

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, September 13, 2004

Chairman D.B. Smit called the Dealer Board meeting to order at 11:55 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 Bobby Joe Dotson, Steve Farmer, Rick Hunt, Todd Hyman, Clyde King, David Lacy, Hugh McCreight, Pat Patrick, Max Pearson, Ted Robertson, Chris Schroeder, Vince Sheehy, Larry Shelor, Leo Trenor and Robert Woodall. (Absent: Carlton Courter, James Mitchell and Frank Pohanka). Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Philip Vasquez represented DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The July 12, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

- **Arthur S. Casey and Casey Honda-Casey BMW.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Arthur S. Casey and Casey Honda-Casey BMW. 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 Arthur Casey and Peninsula Motor Cars Inc. for alleged violations of Va. Code §§46.2-1575(4), defrauding any retail buyer, to the buyer's damage or any other person in the conduct of the licensee's or registrant's business and 46.2-1575(6). having used deceptive acts or practices. Based on due consideration, and further discussion, the Board rejects the hearing officer's recommendation. The Board hereby takes no further action on Mr. Arthur Casey and Peninsula Motor Cars Inc.

Rick Hunt seconded. The motion carried unanimously.

- **Audrey Moss, Phyllis Parrish, Donald Aaron and Crown Auto, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Audrey Moss, Phyllis Parrish, Donald Aaron and Crown Auto 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 Audrey Moss, Phyllis Parrish and Donald Aaron t/a Crown Auto, Inc. for alleged violations of Va. Code §§46.2-1575(4) defrauding any retail buyer, to the buyer's damage or any other person in the conduct of the licensee's or registrant's

business and 46.2-1575(6) having used deceptive acts or practices. Based on due consideration, and further discussion, the Board rejects the hearing officer's recommendation. The Board hereby takes no further action on Audrey Moss, Phyllis Parrish, Donald Aaron and Crown Auto, Inc

Clyde King seconded. The motion carried unanimously.

- **Frederick L. Ramsey and Fred's Auto Center.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Frederick L. Ramsey and Fred's Auto Center. 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 Frederick L. Ramsey t/a Fred's Auto Center for alleged violations of Va. Code §§46.2-1575(1) having made a material misrepresentation of fact in an application for a certificate of title; 46.2-1575(4) defrauding any retail buyer, to the buyer's damage or any other person in the conduct of the licensee's or registrant's business; 46.2-1575(6) having used deceptive acts or practices; and 46.2-1575(9), having been convicted of any criminal act involving the business of selling vehicles. Based on due consideration, and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Frederick L. Ramsey t/a Fred's Auto Center. The Board hereby assesses a civil penalty Frederick L. Ramsey t/a Fred's Auto in the amount of \$2,000 for violations of VA Code Sections 46.2-1575(1), 46.2-1575(4), 46.2-1575(6), and 46.2-1575(9)

Pat Patrick seconded. The motion carried unanimously.

- **Dariush Sobhani and Cyrus Auto Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Dariush Sobhani and Cyrus Auto Sales. 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 Dariush Sobhani and Cyrus Auto Sales for alleged violations of Va. Code §46.2-1575(9) having been convicted of any criminal act involving the business of selling vehicles. Based on due consideration, and the recommendation of the hearing officer, the Board believes that no sanctions should be levied against Dariush Sobhani and Cyrus Auto Sales. The Board hereby takes no further action on Dariush Sobhani and Cyrus Auto Sales.

Hugh McCreight seconded. The motion carried unanimously.

Licensing Committee:

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

Advertising Committee:

Chairman Vince Sheehy summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman Steve Farmer summarized discussions held and actions that were taken during the Committee Meeting.

