

Meeting Summary
Motor Vehicle Dealer Board
Monday, November 5, 2012

Chairman Rick Holcomb called the Dealer Board meeting to order at 11:40 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 Board members present. Present were members Andy Alvarez, Ted Bailey, Roy Boswell, Lynn Hooper, Art Hudgins, Brian Hutchens, Wanda Lewark, Chip Lindsay, Matt McQueen, Thomas Moorehead, George Pelton, Joe Tate, Jimmy Whitten, Rodney Williams and Tommy Woodson. (Absent: Ronald Kody, Kevin Reilly and Sally Woodson). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Wanda Neely and Frank McCormick 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 September 10, 2012 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Tommy Woodson summarized discussions held and actions that were taken during the Committee Meeting.

- **Boris Auto Sales and Repair and Boris R. Calballero.** Tommy Woodson 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 Boris Auto Sales and Repair and Boris R. Caballero for alleged violations of Virginia Code Sections 46.2-1575 (9) and 46.2-1575 (12). Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Caballero in running his dealership. The Board mandates that Mr. Caballero successfully complete the dealer-operator course by May 5, 2013. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Caballero by the Board until what time Mr. Caballero has successfully completed the course.

Joe Tate seconded. The motion carried unanimously.

- **Variety Motors, Inc. and Richard Green.** Tommy Woodson 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 Variety Motors, Inc. and Richard Green for alleged violations of Virginia Code Sections, 46.2-1515, 46.2-1516, 46.2-1529, 46.2-1530, 46.2-1537, 46.2-1547, 46.2-1548, 46.2-1550, 46.2-1574, 46.2-1575 (2), (6), (7), and (18) and 46.2-1581. Based on due consideration, the Board believes a civil penalty

should be assessed against Variety Motors, Inc. and Richard Green. The Board hereby assesses a \$4,500 civil penalty against Variety Motors, Inc. and Richard Green; and based on due consideration, the Board believes all licenses and certificates issued by the Board to Mr. Green should be suspended until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative. The Board hereby suspends all licenses and certificates issued by the Board to Mr. Green 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 Mr. Green's dealer-operator certificate of qualification should be revoked. The Board hereby revokes Mr. Green's dealer-operator certificate of qualification; and based on due consideration, the Board believes that all advertisements and WEB sites associated with Variety Motors should not imply that the dealership is military approved. Any advertisement or WEB site associated with Variety Motors may not imply that the dealership is approved by the military.

Joe Tate seconded. Rick Holcomb opposed. The motion carried.

- **Victory Lane Motors, Inc. and Shawn D. O'Dell.** Tommy Woodson 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 Victory Lane Motors, Inc. and Shawn D. O'Dell for alleged violations of Virginia Code Sections 46.2-1529, 46.2-1530, 46.2-1531, 46.2-1532, 46.2-1540, 46.2-1550, and 46.2-1575 (12). Based on due consideration, the Board believes a civil penalty should be assessed against Victory Lane Motors, Inc. and Shawn D. O'Dell. The Board hereby assesses a \$3,000 civil penalty against Victory Lane Motors, Inc. and Shawn D. O'Dell; and based on due consideration, the Board believes that Mr. O'Dell must provide evidence to the Board that he provided a full and satisfactory refund to Ms. Destiney Butler. The Board hereby mandates that Mr. O'Dell provide a full and satisfactory refund to Ms. Destiney Butler and if he fails to provide that evidence, all licenses and certificates issued by the Board to Mr. O'Dell shall be suspended until such time as he has provided the satisfactory evidence to the Board's executive director; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. O'Dell in running his dealership. The Board mandates that Mr. O'Dell successfully complete the dealer-operator course by May 5, 2013. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. O'Dell by the Board until what time Mr. O'Dell has successfully completed the course.

Art Hudgins seconded. The motion carried unanimously.

