

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 12, 2011

Chairman Rick Holcomb called the Dealer Board meeting to order 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, Larry Bailey, Roy Boswell, Lynn Hooper, Art Hudgins, Brian Hutchens, Ronald Kody, Wanda Lewark, Chip Lindsay, Matt McQueen, George Pelton, Joe Tate, Rodney Williams, Sally Woodson and Tommy Woodson. (Absent: Thomas Moorehead, Kevin Reilly, Jimmy Whitten). 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.

PUBLIC COMMENT

There was no public comment.

The July 11, 2011 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.

- **Nolens Used Cars and Layton M. Nolen.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Nolens Used Cars and Layton M. Nolen. Based on that discussion, Mr. 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 Nolen Used Cars and Layton M. Nolen for alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failing to maintain buyer's orders), 46.2-1532 (odometer disclosure), 46.2-1533 (failing to maintain business hours), 46.2-1550 (2) (issuance and use of temporary transport plates) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Nolen Used Cars and Layton M. Nolen. The Board hereby assesses a \$1,000 civil penalty against Nolen Used Cars and Layton M. Nolen and based on due consideration, the Board believes that Mr. Nolen's dealership should be re-inspected and that the inspection must be satisfactory and if the inspection is not satisfactory, all licenses issued by the Board to Mr. Nolen should be suspended until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Nolen's dealership and if the inspection is not satisfactory the Board suspends all licenses issued by the Board to Mr. Nolen until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative.

Lynn Hooper seconded. The motion carried unanimously.

- **Whatever Automotive and Paul Robinson.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Whatever Automotive and Paul Robinson. Based on that discussion, Mr. 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 Whatever Automotive & Sales, Inc. and Paul Robinson for alleged violations of VA Code Section(s) 46.2-1547 (failure to maintain liability insurance), 46.2-1548 (dealer plate records) and 46.2-1575 (1) (material misstatements). Based on due consideration, the Board believes a civil penalty should be assessed against Whatever Automotive & Sales, Inc. and Paul Robinson. The Board hereby assesses a \$1,250 civil penalty against Whatever Automotive & Sales, Inc. and Paul Robinson.

Joe Tate seconded. The motion carried unanimously.

- **Lee's Auto and John J. Lee.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Lee's Auto and John J. Lee. Based on that discussion, Mr. 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 Lee's Auto and John J. Lee for alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failing to maintain buyer's orders), 46.2-1548 (dealer plate records), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1559 (temporary license plate tag record keeping), 46.2-1560 (related to temporary license plate) and 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Lee's Auto and John J. Lee. The Board hereby assesses an \$8,000 civil penalty against Lee's Auto and John J. Lee and based on due consideration, the Board believes all licenses and certificates issued by the Board to Mr. Lee (Dealer Certificate Numbers 1134 and 22877) should be suspended. The Board hereby suspends for 90 days all licenses and certificates (Dealer Certificate Numbers 1134 and 22877) issued by the Board to Mr. Lee and based on due consideration, the Board believes that Mr. Lee's dealership should be re-inspected in 90 days and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Lee's dealership within 90 days and if the inspection is not satisfactory the 90 day suspension will continue until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Lee in running his dealership. The Board mandates that Mr. Lee successfully complete the dealer-operator course within 90 days. Failure to successfully complete the course within 90 days will result in the continued suspension of all licenses and certificates issued to Mr. Lee by the Board until what time Mr. Lee has successfully completed the course.

Andy Alvarez seconded. The motion carried unanimously.

- **Auto Gallery and Mohammad Eskandari.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Auto Gallery and Mohammad Eskandari. Based on that discussion, Mr. 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 Auto Gallery and Mohammad R. Eskandari for alleged violations of VA Code Section(s) 46.2-1539 (safety inspections of vehicles required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 1559 (temporary tag records), 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a warning/willful failure to comply), (4) (Defrauding any retail buyer to the buyer's damage), and (9) (having been convicted of any criminal act involving the business of selling vehicles). Based on due consideration, the Board believes a civil penalty should be assessed against Auto Gallery. The Board hereby assesses a \$50,700; civil penalty against Auto Gallery, dealer certificate number 25382 and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Auto Gallery, dealer certificate number 25382 and to Mr. Mohammad R. Eskandari should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Board to Auto Gallery, dealer certificate number 25382 and to Mr. Mohammad R. Eskandari.

