

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 10, 2012

Chairman Rick Holcomb called the Dealer Board meeting to order at 11:30 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 15 Board members present. Present were members Roy Boswell, Lynn Hooper, Art Hudgins, Brian Hutchens, Ronald Kody, Wanda Lewark, Chip Lindsay, Matt McQueen, Thomas Moorehead, Kevin Reilly, Joe Tate, Rodney Williams, Sally Woodson and Tommy Woodson. (Absent: Andy Alvarez, Ted Bailey, George Pelton and 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. Alice Weedon was the recording secretary.

PUBLIC COMMENT

There was no public comment.

The July 9, 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.

- **Variance in Hours: Blue Ridge Motors and Jefferson Tolbert.** Tommy Woodson made the following motion: Be it resolved that in accordance with the authority given to the Board to modify the minimum hours requirements as set-out in § 46.2-1533, that Jefferson Tolbert and Blue Ridge Motors (dealer # 15781) has not shown "good cause" to be granted a variance from the minimum hours requirements.

Matt McQueen seconded. The motion carried unanimously.

- **Boyd Honda of South Hill and Charles H. Boyd.** 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 Charles H. Boyd and Boyd Honda of South Hill/Boyd Chevrolet, Buick, GMC of Emporia for alleged violations of VA Code Section(s) 46.2-1547, 46.2-1548, 46.2-1559, and 46.2-1575(18). Based on due consideration, the Board believes no action should be taken against Charles H. Boyd and Boyd Honda of South Hill/Boyd Chevrolet, Buick, GMC of Emporia. The Board hereby takes no further action against Charles H. Boyd and Boyd Honda of South Hill/Boyd Chevrolet, Buick, GMC of Emporia.

Art Hudgins seconded. The motion carried unanimously.

- **Carz Unlimited, LLC and Krystal Niles-Smith.** 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 Carz Unlimited, LLC and Krystal Niles-Smith for alleged violations of VA Code Section(s) 46.2-1529; 46.2-1537; 46.2-1550; 46.2-1550.1; 46.2-1550.2; 46.2-1574; and 46.2-1575(1). Based on due consideration, the Board believes a civil penalty should be assessed against Carz Unlimited, LLC and Krystal Niles-Smith. The Board hereby assesses a \$5,000 civil penalty against Carz Unlimited, LLC and Krystal Niles-Smith; and the Board believes that Ms Smith's dealer operator certificate of qualification should be revoked. The Board hereby revokes Ms Smith's dealer-operator certificate of qualification.

Joe Tate seconded. The motion carried unanimously.

- **Sharp Cars, Ltd and Paul L. Ozaluk.** 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 Paul L. Ozaluk and Sharp Cars, Ltd for alleged violations of VA Code Section(s) 46.2-618, 46.2-1550, 46.2-1550.1; 46.2-1550.2; and 46.2-1575 (1) and (9); based on due consideration, the Board believes a civil penalty should be assessed against Paul L. Ozaluk and Sharp Cars, Ltd. The Board hereby assesses a \$652 civil penalty against Paul L. Ozaluk and Sharp Cars, Ltd; and based on due consideration, the Board believes that Mr. Ozaluk's dealership should be re-inspected within 30 days of after his appeal date October 15, 2012 and that the inspection must be satisfactory and that all licenses and certificates issued by the Board to Mr. Ozaluk 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. Ozaluk dealership by November 15, 2012 and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Ozaluk until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative

Art Hudgins seconded. The motion carried unanimously.

- **Marshall Auto Brokers and Marshall E. Dowell, Jr.** 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 Marshall E. Dowell, Jr. and Marshall Auto Broker for alleged violations of VA Code Section(s) 46.2-1528 (Improper conduct of business), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location) and 46.2-1575 (2) (failure to comply with a written warning). The Board believes a civil penalty should be assessed against Marshall E. Dowell, Jr. and Marshall Auto Broker. The Board hereby assesses a \$1,000 civil penalty against Marshall E. Dowell, Jr. and Marshall Auto Broker; and based on due consideration, the Board believes that Mr. Dowell's dealership should be re-inspected and that the inspection must be satisfactory and that Mr. Dowell's salesperson license 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. Dowell's dealership and suspends Mr. Dowell's salespersons license until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative.