- **Quality Auto Group, Inc. and Kevin J. Brown.** Tommy Woodson 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 Quality Auto Group, Inc. and Kevin J. Brown for alleged violations of Virginia Code Sections: 46.2-1575 (6) and (9). Based on due consideration, the Board believes a civil penalty should be assessed against Quality Auto Group, Inc. and Kevin J. Brown. The Board hereby assesses a \$34,000 civil penalty against Quality Auto Group, Inc. and Kevin J. Brown; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr.

Brown should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Brown; and based on due consideration, the Board believes that DMV should investigate Mr. Brown in reference to his Salvage license. The Board hereby directs the executive director to request that the Department of Motor Vehicles investigate and review Mr. Brown's Salvage license for possible administrative action concerning Mr. Brown's Salvage license.

George Pelton seconded. The motion carried unanimously.

- **We Finance Auto and Gary R. Cowand.** Tommy Woodson 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 We Finance Auto and Gary R. Cowand for alleged violations of Virginia Code Sections, 46.2-1533, 46.2-1518, 46.2-1548, 46.2-1550, 46.2-1529, 46.2-1530, 46.2-1537, 46.2-1547, 46.2-1542, 46.2-1550.2, 46.2-1559, 46.2-1574, and 46.2-1575 (1), (2) and (18). Based on due consideration, the Board believes a civil penalty should be assessed against We Finance Auto and Gary R. Cowand. The Board hereby assesses a \$15,000 civil penalty against We Finance Auto and Gary R. Cowand; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Cowand should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Cowand.

Mat McQueen seconded. The motion carried unanimously.

Licensing Committee

Chairman Jimmy Whitten summarized discussions held and actions that were taken during the Committee Meeting.

- **Jeffrey A. Wetherell, Salesperson.** Jimmy Whitten 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 Jeffrey A. Witherell for alleged violations of Virginia Code Sections 46.2-1575 (6) and 46.2-1575 (9). Based on due consideration, the Board agrees with the hearing officer's decision to not take any action against Jeffrey A. Witherell. The Board hereby takes no action against Mr. Witherell and that he should retain his salesperson license.

George Pelton seconded. The motion carried unanimously.

Advertising Committee

Vice-Chairman Tommy Woodson summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman Lynn Hooper summarized discussions held and actions that were taken during the Committee Meeting.

- **Michael D. Plitt and Towne Automotive Brokers, Inc., Brian M. Keese and Towne Automotive Brokers, Inc. and Ronald S. Keyes and Towne Automotive Brokers, Inc.**

Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Michael D. Plitt and Towne Automotive Brokers, Inc., Brian M. Keese and Towne Automotive Brokers, Inc. and Ronald S. Keyes and Towne Automotive Brokers, Inc. Based on that discussion and the recommendations in these cases, Mr. Hooper 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:

Michael D. Plitt and Towne Automotive Brokers, Inc.	\$15,000.00
Brian M. Keese and Towne Automotive Brokers, Inc.	\$3,250.00
Ronald S. Keyes and Towne Automotive Brokers, Inc.	\$13,066.00

Jimmy Whitten seconded. The motion carried unanimously.

OLD BUSINESS

There was no old business

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

1. **E-Titling.** Karen Grimm, Assistant Commissioner for Driver/Vehicle Information Services, indicated Virginia is one of eight states that is participating in the American Association of Motor Vehicle Administrators (AAMVA) e-titling working group. The ultimate goal for e-titling is for the application process for all car titles to be a paperless as well as be able to track the life history of a vehicle electronically. Because it is reasonable to begin the process at the “birth” of a vehicle, the initial phase is to develop a program that will allow for an electronic MCO to be transmitted from the manufacturer to the dealer to DMV. Virginia, through the efforts of VADA, passed enabling legislation during the 2012 session of the General Assembly that will help to facilitate e-titling. The federal government is currently working to develop regulations to allow for an electronic odometer statement.

