

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, November 8, 2004

Chairman D.B. Smit called the Dealer Board meeting to order at 9:52 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 Carlton Courter (arrived at 11:05 a.m.) Rick Hunt, Todd Hyman, David Lacy, Hugh McCreight, Pat Patrick, Max Pearson, Frank Pohanka, Ted Robertson, Chris Schroeder, Vince Sheehy, Larry Shelor, Leo Trenor and Robert Woodall. (Absent: Bobby Joe Dotson, Steve Farmer, Clyde King (left before the meeting started) and James Mitchell). Bruce Gould, Peggy Bailey, Debbie Allison, Katherine Idrissi and Jim Anderson represented the Dealer Board. Karen Chappell and Don Bosewell represented DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The September 13, 2004 meeting summary was approved.

Debbie Allison, Field Representative Supervisor, introduced Jim Anderson as the Board's new field representative that replaced Paul Tickle.

D. B. Smit also introduced Tina Almond from Cars Incorporated.com as VIADA's new President.

PUBLIC COMMENT

There was no public comment.

- **30-Day Tag Changes.** Karen Chappell briefed the Board Members on Temporary Tag changes that are scheduled to take effect on December 16, 2004. A bulletin will be mailed to all dealers, information will be provided in Dealer Talk and VADA and VIADA will include something in their newsletters as well. There will be two primary changes that will take place, 1) establish limits on the number of temporary tags that any given dealer can purchase in a 12 month period, 2) More vigorous enforcement of the requirement that vehicles sold by dealers are to be titled and registered at DMV within 30 days of the date of sale. If the title is not available within the first 30 days, the dealer will be able to complete a form and submit it and the fees to DMV. DMV will do a title hold and the dealer may issue a 2nd set of 30 day tags or metal tags. If the title is still not available after 60 days, the dealer may request, on a DMV form, permission to issue a 3rd set of 30 day tags. General discussion followed.
- **Conflict of Interest Training.** Rick Walton presented a mandatory PowerPoint training session referencing the Conflict of Interests Act for Board Members, certain Board Staff and certain DMV employees. Employees and Board members not in attendance must make arrangements to attend another training session or be in danger of not complying with the requirements of state law.

STATUTORY COMMITTEE REPORTS:

Dealer Practices Committee:

- **Carmen A. Cerza and Calvary Cars & Service, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Carmen A. Cerza and Calvary Cars & Service, Inc. Based on that discussion and the recommendation in the case, 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 Mr. Carmen A. Cerza t/a Calvary Cars and Service, Inc., for alleged violations of Va. Code § 46.2-1537, compensating an individual, who is not licensed by the dealership, in the connection of the sale of a motor vehicle and Va. Code §46.2-1575(2), willful failure to comply with the dealer laws. Based on due consideration, and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Carmen A. Cerza t/a Calvary Cars and Service, Inc. The Board hereby assess a civil penalty in the amount of \$2,350 on Mr. Carmen A. Cerza t/a Calvary Cars and Service, Inc. for forty-seven violations of Va. Code §46.2-1537.

Hugh McCreight seconded. The motion carried unanimously.

Licensing Committee:

Vice-Chairman Frank Pohanka summarized discussions held and actions that were taken during the Committee Meeting.

- **Rickey A. Burrus, Salesperson License Denial.** Vice-Chairman Frank Pohanka summarized for the Board the discussion held in the Committee meeting regarding Rickey Burrus. Based on that discussion and the recommendation in the case, Mr. Pohanka made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied issuance of a salesperson's license to Mr. Rickey A. Burrus pursuant to Va. Code §46.2-1575(13), having been convicted of a felony. Mr. Burrus appealed the denial and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Rickey A. Burrus and based on due consideration, the Board believes that Mr. Burrus' application for a motor vehicle salesperson's license should be denied. The Board hereby denies the issuance of a salesperson's license to Mr. Rickey A. Burrus.

David Lacy seconded. The motion carried unanimously.