Thomas Moorehead seconded. The motion carried unanimously.

- **Autoloox and Khashayar Zargham.** 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 Khashayar Zargham and Autoloox for alleged violations of VA Code Section(s) 46.2-1537 and 46.2-1574. Based on due consideration, the Board believes a civil penalty should be assessed against Khashayar Zargham and Autoloox. The Board hereby assesses a \$1,500 civil penalty against Khashayar Zargham and Autoloox. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Zargham in running his dealership. The Board mandates that Mr. Zargham successfully complete the dealer-operator course by March 10, 2013. Failure to successfully complete the course by this date will result in the suspension of all licenses and certificates issued to Mr. Zargham by the Board until such time Mr. Zargham has successfully completed the course.

Wanda Lewark seconded. The motion carried unanimously.

Licensing Committee

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

- **Christopher M. Hubbard, Salesperson.** Jimmy Whitten made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, revoked all licenses issued by the Board to Christopher M. Hubbard. Mr. Hubbard appealed the revocation and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Christopher M. Hubbard for alleged violations of Va. Code Sections 46.2-1575 (6) (having used deceptive acts or practices), and 46.2-1575(13) (having been convicted of a felony). Based on due consideration, the Board believes no further action should be taken against Christopher M. Hubbard;. The Board hereby takes no further action against Christopher M. Hubbard; and the Board believes that all future employers who employ Mr. Hubbard as a salesperson must be made aware of his criminal background. The Board mandates that Mr. Hubbard contact Motor Vehicle Dealer Board staff if he decides to transfer his license and provide evidence 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. Hubbard's salesperson's license.

Art Hudgins seconded. The motion carried unanimously.

Advertising Committee

Chairman Kevin Reilly 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.

- **Rufus E. Gillette and Alexandria Chevrolet, Coy & Simone Dreher and Showcase Select Imports, Michelle Chapman-Bridges and Showcase Select Imports and Ricardo Rizo and Showcase Select Imports.** Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Rufus E. Gillette and Alexandria Chevrolet, Coy & Simone Dreher and Showcase Select Imports, Michelle Chapman-Bridges and Showcase Select Imports and Ricardo Rizo 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 following claims should be payable from the Fund:

Rufus E. Gillette and Alexandria Chevrolet	\$20,000.00
Coy & Simone Dreher and Showcase Select Imports	\$8,374.60
Michelle Chapman-Bridges and Showcase Select Imports	\$2,173.00
Ricardo Rizo and Showcase Select Imports	\$7,902.00

Thomas Moorehead seconded. The motion carried unanimously.

After some concern was raised by Ms. Chapman-Bridges at the Transaction Recovery Fund Committee Meeting about what will ultimately happen to Showcase, Rick Holcomb requested a report from Special Agent Robert Stone, who was the investigator for the Showcase Select Imports issue. According to Agent Stone:

- DMV Law Enforcement completed their search in March and sent finished product to FBI in August 2011.
- Wee of September 3, 2012, lost figures were submitted by the FBI to the U.S. Attorney’s Office.
- The case is with the U.S. Attorney waiting on their action. Mr. Stone indicated that the U.S. Attorney is well into the case.

Mr. Stone also indicated that this is such a solid case that he does not feel it will go to trial. He is very confident that Showcase Select Imports will take a guilty plea.

OLD BUSINESS

There was no old business

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

Executive Director's Report. Bruce Gould indicated that the redesign of the Dealer Board website is going well and should be going live soon. Bruce will also be meeting with his peers of the National Association of Motor Vehicle Boards and Commissions in Old Town Alexandria from September 19 to September 21. Bruce also stated that per legislation adopted by the 2011 General Assembly, all dealers must have some sort of internet connection by July 2013. The Board staff has been communicating this fact to the dealer community and will continue to do so.

