

**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.

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Meeting Summary  
**Motor Vehicle Dealer Board**  
Monday, September 10, 2007

Chairman D.B. Smit called the Dealer Board meeting to order at 11:40 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 14 Board members present. Present were members Jonathan Blank, Lynn Hooper, Todd Hyman, David Lacy, Wanda Lewark, Hugh McCreight, Thomas Moorehead, Pat Patrick, Frank Pohanka, Kevin Reilly, Vince Sheehy, Larry Shelor, Robert Woodall and Thomas Woodson. (Absent: Chip Lindsay, Todd Haymore, Henry Jones, Jimmy Whitten). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The July 9, 2007 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**STATUTORY COMMITTEE REPORTS**

**Dealer Practices Committee:**

- **Policy on Variance Requests for Storage of Records.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding the policy of variance requests for storage of records. Motion was made by Pat Patrick to accept the recommendation of the revised outline for variance requests for storage of records.

Robert Woodall seconded. The motion carried unanimously.

- **Duane A. Diggs and Driver's Choice, Inc.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Duane A. Diggs and Driver's Choice, Inc. Based on that discussion, Mr. Patrick 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 Duane A. Diggs t/a Driver's Choice for alleged violations of Va. Code §§46.2-1529 and 46.2-1559, as they relate to record keeping; 46.2-1537, Prohibits the compensation of any unlicensed salespersons; 46.2-1542 (c), failure to forward to DMV within 30 days all applications for title, plates and fees; and 46.2-1575 (2), failure to comply subsequent to receipt of a written warning from the Board or any willful failure to comply. Based on due consideration, the Board believes a civil penalty should be assessed against Duane A. Diggs t/a Driver's Choice. The Board hereby assesses a \$2,500 civil penalty against Duane A. Diggs t/a Driver's Choice and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Diggs should be suspended. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Diggs in running his dealership. The Board hereby suspends all licenses and certificates issued by the Board to Mr. Diggs for a minimum of thirty (30) days or until what time Mr. Diggs successfully completes the dealer-operator class, whichever is longer.

Lynn Hooper seconded. The motion carried unanimously.

- **Virgil Williams and Williams Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Virgil Williams and Williams Auto Sales. Based on that discussion, Mr. Patrick 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 Virgil Williams and Williams Auto Sales for alleged violations of Va. Code Sections 46.2-1529 and 46.2-1559 related to record keeping and 46.2-1575(2), failure to comply subsequent to receipt of a written warning from the Board. Based on due consideration, the Board believes a civil penalty should be assessed against Virgil Williams and Williams Auto Sales. The Board hereby assesses a \$200 civil penalty against Virgil Williams and Williams Auto Sales and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Williams in running his dealership. The Board mandates that Mr. Williams successfully complete the dealer-operator course by March 10, 2008. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Williams by the Board until what time Mr. Williams has successfully completed the course.

Tommy Woodson seconded. The motion carried unanimously.

- **Shaikh M. Zahid and Super Stars Autos, Inc.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Shaikh M. Zahid and Super Stars Autos, Inc. Based on that discussion, Mr. Patrick 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 Shaikh M. Zahid t/a Super Stars Autos for alleged violations of VA Code Sections 46.2-1533, failure to maintain posted business hours and 46.2-1575(2), failure to comply subsequent to receipt of a written warning from the Board. Based on due consideration, the Board believes a civil penalty should be assessed against Shaikh M. Zahid t/a Super Stars Autos. The Board hereby assesses a \$5,000 civil penalty against Shaikh M. Zahid t/a Super Stars Autos.

Frank Pohanka seconded. The motion carried unanimously.

- **Ray L. Baugher and Ray's Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Ray L. Baugher and Ray's Auto Sales. Based on that discussion, Mr. Patrick 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 Ray L. Baugher and Ray's Auto Sales for alleged violations of VA Code Section 46.2-1533, (Failure to maintain posted business hours). Based on due consideration, the Board believes a civil penalty should be assessed against Ray L. Baugher and Ray's Auto Sales. The Board hereby assesses a \$1,000 civil penalty against Ray L. Baugher and Ray's Auto Sales.

Todd Hyman seconded. The motion carried unanimously.