- Gregory Weeks and Express Auto Buying Services, Inc., Bryant Davis and Car Bazar, Martha Eubank, Timmy Muse and Ritchie L. Thacker and Auto Rama, Gary R. Hagarman, Dorine S. Hagarman and VA Auto Truck Center.** Chairman Steve Farmer summarized for the Board the discussion held in the Committee meeting regarding Gregory Weeks and Express Auto Buying Services, Inc., Bryant Davis and Car Bazar, Martha Eubank, Timmy Muse and Richie L. Thacker and Auto Rama, Gary R. Hagarman, Dorine S. Hagarman and VA Auto Truck Center. Based on that discussion and the recommendation in the case, Mr. Farmer made the following motion: Pursuant to 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 claims submitted for payment from the Fund on the claims and based on due consideration and recommendation of the staff representative, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

Gregory Weeks and Express Auto Buying Services Inc.	\$ 9,609.00
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Seconded by Todd Hyman. The motion carried unanimously

Bryant Davis and Car Bazar	\$11,068.35
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Seconded by Pat Patrick. The motion carried unanimously.

Martha Eubank & Timmy Muse and Auto Rama	\$ 3,236.30
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Seconded by Bobby Joe Dotson. The motion carried unanimously

Gary and Dorine Hagarman and VA Auto Truck Center	\$13,118.07
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Seconded by Clyde King. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

D.B. Smit reported that Ed Ryder will retire at the end of this calendar year from Investigative Services and that Mr. Don Bosewell has been hired to head up the Investigative Services. He will begin on September 27, 2004.

- Web Sites** – Rick Hunt indicated that he had been looking at dealer’s claims made on the website. He wanted to know if we have any jurisdiction over the website. Bruce Gould indicated that if they advertise on the web, then we would regulate them. The same rules apply.

The next meeting will be scheduled for November 8, 2004.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

Executive Director's Report. Bruce reported that he will be attending a workshop with his peers in October and he will be attending VIADA's annual conference on September 18, 2004. Bruce also announced that field representative Paul Tickle has married and decided to move to Maryland with his new wife.

There being no further business to come before the Motor Vehicle Dealer Board, Vice-Chairman Hunt adjourned the meeting at 12:36 p.m.

Meeting Summary
Dealer Practices Committee
Monday, September 13, 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 Bobby Joe Dotson, Clyde King, Hugh McCreight, Pat Patrick, Ted Robertson, Chris Schroeder, Vince Sheehy and Robert Woodall. (Absent: James Mitchell and Frank Pohanka) Other Board members present: D.B. Smit, Steve Farmer, Rick Hunt, Max Pearson, David Lacy, Leo Trenor and Larry Shelor. Executive Director Bruce Gould (late), Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Philip Vasquez was present from DMV. Rick Walton was present from the Attorney General's Office.

The July 12, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: July Actions. Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on July 12, 2004.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Arthur S. Casey and Peninsula Motor Cars, Inc. (PMC) t/a Casey Honda-Casey BMW.**
An informal fact-finding conference was conducted on June 10, 2004 for the alleged violations of Va. Code §§46.2-1575(4) (Defrauding any retail buyer, to the buyer's damage or any other person in the conduct of the licensee's or registrant's business) and 46.2-1575(6) (Having used deceptive acts or practices) against Arthur S. Casey and Peninsula Motor Cars, Inc. (PMC) t/a Casey Honda-Casey BMW. Based on information provided at the conference, the hearing officer recommended that the Board assess civil penalties against Mr. Casey and PMC totaling \$1,500.00. Specifically, it was recommended that the Board assess a civil penalty of \$750.00 as a sanction related to the final judgment determining that the dealership engaged in actual fraud in the sale of a motor vehicle and an additional \$750.00 related to the final judgment holding that the dealership engaged in deceptive conduct under the Virginia Consumer Protection Act in the sale of a motor vehicle.

Bill Lehner spoke on his client's behalf. He indicated that he did not represent Mr. Casey at the Circuit Court trials. General discussion followed.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Pat Patrick to reject the hearing officer's recommendation. The consensus of the Committee was that they did not believe there was intent to defraud. Rather, there was just one mistake made after another. Todd Hyman seconded. The motion carried unanimously.