Lynn Hooper seconded. The motion carried unanimously.

- **Auto Gallery and Ryan Eskandari.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Auto Gallery and Ryan Eskandari. Based on that discussion, Mr. 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 Auto Gallery and Ryan R. Eskandari for alleged violations of VA Code Section(s) 46.2-1539 (safety inspections of vehicles required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 1559 (temporary tag records), 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a warning/willful failure to comply), and (4) (Defrauding any retail buyer to the buyer's damage). Based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Ryan Eskandari to should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Board to Mr. Ryan Eskandari.

Matt McQueen seconded. The motion carried unanimously.

- **Pruitt Automotive Wholesale, LLC and Paul W. Pruitt.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Pruitt Automotive Wholesale, LLC and Paul W. Pruitt. Based on that discussion, Mr. 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 Pruitt Automotive Wholesale, LLC and Paul W. Pruitt for alleged violations of VA Code Section(s) 46.2-1533 (failing to maintain business hours) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Pruitt Automotive Wholesale, LLC and Paul W. Pruitt. The Board hereby assesses a \$500 civil penalty against Pruitt Automotive Wholesale, LLC and Paul W. Pruitt and based on due consideration, the Board believes all licenses issued by the Board to Mr. Pruitt should be suspended. The Board suspends for 15 days all licenses issued by the Board to Mr. Pruitt.

Sally Woodson seconded. The motion carried unanimously.

- **Cosmo's Autos and Jennifer L. Cook.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Cosmo's Autos and Jennifer L. Cook. Based on that discussion, Mr. 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 Cosmo's Autos and Jennifer Lynn Cook for alleged violations of VA Code Sections 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1542 (failure to properly issue temporary tags), 46.2-1544 (failing to obtain a certificate of title or an assignment or reassignment of a certificate of title) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply) and (10) (Willfully retaining in his possession title to a motor vehicle that has not been completely and legally assigned to him). Based on due consideration, the Board believes a civil penalty should be assessed against Cosmo's Autos and Jennifer Lynn Cook. The Board hereby assesses a \$1,000 civil penalty against Cosmo's Autos and Jennifer Lynn Cook and based on due consideration, the Board believes that if Ms. Macy Stevenson successfully completed the dealer-operator course, it would benefit Ms. Cook in running her dealership and that if Ms. Stevenson successfully completed the course, the amount of the civil penalty should be reduced. The Board will reduce the civil penalty to \$500 if Ms. Macy Stevenson successfully completes the dealer-operator course.

Wanda Lewark seconded. The motion carried unanimously.

- **Cars Unlimited and Scotty M. Laughlin.** Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Cars Unlimited and Scotty M. Laughlin. Based on that discussion, Mr. 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 Cars Unlimited and Scotty M. Laughlin for alleged violations of VA Code Sections 46.2-1506 (selling vehicles without a valid salesperson license), 46.2-1515 (failure to display current dealer certificate), 46.2-1518 (display of salesperson's license; notice of termination), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1539 (safety inspection required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates) and 46.2-1575 (6) (having used deceptive acts or practices). Based on due consideration, the Board believes a civil penalty should be assessed against Cars Unlimited and Scotty M. Laughlin. The Board hereby assesses a \$2,000 civil penalty against Cars Unlimited and Scotty M. Laughlin and based on due consideration, the Board believes that Mr. Laughlin's salesperson license and dealer-operator and salesperson certificates of qualification should be suspended. The Board hereby suspends for two years, Mr. Laughlin's salesperson license; salesperson certificate of qualification and dealer-operator certificate of qualification.

Matt McQueen seconded. The motion carried unanimously.