Currently, GM and Ford have committed to participate in the pilot. DMV is working closely with VADA to identify potential pilot dealerships. DMV will keep the MVDB apprised of the progress of this project.

2. **Real time insurance verification.** Ms. Grimm indicated that DMV is exploring, along with insurance industry stakeholders, the possibility of a real-time insurance verification program. The 15 year old current insurance program takes up to multiple months to confirm insurance coverage. Legislation would likely be needed to make implement a real-time verification program. It is envisioned that this type of program could also be used third parties—such as car dealers—the confirm insurance coverage. The MVDB will be kept apprised of the progress of this work.

3. **2-Plate regulation and non conventional vehicles.** Rick Holcomb indicated that Task Force examined current 2-plate requirement. Task Force recommended that Virginia stay with the 2-plate with decals. Helps with toll collection and law enforcement. Mr. Holcomb also mentioned as part of this Task Force:
 - Having 2-plates helps with the readability of some special license plates.
 - License plate numbers are not unique – multiple numbers exist on different license plate types.
 - Has not received any negative feedback on new temporary tag (30-day) material.

4. **Task Force on Non Conventional Vehicles.** Recommendation that will be a legislative proposal. There will be 2 types of motorcycle endorsements: mopeds and motorcycles will M-2 Endorsement for two wheelers and M-3 Endorsement for three wheelers. Mopeds have not been finalized.

NEW BUSINESS FROM THE FLOOR

Executive Director's Report. Bruce Gould indicated that the Governor's office has initiated a regulatory reform effort. The Dealer Board has 4 sets of regulations. The Advertising Regulations will be reviewed to see if any changes are needed. The conference with his peers was extremely productive and received much positive feedback. He announced that the field representatives are being upgraded to blackberries and new tablets.

3% Percent Bonus for Employees. Lynn Hooper made a motion for a 3% bonus for all employees outlined in the budget passed by the General Assembly and signed by the Governor. Thomas Moorehead seconded. The motion carried unanimously.

The next meeting will be scheduled for January 14, 2013.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 12:51 p.m.

Meeting Summary
Dealer Practices Committee
Monday, November 5, 2012

Chairman Tommy Woodson 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 Chip Lindsay, Matt McQueen, Thomas Moorehead, Joe Tate and Rodney Williams. (Absent: Ronald Kody, Kevin Reilly and Sally Woodson). Other Board members present: Art Hudgins, Andy Alvarez, Roy Boswell, Rick Holcomb, Lynn Hooper, Brian Hutchens, Wanda Lewark and George Pelton. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Frank McCormick and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The September 10, 2012 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:

- **Boris Auto Sales and Repair and Boris R. Calballero.** On September 5, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA code Section(s) 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles) and 1575 (12) (Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized under the law). Based on the information provided at the conference, the hearing officer recommended that Mr. Calballero attend the two-day Dealer Operator Course.

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

- **Variety Motors, Inc. and Richard Green.** On September 5, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1515 (failure to display current dealer certificate), 1516, (Supplemental sales locations), 1529 (Dealer records), 1530 (Buyers order), 46.2-1537 (failure to have salespersons properly licensed), 1547 (failure to maintain liability insurance), 1548 (dealer plate records required), 1550 (improper use of or permitting the improper use of dealer's license plates), 1574 (failure to be responsible for the acts of the dealer's salespersons) and 1575 (2) (failure to comply with a written warning), 1575 (6) (having used deceptive acts or practices) 1575 (7) (knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive), 1575 (18) (failure to maintain auto liability insurance for all dealer plates assigned). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$5,500.

Motion was made by Joe Tate to assess a civil penalty of \$4,500; remove Mr. Green as Dealer-Operator; require that the dealer remove all references relating to military in their advertisements and; have a satisfactory inspection. If the dealership fails the inspection, all dealer licenses will be suspended until he has a satisfactory inspection. Matt McQueen seconded. The motion carried unanimously.

