

Meeting Summary
Motor Vehicle Dealer Board
Monday, September 21, 2015

Chairman Rick Holcomb called the Dealer Board meeting to order at 12:06 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 10 Board members present. Present were members Ted Bailey, Steve Farmer, David Gripshover, Clay Huber, Art Hudgins, Ron Kody, Chip Lindsay, Jacques Moore and Joe Tate. (Absent: Roy Boswell, Gardner Britt, David Duncan, Brian Hutchens, Chris Maher, Matt McQuen and George Pelton). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Lisa Mack-Nelson, Ann Majors and Wanda Neely 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 13, 2015 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Ron Kody summarized discussions held and actions that were taken during the Committee Meeting.

- **Elite Auto Group, Inc. and Ayman Jamil Awadallah.** Chairman Kody 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 Elite Auto Group, Inc. and Ayman Jamil Awadallah for alleged violations of VA Code Sections 46.2-1508; 46.2-1510; 46.2-1529; 46.2-1534; 46.2-1539; 46.2-1542; 46.2-1547; 46.2-1550; 46.2-1574; and 46.2-1575 (1) and (2). Based on due consideration, the Board believes a civil penalty should be assessed against Elite Auto Group, Inc. and Ayman Jamil Awadallah. The Board hereby assesses a \$9,000 civil penalty against Elite Auto Group, Inc. and Ayman Jamil Awadallah; and based on due consideration, the Board believes that Mr. Awadallah's dealership should be re-inspected four times over the next year. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Awadallah's dealership every three months for the next year and that Mr. Awadallah reimburse the Board for the expenses related to these inspections and if any of these inspections are not satisfactory the Board revokes all licenses and certificates issued by the Board to Mr. Awadallah; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Awadallah in running his dealership. The Board mandates that Mr. Awadallah successfully complete the dealer-operator course by December 21, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Awadallah by the Board until such time Mr. Awadallah has successfully completed the course.

Joe Tate seconded. The motion carried unanimously.

- **American Auto Maxx and Said Tahir Sadat.** Chairman Kody made a motion to table this issue until the November Board Meeting.

Art Hudgins seconded. The motion carried unanimously.

- **Nova Motorcars and Hussein Zein.** Chairman Kody 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 Nova Motorcars and Hussein Zein for alleged violations of VA Code Sections 46.2-1528; 46.2-1529; 46.2-1533; 46.2-1539; 46.2-1542; and 46.2-1575 (1), (2) and (14). Based on due consideration, the Board believes a civil penalty should be assessed against Nova Motorcars and Hussein Zein. The Board hereby assesses a \$4,700 civil penalty against Nova Motorcars and Hussein Zein; and based on due consideration, the Board believes that Mr. Zein's dealership should be re-inspected and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Zein's dealership by December 21, 2015 and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Zein 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. Zein in running his dealership. The Board mandates that Mr. Zein successfully complete the dealer-operator course by December 21, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Zein by the Board until such time Mr. Zein has successfully completed the course.

Jacques Moore seconded. The motion carried unanimously.

- **Dixie Auto Sales and Carolyn Slate.** Chairman Kody 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 Dixie Auto Sales and Carolyn Slate for alleged violations of VA Code Sections 46.2-1529, 46.2-1537, 46.2-1550, 46.2-1574 and 46.2-1575 (2). Based on due consideration, the Board believes a civil penalty should be assessed against Dixie Auto Sales and Carolyn Slate. The Board hereby assesses a \$1,000 civil penalty against Dixie Auto Sales and Carolyn Slate; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Ms. Slate in running her dealership. The Board mandates that Ms. Slate successfully complete the dealer-operator course by December 21, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Ms. Slate by the Board until such time Ms. Slate has successfully completed the course.

Clay Huber seconded. The motion carried unanimously.