Licensing Committee

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

- **Martin D. Mongillo, Salesperson.** Vice-Chairman Joe Tate summarized for the Board the discussion held in the committee meeting regarding Martin D. Mongillo. Based on that discussion, Mr. Tate made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Mr. Martin D. Mongillo and based on due consideration, the Board believes that Mr. Mongillo's motor vehicle salesperson's license transfer application should be approved. Mr. Mongillo may re-apply to transfer his license in not less than 60 days from the date he responds to the Board's decision and the executive director will approve the transfer of Mr. Mongillo's provided the application is properly completed and the Board believes that all future employers who employ Mr. Mongillo as a salesperson must be made aware of his criminal background. The Board mandates that Mr. Mongillo contact the executive director of the Motor Vehicle Dealer Board if he decides to transfer his license and provide evidence to the executive director that his new employer has been made aware of all of his criminal convictions. Failure to do so will result in the denial of the transfer/revocation of Mr. Mongillo's salesperson's license.

Sally Woodson seconded. All in favor: 15 (Alvarez, Bailey, Boswell, Hooper, Hudgins, Hutchens, Kody, Lewark, Lindsay, McQueen, Pelton, Tate, Williams, S. Woodson and T. Woodson). Opposed: 1 (Holcomb). The motion carried.

Advertising Committee

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

- **Mike Duman Chevrolet-Buick-GMC and Michael Duman.** Vice-Chairman Tommy Woodson summarized for the Board the discussion held in the committee meeting regarding Mike Duman Chevrolet-Buick-GMC and Michael Duman. Based on that discussion, Mr. 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 Mike Duman Chevrolet-Buick-GMC and Michael Duman for alleged violations of Virginia Administrative Code 24 VAC 22-30-10 and VA Code Section(s) 46.2-1575 (7) (Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or registered or for which a license or registration is sought). Based on due consideration, the Board believes no action should be taken against Mike Duman Chevrolet-Buick-GMC and Michael Duman. The Board hereby takes no further action against Mike Duman Chevrolet-Buick-GMC and Michael Duman.

George Pelton seconded. The motion carried unanimously.

Transaction Recovery Fund Committee:

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

- **Revisit: Kimberly P. Cross and Towne Automotive Brokers, Inc.** At the last Board meeting, (July 11, 2011), the Board requested clarification regarding the payment made by the bonding company and if it was applied to the attorney fees. The attorney provided clarification that the payment was made to her client. Therefore, payment of attorney fees and court costs should be made to Ms. Cross from the Fund. The Board has reviewed and considered the claim submitted

for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the claim should be payable from the Fund:

Kimberly P. Cross and Towne Automotive Brokers, Inc. **\$5,450.00**

Brian Hutchens seconded. The motion carried unanimously.

- **Sharon Green-Seay and Showcase Select Imports, Eric Dunston and Showcase Select Imports and Jacob J. Green and Showcase Select Imports.** Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Sharon Green-Seay and Showcase Select Imports, Eric Dunston and Showcase Select Imports and Jacob J. Green and Showcase Select Imports. 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 claims should be payable from the Fund:

Sharon Green-Seay and Showcase Select Imports	\$838.75
Eric Dunston and Showcase Select Imports	\$15,070.00
Jacob J. Green and Showcase Select Imports	\$14,049.45

Andy Alvarez seconded. The motion carried unanimously.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

Rick Holcomb commended the new members for handling the issues of the day that were extremely difficult to make decisions on.

Executive Director’s Report. Bruce Gould indicated that the Recovery Fund study group will convene shortly after the Full Board meeting. He extended to the Board members that if they did not need their books, they could leave them behind for recycling.

The next meeting will be scheduled for November 14, 2011.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting.