- **Dealer Operator Test Task Force Meeting (Legislation to be sought by the Virginia Independent Automobile Dealers Association).** Vice-Chairman Frank Pohanka summarized for the Board the discussion held in the Committee meeting regarding the Dealer Operator Test Task Force Meeting. The task force will continue it's work in updating the test. Also, after some discussion, the committee adopted a resolution to support a legislative concept being sought by VIADA. Todd Hyman made the following motion: The Motor Vehicle Dealer Board supports legislation for the 2005 General Assembly that would:
 - Require pre-license education for applicants for an original, independent dealer operator Certificate of Qualification.
 - Allow the Board to approve curriculum and providers of such education.

published a report on audits conducted on the Transportation Agencies and no audit points or anything was found regarding the Motor Vehicle Dealer Board. HB-453 that passed in the 2004 General Assembly, changes the status of ambulance, firefighter and funeral vehicle sellers. They must become fully licensed by January 1, 2005. Several are working to get into compliance as of the effective date. He indicated that he is dealing with each one of them individually and staff continues to help them out as best as they can. There are rumors that this concept may be revisited at the 2005 General Assembly. Enhancement to the Board's website has been completed and you can now view the dealers profile and the list of the dealers' licensed salespersons. The refresh of the office computers, servers and field computers have been completed. Bruce also attended the Fall meeting of the National Association Motor Vehicle Dealer Boards and Commissions. One session involved on-going education.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 11:34 a.m.

Meeting Summary
Dealer Practices Committee
Monday, November 8, 2004

Chairman Todd Hyman called the Dealer Practices Committee meeting to order at 8:32 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Clyde King, Hugh McCreight, Pat Patrick, Frank Pohanka, Ted Robertson, Chris Schroeder, Vince Sheehy and Robert Woodall. (Absent: Bobby Joe Dotson and James Mitchell) Other Board members present: D.B. Smit, Rick Hunt, Max Pearson, David Lacy, Leo Trenor and Larry Shelor. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi, Debbie Allison and Jim Anderson represented the Dealer Board. No one was present from DMV. Rick Walton was present from the Attorney General's Office.

The September 13, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: September Actions.** Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on September 8, 2004.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Carmen A. Cerza and Calvary Cars & Service, Inc.** An informal fact-finding conference was conducted on October 19, 2004 for the alleged violations of VA Code §§46.2-1537 (prohibited solicitation and compensation) and 46.2-1575(2) (Failure to comply with a written warning) against Carmen A. Cerza and Calvary Cars & Service, Inc. Based on information provided at the conference, the hearing officer recommended that the Board assess civil penalties against Carmen A. Cerza and Calvary Cars & Service, Inc. \$150 for each of the 47 transgressions. Those sanctions totaled \$7,050.00.

Mr. Cerza spoke on his own behalf. He indicated that the civil penalty was too severe and requested that it be reduced. General discussion followed.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Vince Sheehy to reject the hearing officer's recommendation. The consensus of the Committee was that they agree that the civil penalty was too severe and reduced the amount totaling \$2,050.00. Pat Patrick seconded. The motion carried unanimously.

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould indicated that there were two requests to store records at a off sight centralized location and that there were four requests for on-line dealer variances. All requests were granted.

NEW BUSINESS FROM THE FLOOR

Larry Shelor requested that Bruce put on the January Dealer Practices agenda to revisit the Brown Alexandria Mazda case.

The next meeting was scheduled for January 10, 2005.

The meeting adjourned at 9:39 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, November 8, 2004

Vice-Chairman Frank Pohanka called the Dealer Licensing Committee meeting to order at 8:56 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Rick Hunt, Todd Hyman, David Lacy, Larry Shelor and Robert Woodall. (Absent: Bobby Joe Dotson, Steve Farmer and James Mitchell) Other Board members present: D.B. Smit, Ted Robertson, Vince Sheehy, Leo Trenor, Pat Patrick, Clyde King, Chris Schroeder, Max Pearson, Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi, Debbie Allison and Jim Anderson represented the Dealer Board. No one represented DMV. Rick Walton represented the Attorney General's Office.

