

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.

~ 1ST DRAFT ~

Meeting Summary
Motor Vehicle Dealer Board
Monday, September 8, 2008

Chairman D. B. Smit called the Dealer Board meeting to order at 10:35 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 Lynn Hooper, Henry Jones, David Lacy, Wanda Lewark, Chip Lindsay, Thomas Moorehead, Frank Pohanka, Kevin Reilly, Vince Sheehy, Larry Shelor, Joe Tate, Jimmy Whitten and Robert Woodall. (Absent: Jonathan Blank, Todd Haymore, Hugh McCreight, Pat Patrick and Tommy Woodson). Executive Director Bruce Gould, Prin Cowan, Peggy Bailey and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

PUBLIC COMMENT

The July 14, 2008 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Hugh McCreight summarized discussions held and actions that were taken during the Committee Meeting.

- **Mansoor F. Malik and Nashmia Auto Sales.** Chairman Hugh McCreight summarized for the board the discussion held in the committee meeting regarding Mansoor F. Malik and Nashmia Auto Sales. Based on that discussion, Mr. McCreight 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 Mansoor F. Malik t/a Nashmia Auto Sales for alleged violations of Va. Code Sections 46.2-1533 (failing to maintain posted business hours) and 46.2-1575(2) (failure to comply with the law after receiving a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Mansoor F. Malik t/a Nashmia Auto Sales. The Board hereby assesses a \$750.00 civil penalty against Mansoor F. Malik t/a Nashmia Auto Sales; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Mansoor F. Malik in running his dealership. The Board mandates that Mr. Mansoor F. Malik successfully complete the dealer-operator course by March 8, 2009. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Mansoor F. Malik by the Board until what time Mr. Mansoor F. Malik has successfully completed the course.

Henry Jones seconded. The motion carried unanimously.

- **Charles J. Manning and M & M Motors.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding Charles J. Manning and M & M Motors. Based on that discussion, Mr. McCreight 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 J. Manning t/a M&M Motors for alleged violations of Va. Code Sections 46.2-1533 (failing to maintain posted business hours) and 46.2-1575(2) (failing to comply with the law after receiving a written warning/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Charles J. Manning t/a M&M Motors. The Board hereby assesses a \$500.00 civil penalty against Charles J. Manning t/a M&M Motors and based on due consideration, the Board believes that all licenses issued by the Board to Mr. Charles J. Manning should be revoked. The Board hereby revokes all licenses issued by the Board to Mr. Charles J. Manning.

Lynn Hooper seconded. The motion carried unanimously.

- **Charles L. Null, II and Checkered Flag of Front Royal.** Chairman Hugh McCreight summarized for the board the discussion held in the Committee meeting regarding Charles L. Null, II and Checkered Flag of Front Royal. Based on that discussion, Mr. McCreight 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 L. Null, II t/a Checkered Flag of Front Royal for alleged violations of Va. Code Sections 46.2-1529 (related to record keeping), 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-629 (odometer reading to be reported on certificate of title, application, or power of attorney), 46.2-722 (altered or forged license plates or decals. In this case, 30 day tags) and 46.2-1575(2) (failure to comply with the law after receiving a written warning/willful failure to comply.). Based on due consideration, the Board believes civil penalty should be assessed against Charles L. Null, II t/a Checkered Flag of Front Royal. The Board hereby assesses a \$1,000.00 civil penalty against Charles L. Null, II t/a Checkered Flag of Front Royal; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Charles L. Null in running his dealership. The Board mandates that Mr. Charles L. Null successfully complete the dealer-operator course by March 8, 2009. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Charles L. Null by the Board until what time Mr. Charles L. Null has successfully completed the course.

Robert Woodall seconded. The motion carried unanimously.

Licensing Committee

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

- **Continuing Education.** Chip Lindsay made a motion that staff should begin to draft regulations in order to continue the regulatory process for establishing regulations for dealer-operators.

Lynn Hooper seconded. The motion carried unanimously.