Meeting Summary
Dealer Practices Committee
Monday, September 12, 2011

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 Sally Woodson, Larry Bailey, Ronald Kody, Chip Lindsay, Matt McQueen, Joe Tate and Rodney Williams. (Absent: Thomas Moorehead, Kevin Reilly and Jimmy Whitten). Other Board members present: Andy Alvarez, Roy Boswell, Rick Holcomb, Lynn Hooper, Brian Hutchens, Wanda Lewark, 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 July 11, 2011 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:

- **Nolen Used Cars and Layton M. Nolen.** On July 6, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failing to maintain buyer's orders), 46.2-1532 (odometer disclosure), 46.2-1533 (failing to maintain business hours), 46.2-1550 (2) (issuance and use of temporary transport plates) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a \$250 civil penalty for violations of 1529, \$100 civil penalty for violations of 1533 and \$150 civil penalty for violations of 1575 (2). For a total civil penalty of \$500. The hearing officer also recommended a revocation of Mr. Nolen's license for a third reported transgression of the code in the future.

Motion was made by Matt McQueen to levy a \$500 civil penalty and require a follow-up inspection in 90 days. Sally Woodson seconded.

Substitute motion made by Joe Tate to suspend all of Mr. Nolen's licenses until he has had a satisfactory inspection. Sally Woodson seconded. General discussion followed concerning Mr. Nolen's failure to comply with a written warning.

Amended motion by Joe Tate to assess a civil penalty of \$1,000, and require a satisfactory inspection within 30 days, if the inspection is not satisfactory, all licenses will be suspended until the dealer has a satisfactory inspection. Rodney Williams seconded. The motion carried unanimously.

- **Whatever Automotive & Sales, Inc. and Paul Robinson.** On June 29, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1547 (failure to maintain liability insurance), 46.2-1548 (dealer plate records required) and 46.2-1575 (1) (material misstatements). Based on the information provided at the conference, the hearing officer recommended assessing a \$250 civil penalty for each plate not covered by insurance for a total civil penalty of \$1,250.00.

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

- **Lee's Auto and John J. Lee.** On June 29, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failure to maintain buyer's orders), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1560 (application for temporary license plate) and 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a written warning). Based on the information provided at the conference, the hearing officer recommended assessing a \$1,000 civil penalty for violations of 1529, \$1,000 civil penalty for violations of 1530, \$1,000 civil penalty for violations 1548 and revocation of all licenses, \$1,000 civil penalty for violations 1550 and revocation of all licenses, \$1,000 civil penalty for violations of 1559 and revocation of all licenses, \$1,000 for violations of 1560 and \$2,000 civil penalty for violations of 1575 (1) & (2) and revocation of all licenses. For a total civil penalty of \$8,000 and the revocation of all licenses issued to Mr. Lee.

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

Motion was made by Joe Tate to assess an \$8,000 civil penalty; successfully complete the Dealer Operator course within 90 days and be subject to a re-inspection within 90 days at both locations. If the dealer fails the inspections, all licenses would be revoked. Chip Lindsay seconded.

Amended motion made by Ronald Kody to assess a civil penalty of \$8,000; require that Mr. Lee successfully complete the Dealer Operator course within 90 days, and suspension of all licenses for 90 days. If both of Mr. Lee's dealerships have a satisfactory inspection, the suspension would be lifted. Larry Bailey seconded. The motion carried unanimously.

- **Auto Gallery and Mohammad R. Eskandari and Ryan Eskandari.** On June 2, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1575 (1) (material misstatements), (2) (failure to comply subsequent to receipt of a written warning), (4) (Defrauding any retail buyer to the buyer's damage) and (9) (having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a \$1,000 civil penalty for each code violation for a total civil penalty of \$6,000 and to revoke the licenses of Mohammad and Ryan Eskandari.

Motion was made by Joe Tate to assess a civil penalty of \$50,700.00 and revoke all licenses issued to Mohammad and Ryan Eskandari. The Committee believed that the higher civil penalty was needed as the Eskandari's overcharged customers for tax and registration fees totaling \$45,751.15. Matt McQueen seconded. The motion carried unanimously.

- **Pruitt Automotive Wholesale, LLC and Paul W. Pruitt.** On July 26, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1533 (failing to maintain business hours) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a \$500 civil penalty and to suspend his license for a minimum of 15 days and to remain suspended until the civil penalty is paid. If the dealer has not attended the Dealer Operator Course, he recommended that he successfully complete this course.