- **Victory Lane Motors, Inc. and Shawn D. O'Dell.** On August 13, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1530 (buyers order), 1531 (consignment vehicles), 1532 (odometer disclosure), 1550 (use of dealer's and manufacturer's plates) and 1575 (12) (leasing, renting, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized under the law).Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,000 and to successfully complete the two day Dealer-Operator Course.

Motion was made by Joe Tate to accept the hearing officer's recommendation and that Mr. O'Dell provide evidence of a full and satisfactory refund to Ms. Destiney Butler and if he fails to provide that evidence, all licenses and certificates issued by the Board be suspended until such time he provides the satisfactory evidence to the Board's executive director. Rodney Williams seconded. The motion carried unanimously.

- **Quality Auto Group, Inc. and Kevin J. Brown.** On October 20, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575 (6) (having used deceptive acts or practices) 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 \$34,000 and revocation of all licenses.

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

Motion was made by Ted Bailey to accept the hearing officer's recommendation and that this issue be referred to DMV on Mr. Brown's salvage license. Joe Tate seconded. The motion carried unanimously.

- **We Finance Auto and Gary R. Cowand.** On September 7, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1518 (display of salesperson's license; notice of termination), 1529 (failure to maintain all dealer records on the premises of the licensed location), 1530 (failing to maintain buyer's orders), 1533 (failing to maintain business hours), 1537 (failure to license and employ all salespersons), 1542 (failure to properly issue temporary tags), 1547 (failure to maintain liability insurance), 1548 (dealer plate records required), 1550 (improper use of or permitting the improper use of dealer's license plates), 1550(2) (issuance and use of temporary plates, permanent record), 1559 (violation of record keeping for temporary tags), 1574 (failure to be responsible for the acts of the dealer's salespersons) and 1575 (1) (material misstatements), 1575(2) (failure to comply with a written warning) and 46.2-1575 (18) (failure to maintain auto liability insurance for all dealer plates assigned). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$6,000.00 and that Mr. Cowand successfully completes the Dealer Operator Course. The hearing officer also recommended that all licenses and qualifications issued to this dealer be suspended for a period of 60 days to allow him the opportunity to bring his business into compliance and all licenses and qualifications not be restored until a successful inspection has been conducted by a MVDB field representative.

Motion was made by Joe Tate to revoke all licenses and assess a civil penalty of \$15,000.00. Ted Bailey seconded. It was the belief of the Committee that these were serious violations and therefore required a more severe penalty. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for January 14, 2013

The meeting adjourned at 10:43 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, November 5, 2012

Chairman Jimmy Whitten called the Dealer Licensing Committee meeting to order in Room 702 at 9:44 a.m., DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Andy Alvarez, Roy Boswell, Art Hudgins, Brian Hutchens, Wanda Lewark, George Pelton and Joe Tate. (Absent: Sally Woodson) Other Board members present: Rodney Williams, Matt McQueen, Tommy Woodson, Rick Holcomb, Lynn Hooper, Thomas Moorehead and Ted Bailey. Executive Director Bruce Gould, Frank McCormick, Peggy Bailey, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The September 10, 2012 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 Conference:

- **Jeffrey A. Wetherell, Salesperson.** On August 21, 2012, 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) 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 that Mr. Wetherell be allowed to retain his dealer licenses, salesperson's license and his certification as a dealer-operator.

Motion was made by Andy Alvarez to take no further action against Mr. Jeffrey Wetherell. George Pelton seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for January 14, 2013.

The meeting adjourned at 10:47 a.m.