- **USA Auto, Inc. and Faramarz Abrarahadi.** Chairman Kody 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 USA Auto, Inc. and Faramarz Abrarahadi for alleged violations of VA Code Sections 46.2-618; 46.2-1529; 46.2-1550; and 46.2-1575 (1) and (9). Based on due consideration, the Board believes a civil penalty should be assessed against USA Auto, Inc. and Faramarz Abrarahadi. The Board hereby assesses a \$750 civil penalty against USA Auto, Inc. and Faramarz Abrarahadi; and based on due consideration, the Board believes that Mr. Abrar's dealership should be re-inspected by December 21, 2015 and that the inspection must be satisfactory. The Board hereby mandates that a Motor Vehicle Dealer Board field representative re-inspect Mr. Abrarahadi's dealership by December 21, 2015 and if the inspection is not satisfactory the Board suspends all licenses and certificates issued by the Board to Mr. Abrarahadi 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. Abrarahadi in running his dealership. The Board mandates that Mr. Abrarahadi successfully complete the dealer-operator course by December 21, 2015. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Abrarahadi by the Board until such time Mr. Abrarahadi has successfully completed the course as well as the assessment of an additional \$300 civil penalty.

Steve Farmer seconded. The motion carried unanimously.

- **Nash Auto Sales and Rolando Nash.** Chairman Kody 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 Nash Auto Sales and Rolando Nash for alleged violations of VA Code Sections 46.2-1529; 46.2-1537; 46.2-1539; 46.2-1542; 46.2-1542; 46.2-1547; 46.2-1550; 46.2-1574; and 46.2-1575 (2), (6), (10) and (14). Based on due consideration, the Board believes a civil penalty should be assessed against Nash Auto Sales and Rolando Nash. The Board hereby assesses a \$10,000 civil penalty against Nash Auto Sales and Rolando Nash; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Nash should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Nash.

Joe Tate seconded. The motion carried unanimously.

- **Falls Church Autos, LLC and Mohri Khanzada.** Chairman Kody 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 Falls Church Autos, LLC and Mohri Khanzada for alleged violations of VA Code Sections 46.2-1508; 46.2-1518; 46.2-1529; 46.2-1534; 46.2-1539; 46.2-1542; 46.2-1559; 46.2-1574; and 46.2-1575 (1) and (6). Based on due consideration, the Board believes civil penalty should be assessed against Falls Church Autos, LLC and Mohri Khanzada. The Board hereby assesses a \$16,500 civil penalty against Falls Church Autos, LLC and Mohri Khanzada; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Ms. Khanzada should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Ms. Khanzada.

Jacques Moore seconded. The motion carried unanimously.

Licensing Committee

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

- **Anthony E. Williamson, Salesperson.** Chairman 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 Anthony E. Williamson for alleged violations of VA Code Sections 46.2-1575 (6) and (9). Based on due consideration, the Board believes a civil penalty should be assessed against Anthony E. Williamson. The Board hereby assesses a \$500 civil penalty against Anthony E. Williamson.

Jacques Moore seconded. The motion carried unanimously.

Advertising Committee

Chairman Chip Lindsay summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman Ted Bailey summarized discussions held and actions that were taken during the Committee Meeting.

- **(1) Leonard Blake vs. Kimble’s Auto Sales and Jack T. Kimble, Sr. and (2) Milton Coston vs. Autoplex of Richmond and John Messer.** Chairman Ted Bailey summarized for the Board the discussion held in the committee meeting regarding (1) Leonard Blake vs. Kimble’s Auto Sales and Jack T. Kimble, Sr. and (2) Milton Coston vs. Autoplex of Richmond and John Messer. Based on that discussion and the recommendations in these cases, Mr. Bailey 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:

Leonard Blake vs. Kimble’s Auto Sales and Jack T. Kimble, Sr.	\$25,000.00
Milton Coston vs. Autoplex of Richmond and John Messer	
\$25,000.00	

Art Hudgins seconded. The motion carried unanimously.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

There was no new business.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

EXECUTIVE DIRECTOR'S REPORT: Bruce Gould indicated that the Governor's Transportation Conference is October 28-30, 2015 in Virginia Beach. He also indicated that the Advertising Regulations will be published within the next week or so. Mr. Gould took this opportunity to congratulate Rick Holcomb on being elected chairman of the AAMVA.

The next meeting will be scheduled for November 9, 2015.