Motion was made by Rodney Williams to accept the hearing officer's recommendation. Sally Woodson seconded. The motion carried unanimously.

- **Cosmo's Autos and Jennifer Lynn Cook.** On July 28, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1542 (failure to properly issue temporary tags), 46.2-1544 (failure to obtain a certificate of title or an assignment or reassignment of a certificate of title) and 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply) and (10) (Willfully retaining in his possession title to a motor vehicle that has not been completely and legally assigned to him). Based on the information provided at the conference, the hearing officer recommended a \$250 civil penalty for violations of 1529 and a \$250 for violations 1575(2) and (10). For a total civil penalty of \$500.

Motion was made by Joe Tate to assess a civil penalty of \$1,000, should Ms. Stevenson the office manager of Cosmo's, successfully complete the Dealer Operator course, the civil penalty will be reduced to \$500. Larry Bailey seconded. The motion carried unanimously.

- **Cars Unlimited and Scotty M. Laughlin.** On July 28, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1506 (selling vehicles without a valid salesperson license), 46.2-1515 (failure to display current dealer certificate), 46.2-1518 (display of salesperson's license; notice of termination), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-1550 (improper use of or permitting the improper use of dealer's license plates) and 46.2-1575 (6) (having used deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended a \$1,000 civil penalty for violations of 46.2-1539 and \$1,000 civil penalty for violations of 46.2-1575(6) for a total civil penalty of \$2,000. He also recommended suspension of Mr. Laughlin's salespersons license for one year. After that year, Mr. Laughlin must successfully complete the Dealer Operator course.

Motion was made by Matt McQueen to assess a \$2,000 civil penalty and suspend Mr. Laughlin's dealer-operator and salesperson license for two years. Larry Bailey seconded. The motion carried unanimously. The Committee believed that a 2-year suspension was appropriate as the safety inspector who provide safety inspection stickers to Mr. Laughlin, had his safety inspection license suspended for two years.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for November 14, 2011.

Meeting Summary
Dealer Licensing Committee
Monday, September 12, 2011

Vice-Chairman Joe Tate called the Dealer Licensing Committee meeting to order in Room 702, 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, Sally Woodson. (Absent: Jimmy Whitten). Other Board members present Larry Bailey, Rick Holcomb, Lynn Hooper, Ronald Kody, Chip Lindsay, Matt McQueen, Rodney Williams and Tommy Woodson. 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 July 11, 2011 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: Independent Dealer-Operator (IDO) Recertification Program. Ann Majors indicated that of the 584 Independent Dealer Operators (all of 2011), 89% have recertified, 29 were out of business; 45% recertified within 5 days of the deadline; and 26% recertified within 30 days of the deadline. August was the last mailing for those with a 2011 deadline for a total of approximately 1,469 notifications. October will begin the mailings for 2012. It appears that 2012 will average 108 per month for a total of 1,296. Ms. Majors receives 15-45 telephone calls per day and 3-20 emails per day.

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Martin D. Mongillo, Salesperson.** On August 9, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575 (2) (failure to comply subsequent to receipt of a written warning/willful failure to comply). Based on the information provided at the conference, the hearing officer recommended revocation of his sales license.

Mr. Mongillo was present and spoke on his own behalf. Mike Jennings of Springfield Toyota also spoke on Mr. Mongillo's behalf.

Motion was made by Sally Woodson to have Mr. Mongillo properly reapply for a salespersons license after a 60 day suspension and should Mr. Mongillo leave Springfield Toyota he must contact the Dealer Board Executive Director. Wanda Lewark seconded. All in favor: 7 (Tate, Alvarez, Boswell, Hudgins, Hutchens, Lewark, Woodson). Opposed: 1 (Pelton). The motion carried.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for November 14, 2011.