- **Audrey Moss, Phyllis Parrish, Donald Aaron and Crown Auto, Inc.** An informal fact-finding conference was conducted on June 9, 2004 for the alleged violations of Va. Code §§46.2-1575(4) (Defrauding any retail buyer, to the buyer's damage or any other person in the conduct of the licensee's or registrant's business) and 46.2-1575(6) (Having used deceptive acts or practices) against Audrey Moss, Phyllis Parrish, Donald Aaron and Crown Auto, Inc. Based on information provided at the conference, the hearing officer recommended that the Board assess civil penalties against Ms. Moody, Mr. Parrish, Mr. Aaron and Crown Auto totaling \$1,300.00. Specifically, it was recommended that the Board assess a civil penalty of \$650.00 as a sanction related to the final judgment determining that the dealership engaged in actual fraud in the sale of a motor vehicle and an additional \$650.00 related to the final judgment holding that the dealership engaged in deceptive conduct under the Virginia Consumer Protection Act in the sale of a motor vehicle.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Bobby Joe Dotson to reject the hearing officer's recommendation. The consensus of the Committee was, after reviewing the evidence themselves, they did not believe there was any intent to defraud anyone. Pat Patrick seconded. The motion carried unanimously.

- **Frederick L. Ramsey and Fred's Auto Center.** An informal fact-finding conference was conducted on February 24, 2004 for the alleged violations of Va. Code §§46.2-1575(1) (deny the license of a dealer who makes a material misrepresentation of fact in an application for a certificate of title), (4) (Defrauding any retail buyer, to the buyer's damage or any other person in the conduct of the licensee's or registrant's business) and 46.2-1575(6) (Having used deceptive acts or practices) against Frederick L. Ramsey and Fred's Auto Center. Based on information provided at the conference, the hearing officer recommended that the Board assess a civil penalty in the total amount of \$2,000 against Mr. Ramsey; \$1,000 for the miss-characterization of the vehicle as a motor home and \$1,000 for the undervaluation of the Freightliner.

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

- **Dariush Sobhani and Cyrus Auto Sales.** An informal fact-finding conference was conducted on April 22, 2004 for the alleged violations of Va. Code §46.2-1575(9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on information provided at the conference, the hearing officer recommended that the Board not revoke, deny or suspend Mr. Sobhani's license and recommends no assessment of a civil penalty.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Vince Sheehy to accept the hearing officer's recommendation. Pat Patrick seconded. The motion carried unanimously. Vince directed Bruce to ensure another inspection is conducted on the dealership and review it at the next Committee meeting.

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould indicated that there were 2 requests for on-line variances, both of which were approved. There were three requests to store records at a centralized location. Two of the requests were approved and one was denied due to recent record keeping problems.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for November 8, 2004.

The meeting adjourned at 9:39 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, September 13, 2004

Chairman Bobby Joe Dotson called the Dealer Licensing Committee meeting to order at 9:45 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Steve Farmer, Rick Hunt, Todd Hyman, David Lacy, Larry Shelor and Robert Woodall. (Absent: James Mitchell and Frank Pohanka) Other Board members present: Ted Robertson, Vince Sheehy, Leo Trenor, D.B. Smit, Pat Patrick, Clyde King, Chris Schroeder, Max Pearson and Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Philip Vasquez represented DMV. Rick Walton represented the Attorney General's Office.

The July 12, 2004 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: July Actions. Bobby Joe Dotson asked that the Committee Members silently read the July update. No further discussion on the update.