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

Meeting Summary
Dealer Practices Committee
Monday, September 21, 2015

Chairman Ron Kody called the Dealer Practices Committee meeting to order at 9:04 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Steve Farmer, Clay Huber, Chip Lindsay and Joe Tate. (Absent: Roy Boswell, Gardner Britt, Brian Hutchens, Matthew McQueen, Chris Maher and George Pelton). Other Board members present: Rick Holcomb, Ted Baily, David Gripshover, Art Hudgins and Jacques Moore. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Wanda Neely and Lisa Mack-Nelson represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The July 13, 2015 meeting summary was not approved as a quorum was not present.

There was a Certificate presentation to Delegate McQuinn for her hard work on House Bill 2189.

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:

- **Elite Auto Group, Inc. and Ayman Jamil Awadallah.** On June 9, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1508 (License required), 46.2-1510 (Established place of business), 46.2-1529 (Dealer records), 46.2-1534 (Failure to have a proper sign), 46.2-1539 (Failure to inspect vehicle prior to retail sale), 46.2-1542 (Failure to provide title within 30 days), 46.2-1547 (Failure to provide proof of liability insurance on D-tags), 46.2-1550 (Misuse of D-tags), 46.2-1574 (Acts of officers and salespersons) and 46.2-1575 (1) (Material misstatement) and (2) (Failure to comply with a written warning or willful failure to comply). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$9,000, suspension for two years, satisfactory inspection prior to reinstatement of license and successfully completes the Dealer-Operator course prior to reinstatement of license. The hearing officer also recommended hiring a Dealer-Operator with prior experience running a dealership.

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

Consensus of the Committee is to assess a civil penalty of \$9,000, satisfactory inspection within 3 months and a quarterly inspection for 12 months at the expense of the dealership, should the dealer fail any inspections, revocation of all licenses and certificates and successfully complete the Dealer-Operator course within 90 days.

- **American Auto Maxx and Said Tahir Sadat.** On June 24, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1509 (Sales license required), 46.2-1529 (Dealer records) and 46.2-1539 (Inspection of vehicles required), 46.2-1574 (Acts of officers and salespersons) and 46.2-1575 (9) (Having been convicted of a crime involving selling a vehicle). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$3,000 and a one year suspension. The hearing officer also recommended a warning for the violation of failure to make available business records during inspection.

Ms. Shakila Sada, Dealer-Operator of American Auto Maxx, was present and spoke on behalf of Said Tahir Sadat and American Auto Maxx.

Consensus of the Committee was to table this issue until November in the hope the dealership would take care of customer complaint.

- **Nova Motorcars and Hussein Zein.** On July 15, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1528 (Records available for inspection), 46.2-1529 (Dealer records) , 46.2-1533 (Failure to maintain business hours), 46.2-1539 (Inspection of vehicles required), 46.2-1542 (Failure to provide title within 30 days), and 46.2-1575 (1) (Material misstatement when applying for D-tags), (2) (Failure to comply with previous warnings) and (14) (Failure to pay fees to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$4,750 and a satisfactory inspection of all dealer records.

Consensus of the Committee was to defer this for further discussion during Full Board.

- **Dixie Auto Sales and Carolyn Slate.** On May 13, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Failure to properly maintain dealer records), 46.2-1537 (Failure to provide proof of W-2), 46.2-1550 (Misuse of D-tags), 46.2-1574 (Acts of officers and salespersons) and 46.2-1575 (2) (Failure to comply with previous warnings). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000 and a warning for violations that were noted and actions were taken to correct the errors. Three warnings were recommended.

Consensus of the Committee is to assess a civil penalty of \$1,000, satisfactory inspection and successfully complete the Dealer-Operator course.

- **USA Auto, Inc. and Faramarz Abrarahadi.** On August 11, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-618 (Possession of a title issued to another), 46.2-1529 (Dealer records), 46.2-1550 (Misuse of temporary tag) and 46.2-1575 (1) (Having made material misstatements on application) 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 civil penalty of \$1,050, a satisfactory inspection within 6 months and successfully complete the Dealer-Operator course, once the course is complete successfully, a reduction of \$300 in the civil penalty.

Consensus of the Committee was to assess a civil penalty of \$1,050, satisfactory inspection within 90 days, successfully complete the Dealer-Operator course and if successfully completes the course, reduce the civil penalty by \$300.