Meeting Summary
Advertising Committee
Monday, September 12, 2011

Vice-Chairman Tommy Woodson called the Advertising Committee meeting to order in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Tommy Woodson, Andy Alvarez, Ronald Kody, Chip Lindsay, Matt McQueen, George Pelton, Rodney Williams, Sally Woodson. (Absent: Kevin Reilly). Other Board members present: Larry Bailey, Roy Boswell, Rick Holcomb, Lynn Hooper, Art Hudgins, Brian Hutchens, Wanda Lewark, Joe Tate. 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 July 11, 2011 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

- **Mike Duman Chevrolet-Buick-GMC and Michael Duman.** On August 9, 2011, an informal fact-finding conference was conducted to address the alleged violations of the Virginia Administrative Code 24 VAC 22-30-10 (Intent) and VA Code Section(s) 46.2-1575 (7) (Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or registered or for which a license or registration is sought). Based on the information provided at the conference, the hearing officer recommended taking no action at this time and recommended monitoring Duman's for a controlled period of time for compliance.

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

The next meeting was scheduled for November 14, 2011.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

Meeting Summary
Transaction Recovery Fund Committee
Monday, September 12, 2011

Chairman Lynn Hooper called the Transaction Recovery Fund Committee meeting to order in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Andy Alvarez, Larry Bailey, Roy Boswell, Brian Hutchens, Matt McQueen. (Absent: Thomas Moorehead and Kevin Reilly). Other Board members present: Rick Holcomb, Art Hudgins, Ronald Kody, Wanda Lewark, Chip Lindsay, George Pelton, Joe Tate, Rodney Williams, Sally Woodson and Tommy Woodson. 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 July 11, 2011 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Revisit: Kimberly P. Cross and Towne Automotive Brokers, Inc.** At the last Board meeting, (July 11, 2011), the Board requested clarification regarding the payment made by the bonding company and if it was applied to the attorney fees. The attorney provided clarification that the payment was made to her client. Therefore, payment of attorney fees and court costs should be made to Ms. Cross from the Fund.

Motion was made by Andy Alvarez to pay \$5,450.00 for attorney fees from the Fund to Ms. Kimberly Cross. Brian Hutchens seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

- **Sharon Green-Seay and Showcase Select Imports.** On December 17, 2010, Ms. Green-Seay entered into a contract to purchase a 2005 Mercedes-Benz from Showcase Select Imports for a total purchase price of \$23,612.85. Ms. Seay made a down payment of \$20,000.00 leaving an unpaid balance due of \$3,612.85. Ms. Seay made arrangements with Showcase to make two installment payments of \$1,806.00 for the balance. Ms. Seay did pay off the promissory note to Showcase.

After thirty days had passed, Ms. Seay was provided with a 2nd set of temporary tags which would expire on February 15. As February 15 got closer, Ms. Seay contacted owner, Virgil Williams and Vice-President Janice Parker via telephone indicating that she did not want to go another 30 days without title and registration and they both assured her they would have title and license plates by February 16, 2011 and they would deliver them to her. After numerous text message excuses from the owner, Ms. Seay became suspicious and contacted Manheim auction where the vehicle came from and was told by the title clerk at Manheim that the title had been Federal Expressed to Showcase on December 10, 2010.

Later, Ms. Seay learned from various sources that Showcase may be under Bankruptcy proceedings and that DMV Investigative Services had shut them down and there were numerous consumers that had been defrauded by Showcase. On February 25, 2011, Ms. Seay went to her local DMV and provided all of her documentation supporting proof of her purchase of the vehicle as well as the receipts of the payments to Showcase. Eventually DMV Investigative Services were able to obtain the prior Virginia title; unfortunately Ms. Seay had to repay the DMV fees that she had already paid to Showcase, which consisted of \$75.75 registration fee; \$10 title fee and \$675.00 sales tax, which came to a total of \$760.75. On February 28, 2011 Ms. Seay contacted the Dealer Board and inquired on the procedure for filing a claim for reimbursement from the Motor Vehicle Transaction Recovery Fund.