OLD BUSINESS FROM THE FLOOR

Bobby Joe Dotson indicated that at the July 12 Licensing Committee Meeting, some discussion was held in regards to educational requirements for future Dealer Operators. Bruce Gould reported that per the direction of the Committee, that he had taken the first steps in the regulatory process. This process is required by law in order to establish educational requirements. After some discussion, the consensus of the Committee was to abandon the Regulatory Process and form a Committee to review and revamp the test to make it more challenging. Frank Pohanka suggested that a task force be formed to study the topic prior to voting on any resolutions. Bruce Gould indicated that before changes can be made, suggestions would have to go through the regulatory process, which is a process set out in the Code for agencies to adopt regulations. General discussion followed. Consensus of the Committee was to not take any further action on this issue and to simply make the test harder.

NEW BUSINESS

The next meeting was scheduled for November 8, 2004.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:19 a.m.

Meeting Summary
Advertising Committee
Monday, September 13, 2004

Chairman Vince Sheehy called the Advertising Committee meeting to order at 10:28 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Steve Farmer, Rick Hunt, Hugh McCreight, Pat Patrick, Max Pearson, Ted Robertson, Chris Schroeder and Larry Shelor. Other Board members present: Leo Trenor, Robert Woodall, Todd Hyman, D.B. Smit, Clyde King, David Lacy, Bobby Joe Dotson. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Philip Vasquez represented DMV. Rick Walton represented the Attorney General's Office.

The July 12, 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

Bill Tanger, Executive Director of Media Vision, Inc. requested clarification on using the phrase "We Own the Bank/Finance Company". He felt it was miss-leading.

- **Revisit Advertising: "We Own The Finance Company"**. Vince Sheehy indicated that this issue was submitted to the Dealer Board office as a formal complaint. A similar issue was reviewed about two years ago and at that time it was deemed to be acceptable, as long as the statement was factual. Vince stated that in 2002 when this issue was first examined it was decided that a dealer can not state that he "owns the bank" unless it is verifiable that the dealer does in fact own **the** bank.

One audio tape and two video tapes were played using the phrases "We Own the Bank" or "We own the financing company. Before the advertisements were viewed, Larry Shelor recused himself from the discussion because two of the advertisements were placed by his dealership.

After much discussion the committee reached consensus as follows:

- In order to advertise that a dealer "owns **the** bank" that dealer must own the bank where most of the financing is completed. Ownership must be verifiable.
- Dealers who own a "Related Finance Company" (RFC) and this RFC finances most of the sales, the dealer may advertise that he "owns **the** finance company" Ownership must be verifiable.

- Dealers who own a company whose SCC papers state in the "purpose" section of those papers that the purpose of the company is to finance vehicles sold by the dealership, may advertise that they "own **the** finance company" provided that most of the dealer's sales are financed through this finance company. Ownership must be verifiable.
- Dealers may advertise that they "own **a** finance company" or that they own **a** bank" as long as the statement is true and verifiable.

The next meeting will be November 8, 2004.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:57 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, September 13, 2004

Chairman Steve Farmer called the Transaction Recovery Fund Committee meeting to order at 10:58 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Bobby Joe Dotson, Clyde King, David Lacy, Chris Schroeder, Larry Shelor and Leo Trenor. Other Board members present: Ted Robertson, Vince Sheehy, Robert Woodall, Todd Hyman, Rick Hunt, D.B. Smit, Pat Patrick, Max Pearson, Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Philip Vasquez represented DMV. Rick Walton represented the Attorney General's Office.

