to Ms. Brown and her mother (Carolyn Brown) that the Lincoln was a recent repossession, but had a new engine and transmission installed. When Tichia and Carolyn Brown test drove the vehicle, Carolyn had concerns about the gas fumes that was coming from the heat vents indicating to her that possibly a vacuum hose was not connected properly. Carolyn Brown also noted that the vehicle did not have a spare tire in its well. Carolyn Brown expressed her concerns to Mr. Stakes, making sure that these discrepancies were noted on the contract at the time of signing on January 10, 2013.

ACE Motor Acceptance, who is a finance company out of Matthews, NC, appears to be the assignee for the Lincoln with Chesbay and not the Brown's. The contract for the Brown's was never submitted. Chesbay's concept is to buy here pay here, so the Browns were not aware of "ACE", nor did they sign any contracts with ACE. Also, Chesbay never put the trade-in (Aztec) on the contract. The \$500 down payment Tichia Brown had paid on the Audi was transferred over to the Lincoln, as well as Carolyn Brown paying an additional \$1,275 plus the trade-in. Between January 2013 and April 2013 Chesbay had the Browns go through (4) contracts, one at the dealerships location with John Stakes, and three times afterwards, Mr. Stakes would come out to Carolyn Brown's address to collect the payment, because ACE couldn't seem to get the correct amount due, based on Chesbay's contract information.

It wasn't until late April when Carolyn Brown tried to make another payment to ACE, they wanted an additional fee for every transaction and if payment wasn't in their office on the due date, they would post additional charges, plus proceed with repossession. The Brown's had never been late; they had always paid every two weeks on schedule. Exasperated with the whole situation, Carolyn Brown went down to Chesbay on May 6, 2013 and spoke with a new salesperson (Sam Arinado) and Robert Upton, Sr. regarding the situation with ACE that it was not in the contract for additional fees let alone how payments were to be made. Mr. Upton suggested that she should try to take out a loan with her Credit Union "NFCU". At first Carolyn balked as her credit was poor due to a recent divorce and employment layoff. But Chesbay's salesperson (Sam) assured her that she would get the loan, that he had family that worked there. In addition, Mr. Upton said that the loan request would be for the amount of \$6,300 and he would be taking a \$1,500 loss so that the contract with ACE and them would cease.

It was Chesbay (Sam Arinado and Robert Upton) that requested the loan with NFCU; they entered all the information and sent it electronically. On May 7, 2013, Carolyn received, via email, from NFCU that her loan was accepted and that she could pick up the cashier's check. On May 8, 2013, Carolyn Brown picked up the cashier's check in the amount of \$6,300 made payable to herself and Chesbay Auto Sales. By the time Carolyn Brown got home she had a call from Sam telling her that she needed to get the check in immediately that the payoff wouldn't be at that amount very long. Since April of 2013 the vehicle was having issues with the transmission, Tichia kept in contact with Chesbay letting them know when issues arose, etc. At this particular time, Virginia Brinkley informed Tichia that she couldn't get the vehicle until May 9, 2013. So the vehicle had been parked from early April with the onset of transmission issues till she went in on May 9, 2013, at which time she also provided Chesbay with the cashier's check from NFCU. Since she was paying off the vehicle she would have to have the GPS removed as well.

Every week, since May 9th, the Brown's would call on the status, either Sam would consistently tell them "I don't know" and Robert Upton avoided taking their phone calls. In late July 2013, Tichia went down to Chesbay to retrieve the Lincoln. The Brown's had paid for the vehicle in full, they felt the repairs should have been completed and they were tired of the run around. The Browns have had nothing but problems since the contract began. Both Carolyn Brown and her brother had contacted Sam asking for the release of the Lincoln to no avail. Around, August 4th -6th, 2013 the Browns received a call from Chesbay to come and pick up the vehicle, that the repairs had been completed. The Browns went to the dealership and took possession of the vehicle. They were handed a vehicle inquiry report and told to contact Fran at ACE in order to obtain the title to the Lincoln. Upon leaving the dealership, the Lincoln drove worse than when they brought the vehicle in for the repairs.

After contacting Fran at ACE to obtain the title, Carolyn Brown was informed that the Lincoln had not been paid off by Chesbay; therefore, they could not release the title. To this day, ACE still has lien and title on the vehicle. Fran indicated she had been in contact with DMV Investigator, Robert Stone regarding the fraudulent activity of the dealership. In September 2013 Carolyn Brown received a call from Special Agent Morrison wanting to know all the details regarding their issues with Chesbay. In addition, Carolyn Brown dealt with Special Agent Craig Merrill. The agents indicated that there were criminal charges being brought against Robert Upton, Sr. and Jr.; of Chesbay Auto and that the Brown's should seek a civil suit against the owners and Chesbay for their monetary loss. Carolyn Brown learned that the cashier's check was not used to pay off the loan, but was used to pay the Chesbay payroll. Carolyn Brown was left owing on 2 loans; one with ACE and the other to NFCU. Currently, the vehicle is inoperable and has been parked at the daughter's residence.

In October 2013 Carolyn Brown filed a civil suit against Chesbay, its owner and notifying their registered agent William McKinley in a Warrant in Debt with the Portsmouth General District Court with their initial hearing date of November 7, 2013. It wasn't until December's hearing that the Judge determined that the paperwork needed to be changed to a Warrant in Detinue because of the failure on Chesbay and its officiating personnel failure to show. On February 10, 2014, the Portsmouth General District Court awarded Carolyn & Tichia Brown a default judgment against Chesbay Auto Sales in the amount of \$9,552.00 plus \$650 in damages and \$12.00 in costs. On February 9, 2015, Carolyn Brown submitted to the Dealer Board documentation for consideration of reimbursement from the Fund. On March 5, 2015, the Dealer Board staff acknowledged receipt of Carolyn & Tichia Browns claim against the Motor Vehicle Transaction Recovery Fund (Fund) and requested additional documentation with an attested copy of the final judgment order. On February 5, 2016, Carolyn Brown submitted the requested documentation to the Dealer Board for consideration of reimbursement from the Fund. On February 23, 2016 the Dealer Board staff sent "Notice of Verified Claim" to the debtor (Chesapeake Bay Auto Sales, LLC) as well as to the owner of the dealership (Robert E. Upton, III) requesting that the judgment be satisfied within 30-days.

After a careful review, it appears to MVDB staff that Carolyn Brown's claim meets the requirement of Virginia Code §46.2-1527.3 (Judgment was awarded in the Commonwealth of Virginia). Therefore, due to the statues governing the Fund, the Dealer Board staff recommends that the Recovery Fund Committee and Full Board approve Ms. Brown's claim in the amount of \$10,214.00, which is based on the full amount of the judgment order (\$9,552.00 + \$650.00 damages + \$12.00 in costs).

On April 25, 2016, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended payment of \$10,214 should be considered for Carolyn P. Brown and Tichia M. Brown from the MVTRF.

Carolyn P. and Tichia M. Brown were present and spoke on their own behalf.

Motion was by Robert Fisher to accept the hearing officer's recommendation of paying \$10,214 from the Transaction Recovery Fund to Carolyn and Tichia Brown seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for July 11, 2016

The meeting adjourned at 10:49 a.m.