- **Gregory Fisher and Eddins Ford, Inc.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Gregory Fisher and Eddins Ford, Inc. Based on that discussion, Mr. Patrick 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 Gregory Fisher t/a Eddins Ford, Inc for alleged violations of VA Code Sections 46.2-1528 (Failure to allow the Dealer Board Field Representative view the dealer records), 46.2-1529 (As it relates to dealer records), 46.2-1537 (Prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle unless the person is licensed as a salesperson and employed by the dealer) and 46.2-1575(2) (Willful failure to comply with the Dealer Laws). Based on due consideration, the Board believes a civil penalty should be assessed against Gregory Fisher t/a Eddins Ford. The Board hereby assesses a \$350 civil penalty against Gregory Fisher t/a Eddins Ford.

Robert Woodall seconded. The motion carried unanimously.

- **Variance in Hours: Keith H. Fontaine and Timeless Auto Sales & Service.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Keith H. Fontaine and Timeless Auto Sales & Service. Based on that discussion, Mr. Patrick 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 Keith H. Fontaine & Timeless Auto Sales & Service (dealer # 6946) be granted a variance from the requirement of being opened for business at least 10 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday provided that the dealership be open from 5:00 to 9:00 pm Monday through Friday and 10:00 am to 6:00 pm on Saturday. This variance shall be in effect through June 30, 2008.

Frank Pohanka seconded. The motion carried unanimously.

- **Adjudicated Case: Determination to Convene an Informal Fact-Finding Conference.** No motion was made. Consensus of the committee was not to convene a conference.

### **Licensing Committee**

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **William A. Ferrell, Salesperson.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding William A. Ferrell, salesperson. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. William A. Ferrell and based on due consideration, the Board believes that Mr. Ferrell's motor vehicle salesperson's license should not be revoked. The Board hereby takes no further action against the salesperson's license issued by the Board to Mr. William A. Ferrell.

Larry Shelor seconded. The motion carried unanimously.

- **Stavros Koudellou and Woodbridge Public Auto Auction.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Stavros Koudellou and Woodbridge Public Auto Auction. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Stavros Koudellou t/a Woodbridge Public Auto Auction for alleged violations of Virginia Code Sections 46.2-1537 which prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson and employed by the dealer. Based on due consideration, the Board believes a civil penalty should be assessed against Stavros Koudellou. The Board hereby assesses a \$500 civil penalty against Stavros Koudellou t/a Woodbridge Public Auto Auction.

Frank Pohanka seconded. The motion carried unanimously.

- **Rocky Robinson and Southern's Toy Store of Woodbridge.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Rocky Robinson and Southern's Toy Store of Woodbridge. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Rocky Robinson t/a Southern's Toy Store of Woodbridge for alleged violations of Virginia Code Sections 46.2-1518 (Display of salesperson's license; notice on termination), 46.2-1529 (As it relates to dealer records), 46.2-1537 (Prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson employed by the

dealer) and 46.2-1550 (Use of dealer's license plates). Based on due consideration, the Board believes a civil penalty should be assessed against Rocky Robinson t/a Southern's Toy Store of Woodbridge. The Board hereby assesses a \$500 civil penalty against Rocky Robinson t/a Southern's Toy Store of Woodbridge.

David Lacy seconded. The motion carried unanimously.

### **Advertising Committee**

Chairman Frank Pohanka summarized discussions that were held during the Committee Meeting.

- **Recent VA Supreme Court Ruling Concerning the Advertising Regulations.** Chairman Frank Pohanka summarized for the Board the discussion held in the Committee meeting regarding the recent Virginia Supreme Court Ruling Concerning the Advertising Regulations. The VADA intends to seek a patron to sponsor a bill to be introduced at the 2008 General Assembly that would allow stock numbers alone to indicate the number of new vehicles available at the advertised price. Frank Pohanka made a motion that the Board support VADA's legislative concept.

Pat Patrick seconded. The motion carried unanimously.

### **Transaction Recovery Fund Committee:**

Chairman David Lacy summarized discussions held and actions that were taken during the Committee Meeting.