On March 1, 2011, Ms. Seay filed a Warrant in Debt against Showcase in the Newport News General District Court for being defrauded, deceptive and misleading practices in connection with the purchase of a motor vehicle. On March 2, 2011, the Dealer Board received a letter and documentation from Ms. Seay requesting reimbursement of \$1,122.85 plus her court costs of \$58.00 from the Fund. Ms. Seay was not awarded judgment because the registered agent, Mr. Williams, was unable to be served. The Dealer Board staff explained to Ms. Seay that she needed to obtain a judgment.

On April 1, 2011, Ms. Seay refilled the Warrant in Debt in the Newport News General District Court against Showcase. On May 19, 2011, the Newport News General District Court awarded Ms. Seay a default judgment against Showcase in the amount of \$1,122.85 with interest rate of 6% from date of judgment plus \$88.00 in costs. On June 7, 2011, Ms. Seay submitted a letter to the Dealer Board a copy of the default judgment. On June 9, Bruce Gould, Executive Director for the Dealer Board responded to Ms. Seay's claim and of the requirements of VA Code Section 46.2-1575.5.

The Board is aware that over 150 persons are known to have been potential victims of fraud by Showcase. The relevant license period for Showcase does not end until April 30, 2012. If a claim has been made against the Fund and the Board has reason to believe there may be additional claims against the Fund from other transactions involving the same licensee or registrant, the Board may withhold any payment from the Fund involving the licensee or registrant for a period of not to exceed the end of the relevant license or registration period. After this period, if aggregate of claims against the licensee or registrant exceeds the \$100,000, a total of \$100,000 will be prorated among the claimants and paid from the Fund in proportion to the amounts of their unpaid final judgments.

On August 12, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider Ms. Seay's request for payment from the Fund for the first payment of fees of \$838.75, or the appropriate prorated reimbursement up to this amount in accordance with 46.2-1575.5. However, payments from the Fund would not be issued until the end of the relevant license or registration period which is not until April 30, 2012.

Motion was made by Andy Alvarez to approve payment of \$838.75 to Ms. Seay. Matt McQueen seconded. The motion carried unanimously.

- **Eric Dunston and Showcase Select Imports and Virgil Williams.** In December of 2010, Mr. Dunston contacted Showcase and indicated he was interested in purchasing a 2006 Range Rover Sport. In speaking with Janice Parker, Vice-President of the dealership, she recommended that he complete an online credit application and in less than a week, Ms. Parker contacted Mr. Dunston and indicated he was approved for \$34,000.00, but due to his credit history, he would be required to put down a larger down payment. At that time, Showcase did not have a 2006 Range Rover on the lot but Ms. Parker suggested that he pay upfront which would show the owner, Mr. Williams, he was a serious buyer. He was then told that Mr. Williams would be attending an auction the following week and that he would purchase a 2006 Range Rover Sport.

On December 24, 2010, Mr. Dunston provided Showcase with a cashier's check for \$8,000.00. Then on January 10, 2011, Mr. Dunston provided Showcase with a cashier's check for \$9,000.00 totaling \$17,000.00. Ms. Parker assured Mr. Dunston that his checks would not be cashed until he received the vehicle. On February 10, 2011, Mr. Dunston had texted Ms. Parker to inquire the status of receiving his vehicle; however he received no response. Later that day, he received a letter from JP Morgan Chase Bank indicating that after reviewing his application from Showcase, they were unable to grant his request for credit. Mr. Dunston decided to drive to the dealership and discovered that the dealership had closed.

On April 1, 2011, Mr. Dunston filed a Warrant in Debt against Virgil Williams and Janice Parker in the Newport News General District Court. On April 29, 2011, the Newport News General District Court awarded Mr. Dunston judgment in the amount of \$15,000.00 with an interest rate of 6% from the date of judgment and \$70.00 in costs. On May 24, 2011, the Dealer Board staff received the documentation from Eric Dunston for consideration of reimbursement from the Fund.