The next meeting will be scheduled for November 5, 2012.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 12:03 p.m.

Meeting Summary
Dealer Practices Committee
Monday, September 10, 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 Ron Kody, Chip Lindsay, Matt McQueen, Thomas Moorehead, Kevin Reilly, Joe Tate, Rodney Williams and Sally Woodson. (Absent: Ted Bailey, Jimmy Whitten). Other Board members present: Art Hudgins, Brian Hutchens, Roy Boswell, Rick Holcomb, Lynn Hooper, Wanda Lewark. 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 9, 2012 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

- **Variance Request in Hours: Blue Ridge Motors & Jefferson Tolbert.** Bruce Gould reported that Mr. Tolbert had taken a job with the Patrick County Transportation Department and his work hours will be 8:30 a.m. to 5:00 p.m. Mr. Tolbert is requesting a variance for his license year of August 31, 2012 through August 31, 2013 and that he be allowed to open his dealership from 5:30 p.m. to 8:30 p.m. Monday through Friday and 8:00 a.m. to 1:00 p.m. on Saturday. This would give him 20 total hours, but not 10 hours between 9:00 a.m. to 5:00 p.m., Monday through Friday.

Motion was made by Joe Tate to deny the variance request because Mr. Tolbert failed to show good cause for the variance in hours. Thomas Moorehead seconded. The motion carried unanimously.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Boyd Honda of South Hill and Charles H Boyd.** This issue was tabled from the July meeting in order for Mr. Boyd to contact his insurance agent and give him and the agent the opportunity to appear at the September meeting. On May 18, 2012, 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), 46.2-1559 (violation of record keeping for temporary tags), 46.2-1575(18) (failing to maintain automobile liability insurance). Based on the information provided at the conference, the hearing officer recommended that both of Mr. Boyd's locations be re-inspected, with no civil penalties assessed at this time.

Mr. Boyd was present and spoke on his own behalf. Also present was Jackie Bennett with Century Insurance Company and spoke on Mr. Boyd's behalf as well.

Motion was made by Kevin Reilly to take no further action against Charles Boyd and Boyd Honda of South Hill. Joe Tate seconded. The motion carried unanimously.

- **Carz Unlimited, LLC and Krystal Niles-Smith.** On June 22, 2012, 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), 46.2-1537 (Licensed salespersons not on payroll), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1550 (1) (Unlawful use of Transport Tags for customer test drives), 46.2-1550 (2) (Unlawful use of dealer plates), 46.2-1574 (failure to be responsible for the acts of the dealers salespersons) and 46.2-1575 (Grounds for denying, suspending, or revoking licenses or certificates of dealer registration or qualification). 46.2-1575 (1) (Material misstatement or omission in application for license). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,250.00 and for the dealership to be re-inspected to insure compliance with all dealer licensing laws.

Motion was made by Joe Tate to assess a civil penalty of \$5,000 and to revoke Ms. Niles-Smith's dealer operator license. Matt McQueen seconded. It was the belief of the Committee that these were serious and numerous violations and therefore required a severe penalty. The motion carried unanimously.

- **Sharp Cars, Ltd and Paul L. Ozaluk.** On July 17, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1550 (improper use of or permitting the improper use dealer's license plates), (1) (Unlawful use of Transport Tags for customer test drives) and (2) (Unlawful use of dealer plates), 46.2-618 (Possess title issued to another) and 46.2-1575 (1) (material misstatement or omission in application for license) and (9) (having been convicted of any criminal act). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$500.00 and for the dealership to be re-inspected to insure compliance with all dealer licensing laws.

Motion was made by Matt McQueen to assess a civil penalty of \$652.00 and to have the dealership re-inspected. Sally Woodson seconded. The motion carried unanimously.