- **Roger Altland, Hollywood Wholesale, Inc. and Stanley Freeman, Al's Cars, Inc., Dorothy Amore and Altaf H. Shah, Sports Car Center and Public Auto Auction, Nhan Tran and Altaf H. Shah, Sports Car Center and Public Auto Auction.** Chairman David Lacy summarized for the Board the discussion held in the Committee meeting regarding Roger Altland, Hollywood Wholesale, Inc. and Stanley Freeman, Al's Cars, Inc., Dorothy Amore and Altaf H. Shah, Sports Car Center and Public Auto Auction, Nhan Tran and Altaf H. Shah, Sports Car Center and Public Auto Auction. Based on that discussion and the recommendation in the case, Mr. Lacy made the following motions: Pursuant to §46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

<b>Roger Altland, Hollywood Wholesale, Inc. and Stanley Freeman, Al's Cars, Inc.</b>	<b>\$20,000.00</b>
<b>Dorothy Amore and Altaf H. Shah, Sports Car Center and Public Auto Auction</b>	<b>\$16,062.87</b>
<b>Nhan Tran and Altaf H. Shah, Sports Car Center and Public Auto Auction</b>	<b>\$2,114.73</b>

Lynn Hooper seconded. The motion carried unanimously.

### **OLD BUSINESS**

- **Update: Legislative Concepts for 2008.** Bruce Gould indicated that at the previous board meeting on the legislative concept to address curbstoning and to give some authority to the Dealer Board, DMV and zoning officials to have cars towed that were for sale after a certain amount of time. The Governor's office indicated that this would not be included in the Governor's package, but they gave permission for the Board to pursue it as an agency.

### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

## **NEW BUSINESS**

- **Executive Director's Report.** Bruce Gould indicated that the fee regulations are still in the Governor's office and he has communicated with the Governor's Senior Policy Advisor who has assured Mr. Gould that there is no problem. They are just waiting for the Chief of Staff to sign off on the regulations. He also indicated that the Board is going through a transformation with VITA. The Dealer Board will be one of the first agencies to go through this process and our computers will be replaced. Our server will no longer be located in our office, it will be located at the new location in Chester. They are extremely hi-tech. He indicated that our lease is in the process of being negotiated. Between now and the next Board meeting, he will look at new committee assignments now that we have two new members. He indicated that this would be the time to let him or D.B. know if they would or would not like to be on a certain committee. Bruce reported that the "top 100 curbstoners" report is in and there are approximately 90 individuals this year. A letter will go out accordingly to let these individuals know what they are doing is not legal. Lastly, Bruce indicated that included with the board book mailing was a newsletter from Ontario, Canada's Dealer Board. He read similarities from the newsletter that our Dealer Board goes through, such as curbsiders, which is what we call curbstoners.

The next meeting will be scheduled for November 5, 2007.

## **NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

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

Meeting Summary  
**Dealer Licensing Committee**  
Monday, September 10, 2007

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 10:20 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Wanda Lewark, Kevin Reilly, Vince Sheehy, Larry Shelor, Jimmy Whitten, Tommy Woodson and Robert Woodall. (Absent: Chip Lindsay). Other Board members present: D.B. Smit, Todd Haymore, Jonathan Blank, Lynn Hooper, David Lacy, Hugh McCreight, Thomas Moorehead, Pat Patrick, Frank Pohanka, Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Wanda Neely, Frank McCormick and Alan Winderweedle represented the Dealer Board. Jim Gurney represented DMV. Eric Fiske represented the Attorney General's Office.

The July 9, 2007 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

- **Update: July Actions.** Peggy Bailey reported on the actions taken at the Dealer Licensing Committee meeting on July 9, 2007.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference:**

- **William A. Ferrell, Salesperson.** On May 21, 2007, an informal fact-finding conference was conducted to determine if Mr. Ferrell's salesperson's license should be revoked as the result of his felony conviction for Embezzlement on May 19, 2006. Based on the information provided at the conference, the hearing officer recommended that Mr. Ferrell retain his salesperson's license.

Mr. Ferrell was present and available for questions.

Motion was made by Vince Sheehy to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

- **Stavros Koudellou and Woodbridge Public Auto Auction.** On June 15, 2007, an informal fact-finding conference was conducted to address the alleged violation of Virginia Code Section 46.2-1537 (Allowing the sale of vehicles by an unlicensed individual and also compensating them). Based on the information provided at the conference, the hearing officer recommended that Mr. Koudellou should be instructed to immediately have the salespersons licenses for all his salespeople inspected by management and to assess a civil penalty of \$25 for each of the 147 violations of 1537 for a total civil penalty of \$3,675.