The July 12, 2004 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Gregory Weeks and Express Auto Buying Services, Inc.** On December 21, 2000, Gregory Weeks purchased a 1989 Chevrolet van for \$2,150.00 from Express Auto Buying Services. Mr. Weeks paid for the vehicle in full. Express did not provide a Buyers Order, failed to produce title to the vehicle and issued several sets of temporary tags. The dealership has since gone out of business and Mr. Weeks filed a lawsuit against Express Auto Buying Services, Inc. On January 10, 2003, Thomas Breeden, Esquire, submitted to the Dealer Board, a prior notification, a Motion for Judgment that had been filed against Maurice Quiroz t/a Express Auto Buying Services, Inc. On the 15th of that same month, the Dealer Board sent a letter to Mr. Breeden acknowledging his client's claim and requested additional documentation in order to complete the review process. On the 28th of January, Mr. Breeden submitted the only paper work that Mr. Weeks received, which consisted of a business card from Maurice Quiroz and a temporary certificate. In March and April 2003, Mr. Breeden submitted to the Dealer Board Notices and Motion for Default Judgment to continue the matter for a hearing on damages on 3 occasions. On July 18, 2003, Mr. Breeden submitted a letter to the dealership's bonding company (Western Surety) notifying them of a new trial date.

On April 8, 2004, Mr. Breeden submitted to the Dealer Board a Judgment Claim Request form along with a copy of the Judgment Order requesting payment from the Fund. Mr. Weeks was awarded Judgment against Maurice Quiroz t/a Express Auto Buying Services, Inc. on July 30, 2003. On April 14, 2004, the Dealer Board contacted Mr. Breeden to inform him that the Board had not received any notification from the surety bond company regarding any payment and on the same day the Board sent a letter to Western Surety requesting written notification of payment of any claims made against the dealer's bond. On April 15, 2004, Mr. Breeden submitted to the Board a copy of a letter dated February 3, 2004 indicating that Mr. Weeks received a check made payable to Mr. Weeks in the amount of \$13,000 from the surety bonding company. On July 6, 2004, the Board received a letter from Western Surety indicating that Mr. Weeks was paid \$13,000 for his claim. After carefully reviewing all the documentation and based on the findings of the staff representative of the Informal Fact-Finding Conference conducted on

July 27, 2004. it requested that the Recovery Fund Committee and Board approve Mr. Weeks' claim in the amount of \$9,609.00, this amount is based on the \$9,399.00 attorney fees and \$210.00 in court costs.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to approve payment from the Fund in the amount of \$9,609.00. Clyde King seconded. The motion carried unanimously.

- **Bryant Davis and Car Bazar.** On December 29, 2001, Mr. Bryant Davis purchased a 1991 Acura Legend from Car Bazar for \$5,649.00. Before purchasing the vehicle, Mr. Davis asked if the vehicle would pass a Maryland State Inspection and he was assured it would. Based on this representation, Mr. Davis purchased the vehicle. Mr. Davis then took the vehicle to Tischer Nissan in Laurel, Maryland, only to discover that the vehicle has numerous mechanical problems and it would not pass the Maryland State Safety Inspection. Car Bazar made no attempt to make good on any of the mechanical problems. Mr. Davis paid over \$1,300 for repairs in order for the vehicle to pass the Maryland State Inspection. After having the repairs made, Mr. Davis still could not get the vehicle registered because Car Bazar failed to provide title to the vehicle. After four months, Mr. Davis returned the vehicle to Car Bazar. In April of 2002, Mike Aghili, owner of Car Bazar wrote Mr. Davis a letter indicating that he would issue a check for \$5,649 as reimbursement for all monies paid to the dealership for the vehicle. But as of this date, Car Bazar has refused to compensate Mr. Davis for the costs and expenses of repairing the vehicle, nor have they reimbursed him in connection with the purchase of the vehicle.