- **Benjamin C. Waters, Salesperson.** Chairman Chip Lindsay summarized for the board the discussion held in the Committee meeting regarding Benjamin C. Waters, salesperson. Based on that discussion, Mr. Lindsay 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 Benjamin C. Waters for alleged violations of Va. Code Va. Code Sections 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-722 (altered or forged license plates or decals, use as evidence of knowledge. In this case, 30 day tags) and 46.2-1575(2) (failure to comply with the law after receiving a written warning). (6) (Having used deceptive acts or practices) and (13) (Having been convicted of a felony). Based on due consideration, the Board believes a civil penalty should be assessed against Benjamin C. Waters. The Board hereby assesses a \$500.00 civil penalty against Benjamin C. Waters; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Benjamin C. Waters should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Benjamin C. Waters.

Lynn Hooper seconded. The motion carried unanimously.

Advertising Committee

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

Transaction Recovery Fund Committee:

Chairman Larry Shelor summarized discussions held and actions that were taken during the Committee Meeting.

- **Catherine A. Maddox and Southern's Toy Store of Woodbridge.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding Catherine A. Maddox and Southern's Toy Store of Woodbridge. Based on that discussion and the recommendations in the case, Mr. Shelor 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 a claim 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 claim and payment amount subject to compliance by the claimant with statutory requirements:

Catherine A. Maddox and Southern's Toy Store of Woodbridge	\$1,860.46
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Frank Pohanka seconded. The motion carried unanimously.

- **William R. & Dianne B. Brown and Alan Mullins Chrysler Jeep, Inc.** Chairman Larry Shelor summarized for the Board the discussion held in the Committee meeting regarding William R. & Dianne B. Brown and Alan Mullins Chrysler Jeep, Inc. Based on that discussion and the recommendations in the case, Mr. Shelor 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 a claim submitted for payment from the Fund

and based on due consideration and recommendation of the hearing officer, the Board hereby tables this claim.

Frank Pohanka seconded. The motion carried unanimously.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

- **Executive Director's Report.** Bruce Gould indicated Marc Copeland is now the interim director of the Towing Board. Field Representative Terry Guill has retired. Staff has received 134 applications and hopefully by the next Board meeting they will have a new representative for that position. He also reported that DMV is close to completing print on demand for temporary tags. There will be a demonstration some time this week. Bruce also stated that he recently learned that MVDB had not adopted the pay grade system when they went from grades to bands.

Motion was made by Robert Woodall to approve the switch to the pay band system. Thomas Moorehead seconded. The motion carried unanimously.

The office is continuing with automation enhancements. The Dealer Board has partnered with Virginia Interactive on the dealer look up. The budget is currently being reviewed by the Governor's Office and Bruce will keep the members updated on what actions will be taken.

The next meeting will be scheduled for November 10, 2008.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 11:14 a.m.

Meeting Summary
Dealer Practices Committee
Monday, September 8, 2008

Chairman Hugh McCreight called the Dealer Practices Committee meeting to order at 8:39 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Wanda Lewark, David Lacy, Chip Lindsay, Thomas Moorehead, Kevin Reilly, Vince Sheehy, Larry Shelor and Robert Woodall. (Absent: Jonathan Blank and Tommy Woodson). Other Board members present: Joe Tate, Jimmy Whitten, Frank Pohanka, D.B. Smit, Chip Lindsay, Lynn Hooper, Henry Jones. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The July 14, 2008 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: July Actions. Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on July 14, 2008.

OLD BUSINESS FROM THE FLOOR

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Mansoor F. Malik and Nashmia Auto Sales.** On July 8, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Section 46.2-1533 (failing to maintain posted business hours). Based on the information provided at the conference, the hearing officer recommended that Mr. Malik successfully complete the Dealer-Operator course and be assessed a civil penalty of \$750.00 for his fourth violation of 1533. Should Mr. Malik fail to maintain for a fifth time, it was highly recommended that he should be brought before the Board, either to suspend or revoke his license and be assessed a civil penalty of \$1,000.00.

Bruce Gould read a letter that Mr. Malik wrote addressing the Committee members. Mr. Malik was present and responded to questions posed by the Committee members.