- **Marshall Auto Broker and Marshall E. Dowell, Jr.** On August 1, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1528 (Improper conduct of business), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location) and 46.2-1575 (Grounds for denying, suspending, or revoking licenses or certificates of dealer registration or qualification). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000.00 and that Mr. Dowell's license to sell vehicles is suspended until a satisfactory inspection by a field representative can be performed. It was also recommended that Mr. Dowell successfully complete the Dealer Operator Course and if not completed, his license should be revoked.

Mr. Dowell, Jr. was present and spoke on his own behalf.

Motion was made by Joe Tate to charge \$500 for a complete audit of records, suspension of salesperson license until a successful inspection and assess a civil penalty of \$2,000, with \$1,000 of the penalty to be

forgiven if he successfully takes the Dealer-Operator course. Ronald Kody seconded. The motion carried unanimously.

- **Autoloox and Khashayar Zargham.** On June 18, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1537 (Licensed salespersons not on payroll) and 46.2-1574 (failure to be responsible for the acts of the dealer's salespersons). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,000.00 and that Mr. Zargham successfully completes the Dealer Operator Course.

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

Motion was made by Ronald Kody to assess a civil penalty of \$1,500 and to complete the Dealer-Operator course. Joe Tate seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for November 5, 2012.

The meeting adjourned at 10:22 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, September 10, 2012

Vice-Chairman Joe Tate 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 Roy Boswell, Art Hudgins, Brian Hutchens, Wanda Lewark and Sally Woodson. (Absent: Jimmy Whitten, Andy Alvarez, George Pelton) Other Board members present: Rodney Williams, Matt McQueen, Tommy Woodson, Kevin Reilly, Rick Holcomb, Lynn Hooper, Chip Lindsay, Thomas Moorehead and Ronald Kody. 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 July 9, 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: Formal Hearing:

- **Christopher M. Hubbard, Salesperson.** Historical overview leading up to the formal hearing: On February 28, 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 (13) (having been convicted of a felony). On June 6, 2012, Bruce Gould carefully reviewed the findings of fact, the evidence from the court, the conclusions of law, the hearing officer's report and the testimonies given at the hearing and determined that his motor vehicles salesperson's license should be revoked. On June 21, 2012, the board staff received Mr. Hubbard's appeal and requested a formal hearing. On August 15, 2012, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the hearing, the hearing officer recommended that Mr. Hubbard keep his license with the restrictions that he must notify the board in writing any and all change in employment.

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

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for November 5, 2012.

The meeting adjourned at 10:31 a.m.

Meeting Summary
Advertising Committee
Monday, September, 2012

Chairman Kevin Reilly called the Advertising Committee meeting to order in Room 702 at 10:31 a.m., DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Ronald Kody, Chip Lindsay, Matt McQueen, Rodney Williams, Sally Woodson and Tommy Woodson. (Absent: Andy Alvarez and George Pelton). Other Board members present: Brian Hutchens, Roy Boswell, Tommy Woodson, Rick Holcomb, Lynn Hooper, Thomas Moorehead, Joe Tate and Wanda Lewark. 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 9, 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 November 5, 2012.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:33 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, September 10, 2012

Chairman Lynn Hooper called the Transaction Recovery Fund Committee meeting to order at 10:34 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Roy Boswell, Brian Hutchens, Matt McQueen, Thomas Moorehead and Kevin Reilly. (Absent: Andy Alvarez and Ted Bailey). Other Board members present: Rodney Williams, Sally Woodson, Tommy Woodson, Rick Holcomb, Chip Lindsay, Thomas Moorehead, Joe Tate and Wanda Lewark. 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 9, 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:

Rufus E. Gillette and Alexandria Chevrolet. On May 17, 2009, Rufus E. Gillette entered into a contract to purchase a 2007 Chevrolet Tahoe from Alexandria Chevrolet with a cash price of \$26,197.28 (including \$1,298.28 sales tax). As part of the transaction, Rufus Gillette traded-in a 1993 Ford Explorer and a 2000 Chevrolet Tahoe and was given a gross trade-in allowance of \$5,500.00, leaving unpaid cash balance of \$20,697.28. In addition, Alexandria Chevrolet collected additional fees in the amount of \$607.37, plus an Extended Service Contract for \$1,980.00, for a total of \$2,587.37; making the total amount to be financed of \$23,284.65. Mr. Gillette purchased what he believed was a "certified pre-owned vehicle, which had been through and passed 117-Point Comprehensive inspection and Reconditioning Process by trained GM technicians. In addition, he purchased an Extended Warranty in the amount of \$1,980.00. Within 30 days of the purchase, Mr. Gillette learned that the vehicle had substantial rust to the frame and suspension; which compromised the safety of the vehicle. Niswander, Inc. refused to offer any service for brakes, rotors, or other rusted parts on the vehicle. Mr. Gillette then contacted the Warranty Company and

learned that they had no record of receiving any contract or monies from Niswander, Inc. t/a Alexandria Chevrolet for his purchase of the vehicle.

Ultimately, Mr. Gillette had to pay for the repairs at a cost of \$1,399.84, still had to park the vehicle due to the safety concerns, and make the monthly payments on a vehicle he could not drive. Mr. Gillette still owes \$14,423.90 on the vehicle and there is a pending civil matter for repossession by Bank of America. Counsel for Mr. Gillette filed a civil suit against Niswander, Inc and General Motors in the Circuit Court of Fairfax County.

On September 24, 2010, Patty Anderson, Esquire on behalf of Mr. Gillette filed a civil suit in the Circuit Court for the County of Fairfax against Alexandria Chevrolet and General Motors LLC. Allegations of the "Complaint" consisted of (1) Actual and Constructive Fraud; (2) Breach of the Virginia Consumer Protection Act; and (3) Breach of Express and Implied Warranties under the Magnuson-Moss Warranty Act. On February 17, 2011, the Circuit Court of Fairfax County awarded Rufus Gillette a default judgment against Alexandria Chevrolet, Inc. for actual damages in the amount of \$28,784.65, which were trebled under the VCPA. In August, 2011, General Motors, LLC and counsel for Rufus Gillette reached a general settlement agreement in the amount of \$12,000.00. On November 10, 2011, the Circuit Court of Fairfax County issued a "Dismissal Order" against General Motors, LLC. General Motors and counsel for Rufus Gillette advised the Court that all matters of controversy between them have been compromised and settled.

On February 3, 2012, after being unable to collect on the Default Judgment against Alexandria Chevrolet, Patty Anderson hand delivered to the Dealer Board documentation for consideration of payment from the Fund. On February 9, 2012, the Dealer Board staff acknowledged receipt of Rufus Gillette's possible claim against the Motor Vehicle Transaction Recovery Fund (Fund) and requested additional documentation. On February 10, 2012, Ms. Anderson hand delivered to the Dealer Board the attested copy of the default judgment awarded to Rufus Gillette against Niswander, Inc., et al.

On February 17, 2011, the Court awarded Mr. Gillette a default judgment against Niswander, Inc. in the amount of \$28,784.65, as actual damages, and then trebled the amount (\$86,353.95) for intentional misrepresentation of the condition of the vehicle. Eventually, in August, 2011 General Motors reached a general settlement agreement and paid \$12,000.00 on Mr. Gillette's claim due to their failure to supervise its dealerships' use of the "Certified Pre-Owned" program on a vehicle that should have never been certified. **[Note: Mr. Gillette and counsel split the \$12,000.00 paid by GM. Costs were \$431.94, counsel paid herself \$4,500.00 from the settlement, and Mr. Gillette received \$7,418.06]** On February 3, 2012, counsel submitted the default judgment against Niswander, Inc. to the Dealer Board for consideration of payment from the Fund of the actual damages awarded by the court. **[Note: The Court did not award attorney fees; counsel believes the court thought she would be compensated from the trebled amount of the judgment]**

After a careful review, staff believes that Rufus Gillette's claim meets the requirement of Virginia Code §46.2-1527.3. Given the facts and in determining the amount compensable for payment from the Fund, the Dealer Board staff recommendation was to approve Rufus Gillette's claim against the Fund in the amount of \$16,784.65, this amount is based on the sales price of \$28,784.65 that was awarded by the court minus \$12,000.00 that was paid by GM.