In December of 2002, on behalf of Mr. Davis, Hugo Blankingship, Esquire, submitted to the Dealer Board, as prior notification, a complaint that was filed in US District Court, along with the complaint, he attached the Advertisement of the vehicle, the Buyer's Order and the two temporary certificates and the Request to the Clerk to Enter Default Judgment. In January of 2003, the Dealer Board acknowledged receipt of Mr. Davis' claim against the Fund and requested additional documentation in order to complete the review process. On January 21, 2003, Mr. Blankingship submitted to the Dealer Board, Notice of Motion for Default Judgment for a hearing. On February 6, 2003, Mr. Blankingship submitted to the Dealer Mr. Davis' Supplemental Memorandum in Support of Default Judgment. The US District Court dismissed the case for lack of jurisdiction. In December of 2003, Mr. Blankingship submitted to the Dealer Board as prior notification a Motion for Judgment which was filed in the Circuit Court. In that same month, the Dealer Board acknowledged this claim and requested additional documentation in order to complete the review process. On December 22, 2003, the Circuit Court awarded a Default Judgment in favor of Bryant Davis against Car Bazar. After carefully reviewing all the documentation and based on the findings of the staff representative of the Informal Fact-Finding Conference conducted on July 22, 2004, it was requested that the Recovery Fund Committee and Board approve Mr. Davis' claim in the amount of \$11,068.35, this amount is based on the \$7,623.85 compensatory damages, \$138.00 in court costs and \$3,306.50 in attorney fees.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to approve payment from the Fund in the amount of \$11,068.35. Larry Shelor seconded. The motion carried unanimously.

- **Martha Eubank, Timmy Muse and Richie L. Thacker & Auto Rama.** On August 2, 2003, Martha Eubank and Timmy Muse purchased a 1995 Dodge Caravan from Auto Rama for \$1,250.00, which they paid in full with cash. At the time of purchase, there was a bullet hole in the corner of the windshield and Mr. Thacker indicated that it would still pass state inspection and it did not need replacing, also, title was not provided, because Mr. Thacker had purchased it from another dealership and was awaiting title from them and assured Ms. Eubank and Mr. Muse that he would forward the title to them within 30 days. Ms. Eubank and Mr. Muse experienced a number of mechanical problems and in September of 2003, the vehicle was towed back to Ms. Eubank's and Mr. Muse's home because they did not have any more money to into the vehicle. In September, the couple sought legal help at the Legal Aid Society of Roanoke Valley. In October, counsel for the couple sent a letter to Mr. Thacker requesting a rescission of the contract with a full refund of the purchase price in the amount of \$1,250, plus \$281.27 for the repairs.

In January of 2004, Mr. Thacker and counsel for the couple agreed to a settlement of \$3,913. Installments were to be made by Mr. Thacker. Should installments not be made, then they would make application for payment from the Transaction Recovery Fund. On January 27, 2004, the Dealer Board received, received as prior notification, the Notice of Motion for Judgment, affidavits, copy of the Buyers Order, copies of Virginia title assignments, receipts for repairs, copy of settlement agreement and a Notice of Change of Court Dates. On April 8, 2004, the couple was awarded judgment against Richie Thacker and Auto Rama in the amount of \$4,272.30. On June 16, 2004, counsel for the couple submitted to the Dealer Board, a judgment Claim Request form, an attested copy of final judgment, copies of all pleadings, and all required documents for consideration of payment from the Fund. On July 8, 2004, the Board received a letter from counsel indicating that Mr. Thacker refused to sign the settlement agreement, which forced hem to go to trial in March of 2004. To date, Mr. Thacker has not made any payments towards the judgment. After carefully reviewing all the documentation and based on the findings of the staff representative of the Informal Fact-Finding Conference conducted on August 11, 2004, it was requested that the Recovery Fund Committee and Board approve Ms. Eubank's and Mr. Muse's claim in the amount of \$3,236.30 and it was also recommended that the Board's staff place a stop on the licensing file of Mr. Thacker so that serious consideration can be made about issuing any further licenses in his name. This amount is based on the courts award of \$1,250.00 for the purchase price of the vehicle, \$165.30 incidental damages for repairs, plus \$1,821.00 for attorney fees.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to approve payment from the Fund in the amount of \$3,236.30 and place a stop on the licensing of Mr. Thacker. Clyde King seconded. The motion carried unanimously.