Meeting Summary
Advertising Committee
Monday, November 5, 2012

Vice-Chairman Tommy Woodson called the Advertising Committee meeting to order in Room 702 at 10:47 a.m., DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Andy Alvarez, Chip Lindsay, Matt McQueen, George Pelton, Rodney Williams and Tommy Woodson. (Absent: Kevin Reilly, Ronald Kody and Sally Woodson). Other Board members present: Art Hudgins, Brian Hutchens, Roy Boswell, Rick Holcomb, Lynn Hooper, Jimmy Whitten, Thomas Moorehead, Joe Tate, Wanda Lewark and Ted Bailey. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The September 10, 2012 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

The next meeting was scheduled for January 14, 2012.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 11:00 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, November 5, 2012

Chairman Lynn Hooper called the Transaction Recovery Fund Committee meeting to order at 11:00 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Andy Alvarez, Ted Bailey, Roy Boswell, Brian Hutchens, Matt McQueen and Thomas Moorehead. (Absent: Kevin Reilly). Other Board members present: Rodney Williams, Tommy Woodson, Rick Holcomb, Jimmy Whitten, Joe Tate, Wanda Lewark and George Pelton. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Frank McCormick, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The September 10, 2012 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

Michael D. Plitt and Towne Automotive Brokers. On February 14, 2010, Michael Plitt entered into a contract to purchase a 2008 Nissan Frontier, via the internet on craigslist from Francis Masika, owner of Towne Automotive Brokers, Inc. (Towne Automotive) for a total selling price of \$17,300.00. Mr. Plitt wired Francis Masika a deposit of \$1,000.00 as a down payment for the purchase. Mr. Masika completed and faxed Mr. Plitt a copy of the Buyer's Order for the purchase of the 2008 Nissan Frontier.

On February 16, 2010, Mr. Masika transported the 2008 Nissan Frontier to Mr. Plitt, a resident of Maryland. Upon delivery Mr. Plitt noticed that there was some damage to the vehicle and they renegotiated the price of the vehicle to \$15,000.00. At which time, Mr. Plitt provided Mr. Masika an additional \$3,000.00 cash deposit and a cashier's check for \$2,500.00 towards the purchase and indicated he would be financing the remaining (\$8,500.00) with his credit union (Pentagon Federal Credit Union). Mr. Masika then issued a set of temporary tags and indicated he would provide him with the title in a couple of weeks. Mr. Plitt took possession of the vehicle.

On March 10, 2010, Mr. Plitt still had not received the title to the 2008 Nissan Frontier and via email contacted Mr. Masika and requested the return of his money. Mr. Plitt later learned that Mr. Masika had obtained the vehicle as a trade-in from Anthony Jackson which still had an existing loan to Nissan Motor Acceptance Corp. Apparently, Mr. Masika misappropriated the funds he had received by the sale of the vehicle to Mr. Plitt and never paid off the loan. A year later, Mr. Plitt still had not received title or his money back on the purchase and ended up having to park the vehicle because he was unable to register the vehicle in Maryland. Eventually, Nissan Motor Acceptance Corp. the lien holder on the 2008 Nissan Frontier which held title repossessed the truck from Mr. Plitt.

On March 11, 2011, Mr. Plitt obtained a Warrant in Debt in the Chesapeake General District Court against Towne Automotive Brokers, Inc. in the amount of \$15,000 for failure to provide title to the vehicle he had purchased. On March 23, 2011, Mr. Plitt submitted to the Dealer Board copies of the Warrant in Debt and a copy of the Buyers Order requesting the name of the surety bonding company for Towne Automotive. On March 24, 2011, the Dealer Board staff acknowledged receipt of Mr. Plitt's possible claim against the Motor Vehicle Transaction Recovery Fund (Fund) and pursuant §46.2-1527.2 provided a copy of the surety bonding company for Towne Automotive.

On May 6, 2011 the Chesapeake General District Court awarded Mr. Plitt a default judgment against Towne Automotive Brokers, Inc. in the amount of \$15,000.00. On May 9, 2011, Mr. Plitt filed a claim against "Platte River Insurance Company" the bonding company for Towne Automotive requesting reimbursement of his judgment. On August 12, 2011, counsel for Platte River Insurance Company indicated they had relinquished the \$50,000 liability of the bond over to the Circuit Court of Chesapeake to distribute the money. In September, 2011 Mr. Plitt sent his claim information to the Circuit Court of Chesapeake requesting that he would be included in any distributions of the bond made by the court. On January 6, 2012, Mr. Plitt submitted to the Dealer Board documentation for consideration of reimbursement from the Motor Vehicle Transaction Recovery Fund.