On August 3, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended the amount of \$16,784.65 be paid from the Fund. The Judgment did not provide any payment of other fees, including attorney fees.

Patty Anderson, attorney for Mr. Gillette spoke on behalf of her client. She requested the maximum allowed of \$20,000 for Mr. Gillette because the actual judgment order was against Niswander, Inc. only and not General Motors. The actual damages awarded by the court was \$28,784.65.

Eric Fiske also spoke and agreed with Ms. Anderson on her request of the maximum to be paid.

Motion was made by Thomas Moorehead to award \$20,000. Kevin Reilly seconded. The motion carried unanimously.

Coy & Simone Dreher and Showcase Select Imports. On May 15, 2008, Coy and Simone Dreher entered into a contract to purchase a 2005 Lincoln LS from Showcase Exclusive Imports, Inc. t/a Showcase Select Imports (Showcase) with a purchase price \$24,022.79. In addition, the Dreher's purchased an optional Gap Insurance for the Lincoln in the amount of \$750.00. In September 2010, Mr. Dreher had purchased a 2009 Chrysler from Showcase. In connection with the purchase, Mr. Dreher believed that the 2005 Lincoln was being used as a trade-in. Instead, Showcase made payments on the vehicle, until February, 2011. Shortly, thereafter Showcase was closed down and the 2005 Lincoln was nowhere to be found. Mrs. Dreher reported the vehicle as being stolen to their insurance company (USAA). USAA deemed the vehicle a total loss and provided a check in the amount of \$10,345.54 which was based on the market value of the Lincoln. Upon receipt of the check, Mrs. Dreher submitted the check to Capital One for the payment on the loan. The Dreher's are still being held liable for the deficiency balance on the loan in the amount of \$6,514.60. Given the history of the fraudulent and deceptive practices of Showcase, they would represent to the consumer's their vehicle would be used as a trade-in. Instead, Showcase would make payments on the loans, then stop the payments and omit the trade-in information on the Buyer's Order.

The Dreher's obtained legal counsel (Heather Wilson, Esquire) in order to pursue Showcase civilly in court for their monetary loss. Coy & Simone were led to believe that the 2005 Lincoln was being used as a trade-in for the purchase of the 2009 Chrysler.

On December 19, 2011, Ms. Wilson filed a Warrant in Debt in the Newport News General District Court against Showcase for fraud. Ms. Wilson submitted to the Dealer Board a copy of the Warrant in Debt and an affidavit of facts that was filed against Showcase Exclusive Imports in the Newport News General District Court. Staff further advised counsel that the Dealer Board had been made aware of numerous claims against Showcase and that pursuant to §46.2-1527.5 payment may not be made until the end of the requisite license period (April 30, 2012). After this period, if the aggregate of claims against Showcase exceeds \$100,000, a total of \$100,000 shall be prorated among the claimant's and paid from the Fund in proportion to the amounts of their unpaid judgments.

On January 30, 2012, Ms. Wilson re-submitted to the Dealer Board the Warrant in Debt, an affidavit of facts, Service of Process on Clerk of SCC, and an Attorney issued Subpoena Duces Tecum. On March 9, 2012, the General District Court of the City of Newport News awarded Coy & Simone Dreher a default judgment against Showcase Exclusive Imports on the grounds of actual fraud and constructive fraud. The Court awarded the Dreher's actual damages in the amount of \$7,774.60; costs in the amount of \$70.00, and attorney fees in the amount of \$600.00. On April 11, 2012, Mrs. Dreher notified the Board that counsel was no longer representing them. On April 19, 2012, Simone Dreher submitted to the Dealer Board documentation for consideration of payment from the Fund.