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

- **Charles J. Manning and M&M Motors.** On July 7, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1533 (failing to maintain posted business hours) and 46.2-1575(2) (failing to comply with the law after receiving a written warning). Based on the information provided at the conference, the hearing officer recommended that M&M Motors should be closed and assessed a \$500 civil penalty against Charles J. Manning and M&M Motors.

Motion was made by Robert Woodall to accept the hearing officer's recommendation. David Lacy seconded. The motion carried unanimously.

- **Charles L. Null, II and Checkered Flag of Front Royal.** On June 3, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-629 (odometer reading to be reported on certificate of title, application, or power of attorney), 46.2-722 (altered or forged license plates or decals, use as evidence of knowledge. In this case, 30 day tags), 46.2-1529 (not having the required records, failure to keep records, failure to keep record of temporary tag issuance), 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements) and 46.2-1575(2) (failure to comply with the law after receiving a written warning). Based on the information provided at the conference, the hearing officer recommended that Mr. Null and Checkered Flag of Front Royal be assessed a civil penalty of \$250.00.

Motion was made by Kevin Reilly to assess a civil penalty of \$1,000.00 and require that Mr. Null successfully complete the Dealer-Operator course. Because of the severity of the violations, the Committee believed that a higher civil penalty was warranted and that Mr. Null would benefit from taking the dealer-operator class. Robert Woodall seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for November 10, 2008.

The meeting adjourned at 8:57 a.m.

Meeting Summary Dealer Licensing Committee Monday, September 8, 2008

Chairman Chip Lindsay called the Dealer Licensing Committee meeting to order at 8:58 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Lynn Hooper, Henry Jones, Frank Pohanka, Hugh McCreight (left at 9:26 a.m.), Joe Tate, Robert Woodall and Jimmy Whitten. (Absent: Pat Patrick) Other Board members present: Vince Sheehy, Thomas Moorehead, David Lacy, Larry Shelor, D.B. Smit, Wanda Lewark, Kevin Reilly. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The July 14, 2008 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 14, 2008.

- **Dealer-Operator Continuing Education.** Bruce Gould indicated that the public hearing regarding continuing education for dealer-operators was held on August 21. Twelve individuals were present at the hearing. He reviewed what was discussed at the public hearing. After some discussion, the Committee decided that staff should continue with the regulatory process to establish regulations for mandatory continuing education for independent dealer-operators. Further, six hours of mandatory education would be required for all independent dealer-operators every 36 months in order to retain their certification and that a test would not be required. The committee members were not in favor of allowing a dealer-operator taking a test at a DMV CSC in lieu of completing the educational requirements. However, the Committee was supportive of dealer-operators having options other than in a traditional classroom setting for taking the course such as on-line, etc.

Motion was made by Lynn Hooper to continue the Regulatory process for establishing regulations for continuing education for independent dealer-operators. Joe Tate seconded. The motion carried unanimously. It was restated that it was the consensus of the Committee that staff should begin to draft regulations as discussed.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Benjamin C. Waters, Salesperson.** On June 3, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-722 (altered or forged license plates or decals, use as evidence of knowledge. In this case, 30 day tags), 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements) and 46.2-1575(2) (failure to comply with the law after receiving a written warning). Based on the information provided at the conference, the hearing officer recommended that Mr. Waters license be revoked and should not be considered for any reapplication.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation as well as assess a \$500 civil penalty. Robert Woodall seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Mahmoud A. Moshrefi, Salesperson.** Historical overview leading up to the formal hearing: On October 11, 2007, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Section 46.2-1575(13) (having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended that Mr. Moshrefi should be permitted to retain his salesperson's license. Mr. Gould reviewed the findings of fact and recommendation and not being bound by the recommendation of the hearing officer, he disagreed with him and revoked Mr. Moshrefi's salesperson's license. On February 29, 2008, staff received a letter from Mr. Moshrefi appealing Mr. Gould's decision and requested a formal hearing. On August 5, 2008, a formal hearing was conducted to address Mr. Moshrefi's appeal on the alleged violation(s) of VA Code Section 46.2-1575(13) (having been convicted of a felony). Based on the information provided at the hearing, the hearing officer recommended that Mr. Moshrefi be assessed a civil penalty of \$500 and be allowed to retain his salesperson's license for the present. The hearing officer recommended that Mr. Moshrefi's license be revoked if there are any future Code of Virginia violations, arrests, or Internal Revenue violations.