Motion was made by Vince Sheehy to modify the hearing officer's recommendation and assess a civil penalty of \$500. Mr. Sheehy's rationale is that he felt that this civil penalty appears harsh and in the past the Board has assessed a more flat penalty on first offenses. Jimmy Whitten seconded. The motion carried unanimously.

- **Rocky Robinson and Southern's Toy Store of Woodbridge.** On July 13, 2007, an informal fact-finding conference was conducted to address the alleged violations of Virginia Code Sections 46.2-1518 (Display of salesperson's license; notice on termination), 46.2-1529 (As it relates to dealer records), 46.2-1537 (Prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson employed by the dealer) and 46.2-1550 (Use of dealer's license plates). Based on the information provided at the conference, the hearing officer recommended Mr. John Smith make follow-up inspections at Southern's to ensure no more violations of 1518 and 1529 and assess a civil penalty of \$100 for each sale (43 violations), for a total civil penalty of \$4,300.

Mike Calabucel, Mr. Robinson's business partner, was present and spoke on Mr. Robinson's behalf.

Motion was made by Vince Sheehy to modify the hearing officer's recommendation and assess a civil penalty of \$500. Mr. Sheehy indicated that the dealership took the proper steps to correct the issue and felt that the civil penalty assessed was too severe. Kevin Reilly seconded. The motion carried unanimously.

- **Material Misstatement Policy.** Bruce Gould indicated that in the past when an applicant is denied a license for a material misstatement on their sales application, they can re-apply in six months and that the new application must be accurate or they could ask for an informal fact-finding conference. In nearly every case, if not every case, when the applicant requested a conference, the hearing officer has recommended that the license be issued as the applicants are able to convince the hearing officer that it was not their intent to deceive the Board. Seeing this pattern, Mr. Gould requested that the Board consider modifying the policy as follows when the applicant would have been issued a license had they not made a material misstatement on the application:

- Continue to offer the two options that we now give the application:
  - Wait six months to re-apply.
  - Request an informal fact-finding conference
- Add a third option to allow the application to pay a \$300 civil penalty. Once the civil penalty is paid and new, accurate applications are completed, the license would be issued.

Adding this third option has the potential to save staff time and the expense of conducting an informal fact-finding conference. The option would not be offered to any applicant who we would have denied if they had told the truth.

Consensus of the Committee is to leave things like they are, with no action being taken on this recommendation.

### **NEW BUSINESS FROM THE FLOOR**

The next meeting was scheduled for November 5, 2007.

The meeting adjourned at 10:59 a.m.

Meeting Summary  
**Advertising Committee**  
Monday, September 10, 2007

Chairman Frank Pohanka called the Advertising Committee meeting to order at 11:00 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Lynn Hooper, Jonathan Blank, Hugh McCreight, Thomas Moorehead, Pat Patrick and Larry Shelor. (Absent: Chip Lindsay) Other Board members present: Kevin Reilly, Todd Haymore, Robert Woodall, Todd Hyman, David Lacy, D.B. Smit, Vince Sheehy, Wanda Lewark, Jimmy Whitten, Tommy Woodson. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Wanda Neely, Frank McCormick and Alan Winderweedle represented the Dealer Board. Jim Gurney represented DMV. Eric Fiske represented the Attorney General's Office.

The July 9, 2007 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**

- **Recent Virginia Supreme Court Ruling Concerning the Advertising Regulations.** At the July Advertising and Board meetings, the Board discussed a recent opinion from the Virginia Supreme Court that invalidates a provision of the Advertising Regulations.

It was the opinion of the court that the statute and the regulation are in conflict as follows:

- The statute does not allow using a stock or VIN number alone to indicate the limited availability of a new motor vehicle.
- The regulation does permit the use of a stock or VIN number alone to indicate the limited availability of a new motor vehicle.

The committee requested that the Executive Director provide options to address this situation. The following are two options that were presented. The first option would require a change in the law to allow the stock number alone to indicate the number of new vehicles available at the advertised price. As the deadline for agencies to submit legislative proposals to the Governor for his review has passed, in order for the Board to pursue a legislative change, we would need to wait for the 209 General Assembly Session.