- **Nash Auto Sales and Rolando Nash.** On August 18, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Dealer records), 46.2-1537 (Failure to provide proof of W-2), 46.2-1539 (Inspection of vehicles required), 46.2-1542 (Failure to provide title within 30 days), 46.2-1542 (Failure to provide title within 30 days), 46.2-1547 (Failure to provide proof of liability insurance on D-tags), 46.2-1550 (Misuse of D-tags), 46.2-1574 (Acts of officers and salespersons) and 46.2-1575 (2) (Failure to comply with previous warnings), (6) (Deceptive acts and practices), (10) (Open titles) and (14) (Failure to pay fees to DMV within 30 days). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$18,500 and revocation of all licenses and certificates.

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

Consensus of the Committee was to agree with the hearing officer's recommendation.

- **Falls Church Autos, LLC and Mohri Khanzada.** On July 14, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1508 (License required), 46.2-1518 (Display of license), 46.2-1529 (Dealer records), 46.2-1534 (Signs), 46.2-1539 (Inspection, penalty), 46.2-1542 (Temporary registration), 46.2-1559 (Records kept by dealer), 46.2-1574 (Acts of offices and salespersons) and 46.2-1575 (1) (Material misstatement) and (6) (Deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$16,500 and revocation of licenses and qualifications.

Mr. and Mrs. Khanzada were present and spoke on their own behalf.

Consensus of the Committee was to accept the hearing officer's recommendation of \$16,500 civil penalty and revocation of all licenses and certificates.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for November 9, 2015

The meeting adjourned at 10:58 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, September 21, 2015

Chairman Joe Tate called the Dealer Licensing Committee meeting to order at 10:59 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Ted Bailey, David Gripshover, Art Hudgins, Chip Lindsay and Jacques Moore. (Absent: David Duncan and George Pelton). Other Board members present: Rick Holcomb, Steve Farmer, Clay Huber, Ron Kody. Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The July 13, 2015 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:

- **Anthony E. Williamson, Salesperson.** On September 1, 2015, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (6) (Deceptive acts and practices) and (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$750 against Mr. Williamson and for his employer, Extreme Auto, to have a field inspection for all Code compliances within 6 months. The hearing officer also recommended a \$250 civil penalty reduction if proof of advanced training has been completed.

Motion was made by Jacques Moore to assess a civil penalty of \$500. David Gripshover 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 9, 2015

The meeting adjourned at 11:03 a.m.

Meeting Summary
Advertising Committee
Monday, September 21, 2015

Chairman Chip Lindsay called the Advertising Committee meeting to order at 11:04 a.m. in Room 702, DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Clay Huber, Art Hudgins and Ron Kody. (Absent: Roy Boswell, David Duncan, Brian Hutchens and Matt McQueen). Other Board members present: Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Prin Cowan, Wanda Neely and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The May 11, 2015 and July 13, 2015 meeting summaries were not approved as a quorum was not present.

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 9, 2015.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 11:05 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, September 21, 2015

Chairman Ted Bailey called the Transaction Recovery Fund Committee meeting to order at 11:05 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Steve Farmer, David Gripshover, Art Hudgins and Rod Kody. (Absent: Brian Hutchens and Matt McQueen). Other Board members present: Clay Huber, Jacques Moore, Chip Lindsay, Rick Holcomb and Joe Tate Executive Director Bruce Gould, Peggy Bailey, Lisa Mack-Nelson, Wanda Neely, Prin Cowan and Ann Majors represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The July 13, 2015 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:

- **Leonard Blake and Kimble's Auto Sales, Inc. and Jack T. Kimble, Sr.** From May 18, 2013 through May 31, 2013, Kimble's Auto Sales, Inc. advertised a 1998 Chevrolet Silverado 1500 with 73K miles in a local newspaper with a sale price of \$2,450. On May 31, 2013, Leonard Blake went to Kimble's Auto Sales, Inc., in King George, Virginia to respond to the ad and test drove the 1998 Chevrolet Silverado. Mr. Blake decided to purchase the truck and requested the purchase price of \$2,450.00 as advertised; however, the truck was sold to him for \$2,700 because the dealer indicated that the price difference was due to his need to finance the vehicle. Relying on Kimble's assurances about the odometer being accurate, Mr. Blake agreed to the purchase and to finance it through Kimble's, paying \$1,000.00 down and financing \$1,950.00. Kimble's provided Mr. Blake with an Odometer Disclosure form, signed by Jack Kimble, stating that the odometer reading of 73,954 was the vehicle's actual mileage to the best of its knowledge.