- **Gary R. Hagarman, Dorine S. Hagarman and VA Auto Truck Outlet.** On or about August 10, 2002, Gary and Dorine Hagarman was shown a 1995 Chevrolet Astro-van by Eddy Anderson, sales manager for VA Auto Truck Outlet, that was on consignment at the dealership. The vehicle needed repairs that needed to be completed prior to the couple taking delivery. They were advised that the total sales price of the vehicle was \$4,368.00 minus the \$200.00 down payment they made. When the couple went to take delivery of the vehicle on August 12, the repairs had not been completed. The Hagarman's communicated to Mr. Anderson that they would like to cancel the purchase and requested their money back. The next day, Mr. Anderson requested additional time to repair the vehicle. The Hagerman's agreed and had their financial institution issue a draft in the amount of \$4,168.00 made payable to VA Auto Truck Outlet. On August 14,

2002, Mr. Anderson called the couple and requested that the check be made out to "Nubia Wahezi" because the vehicle was owned by a third party. The same day, the couple had a new draft made payable to Nubia Wahezi.

On August 28, 2002, Mr. Anderson advised the couple that the repairs were made and they arrived to take delivery, they found that none of the requested repairs were completed. They then requested cancellation of the purchase and return of monies paid. On September 2, 2002, they were informed that they would receive a refund check from the dealership in ten to fifteen days. On September 17, 2002 the couple called the dealership and asked for Mr. Anderson. They were told that Mr. Anderson no longer worked at the dealership, Mr. Anderson was the actual owner of the 1995 Chevrolet Astro van and that his real name was Nubia Wahezi. That same day, they went to the dealership and inquired on their refund. They were told that Mr. Anderson was no longer employed by the dealership and that the dealership was not bound by the sales contract and would refund the vehicles purchase price. The Hagarman's later learned that neither Mr. Anderson nor Nubia Qahezi were licensed salespersons with the dealership.

In January of 2003, the couple provided written notice to the dealership requesting cancellation of the vehicle's purchase and demanded return of the vehicles purchase price and other amounts. On October 24, 2003, David Robertson, the couple's counsel, faxed to the Dealer Board a copy of the Buyer's Order, copies of the employee's business cards with the dealership's logo and copy of the cancel check in the amount of \$200 payable to VA Auto Truck Outlet. On November 20, 2003, Mr. Roberson submitted to the Dealer board an Amended Motion for Judgment that had been filed against N & L, Inc. t/a VA Auto Truck Outlet. On January 21, 2004, the Dealer Board received the Hagarman's affidavits as well as copy of the Amended Motion of Judgment. On March 29, 2004, Mr. Robertson submitted to the Dealer Board a copy of a Default Judgment Motion and a Motion for Damages, Costs and Attorney fees. On May 7, 2004, the Circuit Court of Fairfax awarded a Final Default Judgment Order to the Hagarman's against VA Auto Truck Outlet a total award of \$25,815.01. On June 22, 2004, Mr. Robertson submitted to the Dealer Board the final judgment order, judgment claim request form and all supporting documentation requesting consideration of payment from the fund. After carefully reviewing all documentation and based on the findings of the staff representative of the Informal Fact-Finding Conference conducted on August 2, 2004, it was requested that the Recovery Fund Committee and Board approve the Hagarman's claim in the amount of \$14,443.07. This is based on the actual damages in the amount of \$5,685.97, the attorney fees in the amount of \$8,459.10 and court costs in the amount of \$298.00.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to approve payment from the Fund in the amount of \$13,118.07. The amount approved equaled a reduction of \$1,325 from the \$14,443.07 claim filed with the Board. Documentation indicated that \$1,325.00 of the \$8,459.10 in attorney fees were for administrative actions for filing a claim with the Board. It was the belief of the Committee that attorney fees for administrative actions are not eligible for reimbursement from the Fund. It was also noted that the attorney did not make an appearance before the Committee or Full Board. Larry Shelor 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 November 8, 2004.

The meeting adjourned at 11:48 a.m.