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 of the \$50,000 bond with the clerk of the court. Unfortunately, Mr. Plitt and 1 other individual did not share in the bond proceeds, having failed to appear and establish their claims. Note-Mr. Plitt indicated that the Court never notified him of any court date.

Staff believes Mr. Plitt's claim meets the requirement of Va. Code §46.2-1527.3. (Judgment was awarded in a court of competent jurisdiction of the Commonwealth of Va.) Therefore, staff recommended that the Recovery Fund Committee and Full Board approve Mr. Plitt's claim in the amount of \$15,000.00, which is based on the purchase amount and full judgment amount that was awarded by the court.

On October 12, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended the amount of \$15,000.00 be paid from the Fund to Mr. Plitt.

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

Motion was made by Matt McQueen to accept hearing officer's recommendation. Thomas Moorehead seconded. The motion carried unanimously.

Brian M. Keese and Towne Automotive Borkers, Inc. On July 6, 2010, Brian M. Keese entered into a purchase agreement with Francis Masika, owner of Towne Automotive Brokers, Inc. (Towne Automotive) for the purchase of a black 2007 Mercedes Benz, with a base price of \$39,000.00. In connection with the purchase, Mr. Keese traded in a 2007 Dodge Charger and was given a trade-in allowance of \$28,000.00 with a loan balance owed of \$29,500.00 to Northwest Federal Credit Union making the net trade-in of \$1,500.00 for a vehicle cash price of \$40,500.00. In addition, Towne Automotive included (sales tax, title and registration fees) totaling \$1,219.50, making the total balance due at settlement of \$41,719.50. Towne Automotive indicated they would pay-off the loan balance that Mr. Keese had on the 2007 Dodge Charger through Northwest Federal Credit Union in the amount of \$29,500.00.

Mr. Keese took possession of the black 2007 Mercedes Benz; however Towne Automotive provided title and registration to a different black 2007 Mercedes. Mr. Keese made repeated requests for Towne Automotive to provide the correct title for the vehicle he purchased from them, but Towne Automotive refused to honor his requests. Mr. Keese later learned that Towne Automotive failed to pay the title and registration fees to DMV on the 2007 Mercedes Benz he had purchased. In addition, he learned that Towne Automotive had sold his trade-in (2007 Dodge) to a third party and failed to pay off the existing loan to Northwest Federal Credit Union (NFCU). Eventually, DMV was able to issue title and registration to Mr. Keese on the 2007 Mercedes. However, Mr. Keese had to repay the tax and registration fees plus he is being held liable to NFCU for the loan balance of \$29,500.00 on the 2007 Dodge he traded-in to Towne Automotive.

On January 20, 2011, pursuant to Va. Code §46.2-1527.4 Romeo Lumaban, Esquire on behalf of Brian Keese filed a "Complaint" in the Circuit Court of the City of Newport News against Towne Automotive and Francis Masika for violations of the Virginia Consumer Protection Act.

On February 7, 2011, Mr. Lumaban, on behalf of Brian Keese, submitted to the Dealer Board a copy of the Buyer's Order, a letter from DMV regarding the check submitted by Towne Automotive in the amount of \$795.76 for taxes and/or fees to register the vehicle in Mr. Keese's name had been returned for insufficient funds, a copy of the Va. title on the 2007 Dodge that was traded-in and a copy of the Va. registration to the 2007 Mercedes Mr. Keese had purchased.