After the sale of the vehicle, Mr. Blake contacted Kimble's three times regarding the odometer not working and once his 30 day temporary tags expired, Kimble's refused to provide any permanent registration unless he agreed to sign a new odometer disclosure form acknowledging that the odometer reading was not actual. Even though the vehicle had not been driven since the purchase due to lack of any legal registration, Mr. Blake made all loan payments to Kimble's as required by the Retail Installment Contract that they both signed, and the vehicle is now paid off. However, Kimble's refused to keep its promise to process title documents with DMV so that a title can be issued in his name. Mr. Blake has had no vehicle to use for over a year, and has spent about \$421.34 for substitute transportation, \$230 for a U-Haul and gas, incidental and consequential damages, as well as annoyance, embarrassment, inconvenience, legal fees and costs.

Mr. Blake filed a Demand for Arbitration with the American Arbitration Association since arbitration was required by the purchase contract for the vehicle if there was any legal dispute regarding the purchase. On June 5, 2014, John Gayle, Esquire on behalf of his client (Leonard Blake) pursuant to Va. Code §46.2-1527.4 submitted to the Dealer Board the documentation of the "Demand for Arbitration" for violation of Federal Odometer Act, violation of the Va. Consumer Protection Act, failure to title the vehicle in Leonard Blake's name, and fraud. On September 23, 2014, Harry Haynsworth, Esquire, an Arbitrator with the American Arbitration Association, after hearing the evidence, found that Kimble's misrepresentation during the purchase of the vehicle was fraudulent and violated the Motor Vehicle Information and Cost Information Act (Federal Odometer Act) and the Truth in Lending Act. The Arbitrator found that pursuant to the Odometer Act, Mr. Blake's monetary damages were \$10,000, and also awarded him \$25,818 in legal fees. Under the Truth in Lending Act, Mr. Blake was awarded \$1,498. In addition, the Arbitrator ordered that Kimble's had to provide Mr. Blake with the title to the vehicle. The award also ordered Kimble's to pay the arbitrator's fee totaling \$3,700.00. To date, besides receiving title to the vehicle, none of the judgment award has been paid. The dealer has failed to comply with the Award of Arbitrator, dated September 23, 2014. Therefore, counsel on behalf of his client (Leonard Blake) filed a Petition for Confirmation of Arbitration Award to the Henrico Circuit Court and a Judgment Order was entered on December 22, 2014.

On April 3, 2015, John Gayle, Esquire on behalf of his client (Leonard Blake) submitted to the Dealer Board the documentation for consideration of relief through the Motor Vehicle Transaction Recovery Fund (Fund). On April 8, 2015, the Dealer Board staff sent "Notice of Verified Claim" to the debtor (Kimble's Auto Sales, Inc.) as well as to the owner (Jack T. Kimble) requesting that the judgment be satisfied within 30-days of receiving notice.

After a careful preliminary review, Leonard Blake's claim appears to meet the requirement of Virginia Code §46.2-1527.3 (Judgment was awarded in the Commonwealth of Virginia). Therefore, due to the statutes governing the Fund the Dealer Board staff recommends that the Recovery Fund Committee and full Board approve Mr. Blake's claim in the amount of \$25,000, which is the maximum claim amount recoverable from the Fund.

On August 25, 2015, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended a payment of \$25,000 should be considered from the Transaction Recovery Fund.

Motion was made by David Gripshover to accept the hearing officer's recommendation of approving payment of \$25,000 from the Fund to Leonard Blake. Art Hudgins seconded. The motion carried unanimously.