The September 13, 2004 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: Formal Hearing:

- **Rickey A. Burrus, Salesperson License Denial.** An informal fact-finding conference was conducted on January 5, 2004. Executive Director's decision was to deny the application. Mr. Burrus appealed the Executive Director's decision and a formal hearing was conducted on June 11, 2004 for the alleged violation of §46.2-1575(13) (Having been convicted of a felony). Based on the information provided at the hearing, the hearing officer recommended that his application for licensure be denied. The hearing officer noted that in one year, he will be released from supervised probation. At that time, if he has continued to pass his drug screenings, has continued to make timely payments toward restitution and has maintained a clean record, it was recommended that the Board consider again his application of licensure.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Larry Shelor to accept the hearing officer's recommendation. Robert Woodall seconded. The motion carried unanimously.

- **Dealer Operator Test Task Force Meeting Summary.** Bruce Gould stated that the first meeting of the Task Force was held on October 20, 2004. The task force has made the following recommendations: Create a more challenging test. Eliminate the study guide and give the option to the applicant to take the test or to take a course of study before taking the test. Increase the number of questions on the test and the percent of questions answered correctly in order to pass. Maintain a list of entities that offer courses of study. Continue to administer the test at DMV Customer Service Centers via the KATS machine and explore other alternatives for administering the test. After some discussion, it was the consensus of the Committee to go forward with the recommendations.

Leo Trenor indicated that revamping this to be more difficult would be a move in the wrong direction and would be a waste of money and time.

Lois Keenan addressed the Committee and stated that VIADA is considering seeking legislation that would require applicants of an original independent dealers certificate of qualification to satisfactorily complete courses of study prior to taking the exam, have the Board approve the curriculum, contract with qualified entities to prepare and present such courses and administer the exam, exempt the Board from the APA process and to make this effective January 1, 2006. General discussion followed.

Motion was made by Todd Hyman to support the concept of VIADA's proposal of legislation. David Lacy seconded. The motion carried unanimously. More discussion followed.

The next meeting was scheduled for January 10, 2005.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 9:40 a.m.

Meeting Summary
Advertising Committee
Monday, November 8, 2004

Chairman Vince Sheehy called the Advertising Committee meeting to order at 9:48 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Rick Hunt, Hugh McCreight, Pat Patrick, Max Pearson, Ted Robertson, Chris Schroeder and Larry Shelor. (Absent: Steve Farmer). Other Board members present: D.B. Smit, Robert Woodall, Todd Hyman, Frank Pohanka, Clyde King, David Lacy, Leo Trenor. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi, Debbie Allison and Jim Anderson represented the Dealer Board. No one represented DMV. Rick Walton represented the Attorney General's Office.

The September 13, 2004 meeting summary was not approved. Vince Sheehy felt that the "We Own The Finance Company" issue needed more information and some typing errors and grammar needed to be corrected. Once these changes are made, they will be FAXed to each member for review and then the summary will be reviewed for approval at the January Board meeting.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

The next meeting will be January 10, 2005.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 9:51 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, November 8, 2004

Full Board Vice-Chairman Rick Hunt called the Transaction Recovery Fund Committee meeting to order at 9:52 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Clyde King, David Lacy, Chris Schroeder, Larry Shelor and Leo Trenor. (Absent: Steve Farmer, Bobby Joe Dotson). Other Board members present: D.B. Smit, Ted Robertson, Vince Sheehy, Todd Hyman, Robert Woodall, Frank Pohanka, Pat Patrick, Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi, Debbie Allison and Jim Anderson represented the Dealer Board. No one represented DMV. Rick Walton represented the Attorney General's Office.