On February 8, 2011, the Dealer Board staff acknowledged receipt of Brian Keese possible claim against the Fund. After a careful review, pursuant to Va. Code §46.2-1527.2 staff referred counsel to the dealer's surety bonding company regarding his client's claim. On April 18, 2011, Mark Smith, Esquire on behalf of Brian Keese submitted to the Dealer Board copies of the pleading regarding Mr. Keese lawsuit that had been filed against Towne Automotive & Francis Masika. On April 19, 2011, the Dealer Board staff spoke with Mr. Smith regarding his client's claim against the Fund. Counsel indicated that the surety bonding company (Platte River) had relinquished the \$50,000.00 liability of the bond over to the Court. Counsel indicated that upon disbursement of the funds from the Court of the liability of the bond; counsel will then proceed against the Fund on his client's claim. On April 28, 2011, counsel on behalf of Brian Keese submitted to the Dealer Board the Notice of Hearing and Complaint for Entry of Default Judgment against Towne Automotive and Francis Masika.

On June 14, 2011, the Circuit Court for the City of Newport News awarded Brian Keese a default judgment against Francis Masika & Towne Automotive. The Court awarded Judgment for the principle sum of \$38,656.18 with interest from 7-6-2010; treble damages in the amount of \$77,312.36; court costs in the amount of \$258.00; and attorney fees in the amount of \$2,078.10. On June 28, 2011, Mr. Smith, on behalf of Brian Keese submitted to the Dealer Board a letter indicating that the hearing for the surety bonding company is still pending and attached copy of the Default Judgment Order against Francis Masika and Towne Automotive. In addition, Counsel submitted an affidavit with the summary of hours worked on Brian Keese claim.

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 (\$50,000) with the clerk of the court. On March 1, 2012, Mark Smith, Esquire on behalf of Brian Keese submitted to the Dealer Board the documentation for consideration of reimbursement from the Fund on the remaining balance of Brian Keese's claim.

Staff believes Mr. Keese's claim meets the requirement of Va. Code §46.2-1527.3, judgment was awarded in a court of competent jurisdiction of the Commonwealth of Va. In February, 2012 the disbursement of surety bond funds was approved and Mr. Keese received \$16,750.00 on his claim. Counsel requested reimbursement from the Fund on the remaining balance. Therefore, given the facts and code sections governing the Fund, the Dealer Board staff recommended that the Recovery Fund Committee and Board approve Brian Keese's claim in the amount of \$3,250.00. This amount is based on \$20,000.00 maximum amount involving a single transaction minus the \$16,750.00 paid from the bond payment.

Note:

The dealer's surety bonding company (Platte River) \$50,000.00 liability has been exhausted. Currently, there are two (2) more claims that are seeking reimbursement from the Fund on claims against Francis Masika & Towne Automotive Brokers.

On August 30, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended payment of \$3,250 from the Fund to Mr. Keese.

Motion was made by Matt McQueen to accept the hearing officer's recommendation. Art Hudgins seconded. The motion carried unanimously.

Ronald S. Keyes and Towne Automotive Brokers, Inc. On August 17, 2009, Ronald S. Keyes entered into an oral agreement with Francis Masika, owner of Towne Automotive Brokers, Inc. (Towne Automotive) for the purchase of a 2008 Nissan Pathfinder in the amount of \$27,000.00. Mr. Keyes provided Mr. Masika, owner of Towne Automotive with a check from Navy Federal Credit Union (NFCU) in the amount of \$27,000 to purchase the vehicle from Pennsylvania and to be delivered to him. After approximately one week, Mr. Keyes still had not received the vehicle and informed Mr. Masika that if the vehicle was not in his possession within the following week he wanted a return of his money. Mr. Masika then informed Mr. Keyes that he could not get the Nissan and that he had spent his money on another deal he had made with another party. Mr. Masika and Mr. Keyes agreed that he would take over the payments of the loan to NFCU until the loan was satisfied. Mr. Masika paid on the loan until August, 2010. In order to keep his credit in good standing, Mr. Keyes made the September, October and November 2010 payments and continues to make payments on a vehicle he never received.