After a careful review, staff believes that the Dreher's claim meets the requirements of Va. Code §46.2-1527.3, judgment was awarded in a court of competent jurisdiction of the Commonwealth of Virginia. Given the above facts and code sections governing the Fund, if the aggregate of claims does not exceed the \$100,000, the Dealer Board's staff is requesting the Recovery Fund Committee and full Board approve Coy & Simone Dreher's claim in the amount of \$7,934.60, the amount is based on the amount owed on the loan of \$6,514.60, the Gap Insurance of \$750, attorney fees of \$600, and court costs of \$70.00.

On August 3, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended payment of \$7,934.60 based on the loan remaining on the Lincoln of \$6,514.60, the GAP insurance of \$750.00 and attorney fees of \$600.00, and \$70.00 in court costs.

Mrs. Dreher was present and spoke behalf of herself and her husband.

Motion was made by Roy Boswell to award \$8,374.60 (Actual court awarded damages of \$7,774.60 and \$600.00 attorney fees). Thomas Moorehead seconded. The motion carried unanimously.

Michelle Chapman-Bridges and Showcase Select Imports. On January 14, 2011, Michelle Chapman-Bridges entered into a contract with Showcase Exclusive Imports, Inc. t/a Showcase Select Imports (Showcase) for the purchase of a 2007 Lexus LS460. The sales price of the vehicle was \$38,400.00 plus \$320.00 processing fee for a total selling price of \$38,720.00. In addition, Showcase collected additional fees of \$1,301.65 (sales tax, title/registration & dealer business tax) making the total amount due of \$40,021.65. Ms. Chapman-Bridges made a deposit of \$15,000.00 on the vehicle and financed the remaining \$25,021.65 with Langley FCU. Showcase had also provided a "We Owe" for repairs. Showcase failed to submit the required documents & fees to DMV in order to have the vehicle title/registered in her name. Showcase went out of business, and Mrs. Chapman-Bridges had to repay the DMV fees of \$1,162.00, repairs fees of \$850.00, and a towing fee of \$75.00.

On February 17, 2011, Showcase was no longer in business and Ms. Chapman-Bridges still did not have possession of the vehicle, because Showcase had not paid for the repairs. Showcase, Virgil Williams, Jr., owner nor Janice Parker never submitted Ms. Chapman-Bridges paperwork (Buyer's Order, etc.) for the purchase and fees were never submitted to the DMV in order to title and register the vehicle in her name. On February 23, 2011, Ms. Chapman-Bridges was contacted by Special Agent Robert Stone of the DMV Law Enforcement regarding her purchase and provided her with the

required forms and what documents were needed in order to title and register the vehicle in her name and indicated she would need to repay the DMV fees. In March, 2011, Manheim Auto Auction, the floor planner for the loan to Showcase released the New York title to the vehicle.

On December 20, 2012, Ms. Chapman-Bridges filed a Warrant in Debt against Virgil Williams, Jr. for reasons reflecting; business closed without processing license, registration/title fees and agreed upon repairs. On March 9, 2012, the Newport News General District Court awarded Ms. Chapman-Bridges a default judgment against Virgil Williams, Jr. in the amount of \$2,551.18 plus \$86.00 in costs. On April 20, 2012, the Dealer Board staff acknowledged receipt of Michelle Chapman-Bridges' possible claim against the Fund. Staff further advised Ms. Chapman-Bridges that the Dealer Board had been made aware of numerous claims against Showcase and that pursuant to §46.2-1527.5 payment may not be made until the end of the requisite license period (April 30, 2012). After this period, if the aggregate of claims against Showcase exceeds the \$100,000, a total of \$100,000 shall be prorated among the claimant's and paid from the Fund in proportion to the amounts of their unpaid judgments.