The Board is aware that over 150 persons are known to have been potential victims of fraud by Showcase. The relevant license period for Showcase does not end until April 30, 2012; therefore if a claim has been made against the Fund and the Board has reason to believe there may be additional claims against the Fund from other transactions involving the same licensee or registrant, the Board may withhold any payment from the Fund involving the licensee or registrant for a period of not to exceed the end of the relevant license or registration period. After this period, if aggregate of claims against the licensee or registrant exceeds the \$100,000, a total of \$100,000 will be prorated among the claimants and paid from the Fund in proportion to the amounts of their unpaid final judgments.

On August 12, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider Mr. Dunston's request for payment from the Fund for the first payment of fees of \$15,070.00, or the appropriate prorated reimbursement up to this amount in accordance with 46.2-1575.5. However, payments from the Fund would not be issued until the end of the relevant license or registration period which is not until April 30, 2012.

Motion was made by Andy Alvarez to approve payment of \$15,070.00 to Mr. Dunston. Brian Hutchens seconded. The motion carried unanimously.

- **Jacob J. Green and Showcase Select Imports and Virgil Williams.** On September 18, 2010, Mr. Green entered into a contact to purchase a 2005 BMW 6 Series from Showcase for a total selling price of \$33,220.00. In addition, Showcase collected \$996.60 state sales tax, the license/registration title fee of \$63.25 and the dealer's business tax of \$65.80. As part of the transaction, Mr. Green traded in a 2003 BMW 7 Series and was given a trade in allowance of \$12,600.00 with a balance owed to the lien holder Capital One Auto Finance in the amount of \$13,967.45. Mr. Green arranged financing with

Capital One for the purchase of the 2005 BMW and provided a deposit to Showcase in the amount of \$34,220.00, leaving a balance owed of \$1,513.10. Mr. Green took possession of the 2005 BMW, with the understanding that Showcase would pay off his 2003 DMW to Capital One.

On or about October 1, 2010, Mr. Green received a statement from Capital One indicting there was a balance due on the 2003 BMW in the amount of \$720.00 and each month thereafter he continued to get monthly statements from Capital One indicating that the loan had not been paid off. Capital One is holding him liable for the loan and in order to maintain a satisfactory credit rating, he has continued to make the monthly payments on the 2003 BMW as well as the loan for the 2005 BMW he purchased from Showcase.

In February of 2011 Mr. Green learned that Showcase had gone out of business and his trade-in was never paid off. On April 4, 2011, Mr. Green filed a Warrant in Debt in the Newport News General District Court against Showcase, Virgil Williams and Janice Parker. On April 27, 2011, the Newport News General District Court awarded Mr. Green judgment against Showcase and Virgil Williams in the amount of \$13,967.45 with interest of 6% from the date of judgment and \$82.00 in costs. On June 13, 2011, Mr. Green submitted documentation to the Dealer Board for consideration of reimbursement from the Fund.

The Board is aware that over 150 persons are known to have been potential victims of fraud by Showcase. The relevant license period for Showcase does not end until April 30, 2012; therefore if a claim has been made against the Fund and the Board has reason to believe there may be additional claims against the Fund from other transactions involving the same licensee or registrant, the Board may withhold any payment from the Fund involving the licensee or registrant for a period of not to exceed the end of the relevant license or registration period. After this period, if aggregate of claims against the licensee or registrant exceeds the \$100,000, a total of \$100,000 will be prorated among the claimants and paid from the Fund in proportion to the amounts of their unpaid final judgments.

On August 12, 2011, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Board should consider Mr. Green's request for payment from the Fund for the first payment of fees of \$14,049.45, or the appropriate prorated reimbursement up to this amount in accordance with 46.2-1575.5. However, payments from the Fund would not be issued until the end of the relevant license or registration period which is not until April 30, 2012.

Motion was made by Andy Alvarez to approve payment of \$14, 049.45 to Mr. Green. Brian Hutchens seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was general discussion on means of replenishing the Transaction Recovery Fund (Fund). The Committee directed the staff to provide options at the November Meeting for the dealers replenishing the Fund.

The next meeting was scheduled for November 14, 2011.