The second option would conform the Regulations to the Supreme Court Ruling. The Administrative Process Act includes a quick process for amending regulations to conform to law.

Representatives from VADA indicated that the VADA would be seeking a patron to sponsor a bill to change the law (Option 1).

Motion was made by Pat Patrick to support Option 1 with the Dealer Board supporting the VADA. Tommy Moorehead seconded. The motion carried unanimously.

The next meeting will be November 5, 2007.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 11:07 a.m.

Meeting Summary  
**Transaction Recovery Fund Committee**  
Monday, September 10, 2007

Chairman David Lacy called the Transaction Recovery Fund Committee meeting to order at 11:07 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, Wanda Lewark, Vince Sheehy, Larry Shelor and Tommy Woodson. Other Board members present: D.B. Smit, Kevin Reilly, Robert Woodall, Todd Hyman, Hugh McCreight, Thomas Moorehead, Pat Patrick, Frank Pohanka. Executive Director Bruce Gould, Prin Cowan, Peggy Bailey, Wanda Neely, Frank McCormick and Alan Winderweedle represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The July 9, 2007 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:**

- **Roger Altland, Hollywood Wholesale, Inc. and Stanley C. Freeman, Al's Cars, Inc.** In January of 2004, Mr. Altland was informed by one of his customers that he was in the market for a white sports utility vehicle and asked Mr. Altland if he could find one for him. Mr. Altland went to the Fredericksburg Auto Auction and met Mr. Stanley Freeman, licensed salesperson for Al's Cars, Inc. and Mr. Freeman represented a 2003 Cadillac Escalade. At that time, Mr. Freeman introduced Mr. Altland to his business partners Ray Patel and Harry Odgen.

Sometime, around the middle of January 2004, Mr. Patel and Mr. Odgen delivered the Escalade to Hollywood Wholesale's (HWI) lot so that the customer could examine it along with the title. The title and vehicle identification number matched the vehicle and the title was in the name of Al's Cars, Inc. with Stan Freeman's signature. The customer liked the vehicle, so Hollywood Wholesale paid Al's Car via cashier's check \$31,500.00 and the remaining \$9,500.00 on February 6, 2004. In January of 2004, Hollywood Wholesale contracted to sell the vehicle to its customer (Tyrone and Ronette Williams) for \$47,500.00. Mr. and Mrs. Williams made a deposit of \$5,000.00 and on January 21, 2004, delivered a cashier's check in the amount of \$37,500.00 to HWI for the remainder. In March of 2004, Mr. & Mrs. Williams were informed by the Department of Motor Vehicles that the vehicle had previously been stolen and had been "cloned" to create a new vehicle identification number. Additionally, the DMV informed the William's that HWI did not have a valid title to the vehicle and that it would be confiscated by DMV. The vehicle was confiscated in March of 2004.

In July of 2004, the Williams filed a Motion for Judgment against HWI and its officer, Roger Altland under numerous causes of action, including fraud in the inducement, lack of consideration, actual fraud and constructive fraud for aggregate amounts in excess of \$395,000.00. HWI has since paid approximately \$15,751.00 to the Williams in cash and in the form of a motor vehicle and forgave a note from the Williams in the amount of \$4,700.00 in settlement. As a result of Mr. Freeman's actions and misrepresentations regarding the ownership and title of the vehicle, HWI has been damaged by the money paid to Al's Cars for the vehicle (\$41,000.00), the lost profit from the sale to the Williams (\$6,200.00) and legal fees incurred due to the judgment awards entered against them.

On June 6, 2005, John Ryan, Esquire, attorney for Mr. Altland, owner of HWI, submitted to the Dealer Board a verified Motion for Judgment that had been filed in the Circuit Court for the City of Virginia Beach against Stan Freeman, Harry Odgen and Al's Cars, Inc. On July 21, 2005, the Board acknowledged receipt of Hollywood's claim against the Motor Vehicle Transaction Recovery Fund (Fund). On June 14, 2006, Mr. Ryan submitted to the Dealer Board a new Complaint filed in the Circuit Court for the City of Virginia Beach against Rajesh Patel, Stan Freeman, Harry Odgen and Al's Cars, Inc. On June 23, 2006, Mr. Ryan submitted to the Dealer Board all the additional information requested by the Dealer Board. By January 26, 2007, Mr. Ryan had forwarded all information regarding this issue. On March 26, 2007, the Circuit Court for the City of Virginia Beach granted judgment to Hollywood Wholesale, Inc. against Stan Freeman & Rajesh Patel as a result of fraud jointly and severally in the amount of \$44,899.52. On May 25, 2007, Mr. Ryan submitted all the required documents in duplicate for consideration of payment for client's claim against the Fund.