Towne Automotive and Francis Masika failed to meet the financial obligations to Mr. Keyes and NFCU is holding him liable on the unpaid balance of the loan in the amount of \$17,906.66. Ultimately, Mr. Keyes obtained legal counsel in order to pursue Francis Masika and Towne Automotive for his monetary loss in connection with the purchase of a vehicle he never received.

On January 3, 2011, pursuant to Va. Code §46.2-1527.4 Stricker C. Sanford, Esquire on behalf of Ronald Keyes submitted to the Dealer Board the "Complaint" that was filed in the Circuit Court of the City of Norfolk against Towne Automotive Brokers, Inc. & Francis Masika. On January 13, 2011, Mr. Sanford submitted to the Dealer Board the summons to obtain personal service on Francis Masika, an inmate in the Virginia Peninsula Regional Jail with the attachment of the "Complaint". On January 20, 2011, the Dealer Board staff acknowledged receipt of Ronald Keyes possible claim against the Motor Vehicle Transaction recovery Fund (Fund). After a careful review staff referred counsel to the dealer's surety bond, pursuant to §46.2-1527.2.

On January 21, 2011, Mr. Sanford submitted to the Dealer Board a copy of the letter sent to the surety bonding company (Platte River Insurance) for Towne Automotive Brokers, Inc., as notice of a pending claim against the bond. Counsel enclosed copies of the bond and the "Complaint" filed in the Circuit Court of the City of Norfolk. On March 2, 2011, Beth Jenks, Senior Claims Specialist for Capitol Insurance Companies submitted to the Dealer Board a letter notifying the Board they had received notices of (2) separate suits that had been filed as claims against Towne Automotive Brokers, Inc.

On March 8, 2011, Mr. Sanford submitted to the Dealer Board a Motion for Default Judgment and Notice of Hearing that was submitted to the Clerk of the Court regarding Towne Automotive Brokers, Inc. to be placed on the court's docket for March 25, 2011. On March 25, 2011, the Circuit Court for the City of Norfolk awarded Ronald S. Keyes a Default Judgment against Towne Automotive Brokers, Inc. in the amount of \$19,051.66; to included the unpaid balance of the NFCU loan (\$17,906.66) plus attorney fees (\$1,000.00), court costs (\$129.00) and process service fees (\$16.000 plus interest. On April 27, 2011, Mr. Sanford submitted to the Dealer Board a copy of the letter to the Clerk of the Chesapeake Circuit Court, an Answer to plaintiff's Complaint for Interpleader in reference to Platte River Insurance Co. v. Robert Scott, Ronald Keys, et als. 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 (\$50,000) with the clerk of the court. On March 20, 2012, Counsel on behalf of Mr. Keyes submitted to the Dealer Board documentation for consideration of reimbursement from the Fund on the remaining balance of Ronald S. Keyes' claim.

Staff believes Mr. Keyes' claim meets the requirement of Va. Code§46.2-1527.3, judgment was awarded in a court of competent jurisdiction of the Commonwealth of Virginia. In February, 2012, disbursements of the surety bond funds were approved and Mr. Keyes received \$5,985.00 on his claim. Counsel is now requesting consideration of reimbursement from the Fund on the balance of the judgment order. Therefore, given the facts and code sections governing the Fund, the Dealer Board staff recommended that the Recovery Fund Committee and full Board approve Mr. Keyes' claim in the amount of \$13,066.66, this amount is based on the judgment amount of \$19,051.66 minus the \$5,985.00 paid by the surety bonding company.

On October 12, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended payment of \$13,066.66 from the Fund to Mr. Keyes.

Motion was made by Andy Alvarez to accept the hearing officer's recommendation. Roy Boswell seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for January 14, 2013.

The meeting adjourned at 11:26 a.m.