After a careful review, staff believes that Ms. Chapman-Bridges' claim meets the requirements of Va. Code §46.2-1527.3, judgment was awarded in a court of competent jurisdiction of the Commonwealth of Virginia. It is noted that the Fund is an alternative remedy available to a judgment creditor; it was not intended to be the sole or exclusive collection method for victims of fraud. The amount compensable from the Fund, is based on making the consumer as whole as possible to the point as if they had never been defrauded by the dealer.

Given the above facts and code sections governing the Fund, if the aggregate of claims does not exceed the \$100,000, the Dealer Board's staff is requesting the Recovery Fund Committee and full Board approve Ms. Chapman-Bridges' claim in the amount of \$2,173.00, the amount is based on DMV fees Ms. Chapman-Bridges re-paid in the amount of \$1,162.00, repairs in the amount of \$850.00, towing fee in amount of \$75.00 and costs in amount of \$86.00.

On August 3, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that \$2,173.00, based on \$850.00 in repair fees, \$75.00 towing fee, \$1,162.00 in DMV registration fees and the \$86.00 in court costs.

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

Ricardo Rizo and Showcase Select Imports. On January 28, 2011, Ricardo Rizo entered into a contract to purchase a 2006 BMW from Showcase and made a down payment of \$6,326.00. However, the 2006 BMW was never delivered to Ricardo Rizo nor has he received any reimbursement of his down payment. To date, Mr. Rizo has not received the 2006 BMW, nor has he received the refund of his down payment of \$6,326.00. Mr. Rizo obtained legal counsel (Jennifer Sherwood, Esquire) in order to pursue Showcase civilly for his monetary loss in connection with the purchase.

On February 8, 2012, Ms. Sherwood filed a Warrant in Debt against Showcase Exclusive Imports, Inc. in the Newport News General District Court for Breach of Contract, fraud and multiple violations of Va. Consumer Protection Act. On February 28, 2012, counsel on behalf of Mr. Rizo submitted to the Dealer Board the documentation for consideration of a possible claim against the Motor Vehicle Transaction Recovery Fund (Fund). Staff advised counsel that the Dealer Board had been made aware of numerous claims against Showcase and that pursuant to §46.2-1527.5 payment may not be made until the end of the requisite license period (April 30, 2012). After this period, if the aggregate of claims against Showcase exceeds the \$100,000, a total of \$100,000 shall be prorated among the claimant's and paid from the Fund in proportion to the amounts of their unpaid judgments.

On March 19, 2012, the General District Court of the City of Newport News awarded Mr. Rizo a default judgment against Showcase Exclusive Imports on the basis of misrepresentation and fraud. The Court awarded compensatory damages in the amount of \$6,326.00; attorney fees in the amount of \$1,500.00 and court costs in the amount of \$76.00. On May 15, 2012, Ms. Sherwood submitted to the Dealer Board documentation for consideration of reimbursement from the Fund.

After a careful review, staff believes that Mr. Rizo's claim meets the requirements of Va. Code §46.2-1527.3, judgment was awarded in a court of competent jurisdiction of the Commonwealth of Virginia. Given the above facts and code sections governing the Fund, if the aggregate of claims does not exceed the \$100,000, the Dealer Board's staff is requesting the Recovery Fund Committee and full Board approve Ricardo Rizo's claim in the amount of \$7,902.00, which is the judgment amount \$6,326.00 compensatory damages, \$1,500.00 in attorney fees and \$76.00 in court costs. Further, payment from the Fund would not be issued until the end of the relevant license or registration period.

On August 3, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended payment of \$7,902.00, based on the amount of his \$6,326.00 down payment, \$1,500.00 in attorney fees and \$76.00 in court costs.

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

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for November 5, 2012.

The meeting adjourned at 11:13 a.m.