After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Mr. Altland and Hollywood Wholesale, Inc. judgment in the amount of \$20,000.00. On August 1, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$20,000.00.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

- **Dorothy Amor and Altaf H. Shah and Sports Car Center & Public Auto Auction.** On March 30, 2004, Ms. Amor went to the Sports Car Center and Public Auto Auction to inquire about an advertisement she had seen in the autotrader.com for a 2000 Nissan Maxima GLE for a sales price of \$10,900.00. A salesman confirmed to Ms. Amor that the vehicle was still on the lot; however, when Ms. Amor indicated she intended to finance her purchase of the vehicle, he informed her that the price would be \$14,800.00 because the bank charges to finance a sale.

The dealership prepared a Buyer's Order. On the Buyer's Order, the dealership included a charge of \$495.12 for sales tax, a charge of \$28.50 for registration fees, \$12.00 for a title fee and a processing fee of \$139.00 and included all of these charges as part of the "amount financed" disclosure on the Retail Installment Contract (RISC). Although the dealership charged Ms. Amor for the sales taxes, title fees and registration fees, Sports Car Center never paid these fees to the Maryland MVA or any other government agency. Ms. Amor was required to go to the Maryland MVA and pay them an additional \$846.00 in order to register the vehicle in her name and to obtain license plates for the vehicle.

As a result of the dealership's violations of state and federal laws and fraudulent actions, Ms. Amor brought her action to the United States District Court for the Eastern District of Virginia. After, Ms. Amor served the lawsuit on the dealership and its owner, Altaf H. Shah, they went into default. On March 29, 2006, Counsel, on behalf of Ms. Amor, submitted to the Dealer Board the Complaint that had been filed in the United States District Court. On April 6, 2006, the Dealer Board sent a letter to Ms. Amor's counsel advising him that it appeared his client's claim is one in which would be liable through the dealer's surety bond. On July 28, 2006, the United States District Court for the Eastern District of Virginia entered judgment against Altaf H. Shah and the dealership Sports Car Center and Public Auto Auction in the amount of \$54,852.62. This amount reflected the actual damages of \$3,900.00 for fraudulent price increase, \$535.62 for fraudulent sales taxes that were never paid to the DMV and \$139.00 for fraudulent processing fee. The Court also awarded attorney fees in the amount of \$11,026.00 and costs of \$601.25.

On October 11, 2006, Counsel contacted the Dealer Board staff and indicated they received a letter from Western Surety dated October 3, 2006 declining payment on their client's claim. Western Surety indicated that the bond was issued on January 23, 2002 and was cancelled effective January 23, 2004 and not in effect on the date of sale. The bond had been cancelled or not renewed because of a substantial or material change in the risk. On June 18, 2007, Counsel for Ms. Amor submitted to the Dealer Board all the required documentation for consideration of payment from the Motor Vehicle Transaction Recovery Fund (Fund).

After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Ms. Amor's claim against the Fund in the Amount of \$16,062.87. This amount is based on the actual damages of \$3,900.00 sales price increase, \$535.62 sales tax, title and registration fees, \$11,026.00 attorney fees and \$601.25 court costs. On August 8, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference, the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$16,062.87.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

- **Nhan Tran and Altaf H. Shah and Sports Car Center & Public Auto Auction.** On March 29, 2004, Ms. Tran went to the dealership to inquire about an advertisement she had seen on the Auto Trader website in which Sports Car Center had offered for sale a 1996 Lexus ES300 for a sale price of \$5,900.00. The salesperson confirmed that the vehicle was still on the lot. Ms. Tran inspected the vehicle and found a small dent, screws loose in the hood and the front grill and trunk would not open. Sports Car Center agreed to fix the problems and also repair the brakes. Relying on these repairs, Ms. Tran agreed to purchase the vehicle. But because Ms. Tran wanted to finance the car, Sports Car Center listed the sales price of the vehicle as \$7,500.00. Ms. Tran questioned why the sales price was \$1,600.00 higher than the advertised price. Mr. Shah indicated that the price increased because that is how the bank processes it.