- **Milton L. Coston vs. Autoplex of Richmond and John Messer.** On June 20, 2009, Milton Coston entered into a written contract with Autoplex of Richmond, Inc. (Autoplex) for the purchase of a 2002 BMW and a service contract for a total of \$19,339.00. Milton Coston made a down payment of \$2,000.00 and needed to finance the remaining balance of the purchase. John Messer, owner/salesperson for Autoplex indicated to Mr. Coston that he could obtain financing for the vehicle purchase and claimed he had been approved through Connects Federal Credit Union, dated June 20, 2009. However, Mr. Coston's vehicle purchase loan was not assigned to Connect Federal Credit Union. It was financed through Lendmark, dated June 25, 2009. Mr. Coston signed the note; listing the vehicle as collateral since he thought the vehicle would be titled in his name as promised by Mr. Messer and Autoplex. During the negotiations for the purchase of the vehicle, Mr. Messer and Autoplex represented to Mr. Coston that the dealership had the vehicle's title and promised to immediately transfer the title and do all the DMV paperwork necessary to have the vehicle titled in his name if he purchased the vehicle. Autoplex then charged Mr. Coston for the license fees, titling fee and the sales tax. Mr. Coston continued to make payments to Lendmark not knowing title had never been put into his name until he received a letter dated August 30, 2011 from a lawyer, Michael A. Lormand, Esquire, for an unnamed lienholder from whom Autoplex had borrowed money for the purchase. This letter advised that

the lien Autoplex had given this lender, had never been paid, and his client still possessed the vehicle's title, meaning that Mr. Coston did not have titled in his name, and suggested he join a lawsuit with twenty other purchasers' against Autoplex for failing to provide title to their vehicles.

After receiving Mr. Lormand letter, Mr. Coston attempted to call Mr. Messer and Autoplex to try and resolve the title problem, but discovered the dealership had been closed down. Without title to the vehicle he purchased, Mr. Coston stopped making his loan payments to Lendmark which repossessed the vehicle on February 2, 2012. After the repossession, in February, 2012, Lendmark obtained a replacement title to the vehicle from DMV by filing a false Affidavit In Lieu of Title Certificate with DMV which admits that Autoplex never transferred the title to Mr. Coston yet they represented that it was the owner of the vehicle.

After obtaining a repossession title in their name, Lendmark sold the vehicle at auction, and sued Mr. Coston for the deficiency, obtaining a default judgment against Mr. Coston in the amount of \$12,485.71, plus 18.75% interest and costs of \$56.00 on December 9, 2011. Mr. Coston sought legal counsel (John Gayle, Esquire) in order to pursue the dealership civilly in court for his monetary loss. On March 19, 2013, John Gayle, Esquire on behalf of his client (Milton Coston) pursuit to Va. Code §46.2-1527.4 submitted to the Dealer Board documentation in order to file a claim on the Transaction Recovery Fund. On March 31, 2015, the Circuit Court for the County of Henrico awarded Milton Coston judgment against Autoplex of Richmond, Inc. for actual fraud and violations of the Virginia Consumer Protection Act (VCPA). The court awarded Milton Coston \$10,000.00 in actual damages and \$30,000.00 for attorney fees. On May 15, 2015, John Gayle, Esquire on behalf of his client (Milton Coston) submitted to the Dealer Board additional documentation for consideration of relief through the Transaction Recovery Fund (Fund). On May 19, 2015, John Gayle's assistant via email provided the Dealer Board. On May 19, 2015, the Dealer Board staff sent "Notice of Verified Claim" to the debtor (Autoplex of Richmond, Inc.) as well as to the owner of the dealership (John Messer) requesting that the judgment be satisfied within 30-days.

After a careful preliminary review, Milton Coston's claim appears to meet the requirement of Virginia Code §46.2-1527.3 (Judgment was awarded in the Commonwealth of Virginia). Therefore, due to the statues governing the Fund the Dealer Board staff recommends that the Recovery Fund Committee and full Board approve Mr. Coston's claim in the amount of \$25,000, which is the maximum claim amount recoverable from the Fund.

On August 18, 2015, an informal fact-finding conference was conducted and based on the information provided at the conference; the hearing officer recommended a payment of \$25,000 should be considered from the Transaction Recovery Fund.

Motion was made by Steve Farmer to accept the hearing officer's recommendation of approving payment of \$25,000 from the Fund to Milton Coston. David Gripshover seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for November 9, 2015

The meeting adjourned at 12:06 p.m.