The September 13, 2004 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: September Actions:** Bruce Gould reported on the actions taken at the Dealer Practices Committee meeting on September 8, 2004.
- **Arnold Lasseter and Edward F. Mayo t/a Premier Auto.** On January 29, 2003, Mr. Lasseter purchased two vehicles through E-bay from Premier Auto. Mr. Mayo represented the vehicles as never being wrecked and was non-smoker owned. The vehicles were a 1999 Chrysler Concord purchased for \$7,000.00 and a 2001 Ford Ranger purchased for \$4,500.00, plus a delivery charge of \$125.00 for a total purchasing price of \$11,625.00. Mr. Lasseter wired \$11,625.00 on January 30, 2003 to Premier Auto's bank account (Monarch Bank and the beneficiary account name Bobb of Virginia, Inc.) On February 1, 2003, the first vehicle, the Concord, was delivered and it was discovered it was wrecked and partially repaired. Upon further inspection, Mr. Lasseter found additional damages, which would have approximately cost \$1,800.00 in order to repair the vehicle. Mr. Lasseter e-mailed Mr. Mayo and indicated that as a result of receiving a wrecked vehicle, he requested that Premier take the Concord back, refund his money and not deliver the 2001 Ford Ranger. On March 5, 2003, Mr. Mayo indicated that he mailed the money by Priority Mail and gave him a tracking number, however, when checking with USPS, the tracking number did not exist. On March 8, 2001, Mr. Lasseter did receive a refund check in the amount of \$4,500.00 for the Ford Ranger, but still have not received the check for \$7,125.00 for the 1999 Chrysler Concord. On March 25, 2003, Mr. Lasseter received a check for the \$7,125.00, but on April 2, 2003, the check had been returned for "insufficient funds".

On April 7, 2003, the Dealer Board received a written complaint from Mr. Lasseter against Edward Mayo and Premier Auto. On May 1, the Board sent Mr. Lasseter a letter providing him with information regarding the Transaction Recovery Fund. On July 1, 2003, Brandon Zeigler, attorney for Mr. Lasseter, submitted a Warrant in Debt against Premier Auto and Bobb of Virginia, Inc. On August 19, 2003, the Dealer Board received from Mr. Zeigler a letter advising that Mr. Lasseter was awarded a default judgment on August 15, 2003 against Premier Auto Sales, Inc. and Bobb of Virginia, Inc. in the amount of \$6,626 in principal, \$24 in cost, \$1,000 in attorney fees and \$5,000 in punitive damages. On February 23, 2004, after reviewing all documentation, staff contacted Mr. Zeigler indicating that Premier Auto Sales, Inc. and Bobb of Virginia, Inc. is not a licensed entity with the Board, however, Edward F. Mayo t/a

Premier Auto is the correct licensed entity with the Board. On March 17, 2004, Mr. Zeigler called and indicated he had a court date of April 1, 2004 to see if he could amend the license entity of the debtor.

On July 13, 2004, Mr. Lasseter was awarded an Amended Judgment Order against Edward J. Mayo t/a Premier Automotive in the amount of \$11,625.00. On July 26, 2004, Mr. Zeigler submitted to the Board the Amended Judgment Order. After carefully reviewing all the documentation and the final judgment order, Board staff recommended that the Recovery Fund Committee and Board approve Mr. Lasseter's claim of \$7,649.00. This amount is based on the purchase price of the Concord \$7,000, plus \$125.00 transport fee, totaling \$7,125.00 minus the \$500 received from Mr. Mayo, leaving a balance of \$6,625, plus attorney fees of \$1,000.00 and costs \$24.00. On October 4, 2004, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer/board staff representative agrees with the Board staff's claim approval and recommended that the Board approve Mr. Lasseter's claim of \$7,649.00 and to also place a stop on the licensing file of Mr. Mayo so that serious consideration can be made prior to issuing any type of licenses for an application that may contain or include his name.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Rick Hunt to approve payment from the Fund in the amount of \$7,649.00. Clyde King seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for January 10, 2005.

The meeting adjourned at 10:02 a.m.