Sports Car Center prepared the Buyers Order. On the Buyers Order the dealership included a charge of \$276.12 for the sales tax. Based upon the inflated sales price of \$7,500.00 plus the \$139.00 processing fee, the correct sales tax for the transaction is \$229.17, a difference of \$46.95. In addition, Sports Car Center charged \$12.00 for the title and \$28.50 for the registration fee. Title fee in Virginia is \$10.00.

On the way home from the dealership, the car began to shake when she drove more than 55 miles per hour. She immediately called the dealership and they indicated that was normal for Lexus vehicles. Unconvinced, Ms. Tran requested to speak with the owner, Mr. Shah and he acknowledge that the vehicle had an alignment problem. On April 13, 2004, Ms. Tran returned the vehicle to the dealership for the promised repairs to complete. They fixed the brakes, but did not fix the alignment problem and failed to complete the other repairs it had promised to perform prior to the sale.

Although Sports Car Center had charged Ms. Tran for the sales taxes, title and registration fees in connection with the sale of the vehicle and collected them from her, they informed her that she would have to register the vehicle herself and pay the taxes and fees directly to the Virginia DMV. On June 1, 2004, Ms. Tran paid the Virginia DMV a total of \$241.25 for the title, registration fees and the taxes on the vehicle.

As a result of the dealership's violations of state and federal laws and fraudulent actions, Ms. Tran brought her action to the United States District Court for the Eastern District of Virginia. After, Ms. Tran served the lawsuit on the dealership and its owner, Altaf H. Shah, they went into default. On March 29, 2006, Counsel, on behalf of Ms. Tran, submitted to the Dealer the Complaint that had been filed in the United States District Court. On April 6, 2006, the Dealer Board sent a letter to Ms. Tran's Counsel advising him that it appeared his client's claim is one in which would be liable through the dealer's surety bond. On October 26, 2006, the United States District Court for the Eastern District of Virginia entered judgment against Altaf H. Shah and the dealership Sports Car Center and Public Auto Auction in the amount of \$55,592.73. This amount reflected the actual damages of \$1,739.00 for fraudulent price increase and processing fee, \$316.62 for fraudulent sales taxes that were never paid to the DMV, 50,000.00 in punitive damages, \$59.11 for failing to repair the vehicle's alignment problem, plus reasonable attorney fees and costs.

On November 28, 2006, Counsel contacted the Dealer Board staff and indicated they received a letter from Western Surety dated October 3, 2006 declining payment on their client's claim. Western Surety indicated that the bond was issued on January 23, 2002 and was cancelled effective January 23, 2004 and not in effect on the date of sale. The bond had been cancelled or not renewed because of a substantial or material change in the risk. On June 18, 2007, Counsel for Ms. Tran submitted to the Dealer Board all the required documentation for consideration of payment from the Motor Vehicle Transaction Recovery Fund (Fund).

After carefully reviewing all documentation, staff recommends that the Recovery Fund Committee and Full Board approve Ms. Tran's claim against the Fund in the Amount of \$14,611.23. This amount is based on the actual damages of \$1,739, \$316.62 sales tax, title and registration fees and \$59.11 for failing to repair the alignment and \$12,496.50 attorney fees and court costs. On August 8, 2007, an informal fact-finding conference was conducted and based on the information presented at the conference the hearing officer conducting the conference recommended that the Transaction Recovery Fund Committee and the Full Board members consider approving the amount of \$14,611.23.

Motion was made by Lynn Hooper to modify the hearing officer's recommendation and pay the damages only of \$2,114.73. It was indicated that the attorney fees judgment order had not been awarded and they must receive that awarding of attorney fees and court costs. Jonathan Blank seconded. The motion carried unanimously.

### **NEW BUSINESS FROM THE FLOOR**

There was no old business from the floor.

The next meeting was scheduled for November 5, 2007.

The meeting adjourned at 11:39 a.m.