Bill Lehner, Mr. Moshrefi's attorney, spoke on his client's behalf.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Robert Woodall 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 10, 2008

The meeting adjourned at 10:02 a.m.

Meeting Summary
Advertising Committee
Monday, September 8, 2008

Chairman Lynn Hooper called the Advertising Committee meeting to order at 10:03 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Kevin Reilly, Vince Sheehy, Larry Shelor, Joe Tate and Jimmy Whitten (Absent: Jonathan Blank, Todd Haymore, Thomas Woodson) Other Board members present: Thomas Moorehead, David Lacy, Frank Pohanka, D.B. Smit, Wanda Lewark, Chip Lindsay, Robert Woodall. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The July 14, 2008 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 10, 2008.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:10 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, September 8, 2008

Chairperson Larry Shelor called the Transaction Recovery Fund Committee meeting to order at 10:14 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Henry Jones, David Lacy, Wanda Lewark and Frank Pohanka. (Absent: Jonathan Blank, Todd Haymore, and Pat Patrick). Other Board members present: Vince Sheehy, Thomas Moorehead, Jimmy Whitten, D.B. Smit, Chip Lindsay, Lynn Hooper, Kevin Reilly, Joe Tate, Robert Woodall. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office.

The July 14, 2008 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:

- **Catherine A. Maddox and Southern's Toy Store of Woodbridge.** On December 27, 2007, Ms. Maddox entered into a contract to purchase a 2004 Hummer H2 for a purchase price of \$31,999.00. In addition, the dealer collected \$279.00 processing fee, \$968.34 (3% sales tax), \$55.49 dealer license tax, \$88.50 license and title fee and \$2,050.00 for an extended service warranty, making her total purchase price of \$35,440.33. Her purchase was to be financed through Capitol One Auto Finance and she received her first set of 30 day tags with an expiration date of January 27, 2008. Eight days after Ms. Maddox took possession of the vehicle, it would not start. She had the vehicle towed back to Southern's. On January 8th and 9th, Southern's made various repairs to the vehicle and indicated that the vehicle was ready. Two days after that, the vehicle would not start again and she had the vehicle towed again back to Southern's. This time, the dealership provided Ms. Maddox with a loaner vehicle. Ms. Maddox continued to have numerous problems with the vehicle and at this point, she still had not received her permanent license plates.

On January 26, 2008, Southern's issued Ms. Maddox a second set of temporary tags with an expiration date of February 25, 2008. On February 22, 2008, the check engine light came on the vehicle. She took the vehicle to a local repair station and had to pay \$491.34 for a diagnostic test, labor and repairs to the transmission. On February 25, 2008, Ms. Maddox faxed a written complaint to the Motor Vehicle Dealer Board regarding Southern's. She also forwarded her Retail Installment Contract in connection with her purchase of the Hummer. By the expiration date of the second set of temporary tags, she still had not received permanent plates. She went by the dealership to obtain a third set, only to find that the dealership was closed. To no avail, Ms. Maddox tried calling the dealership in Virginia, as well as the dealership location in Maryland.

On February 28, 2008, Ms. Maddox went to the DMV in Dale City and learned the dealership never submitted any title documentation to have the vehicle registered/titled in her name. In order to obtain permanent plates, Ms. Maddox had to repay all the DMV fees of \$1,293.12 and provide proof of her purchase. DMV then registered the vehicle with a title held for evidence of ownership. On March 1, 2008, Ms. Maddox paid \$28.00 to have an emissions inspection done on the Hummer, which is one of the requirements on vehicles licensed in Northern Virginia. On March 5, 2008, the Dealer Board's Consumer Complaint Analyst responded to Ms. Maddox's complaint. After carefully reviewing her complaint, it was determined that the dealer had gone out of business. Staff provided Ms. Maddox with the name and address of the owner of Southernns in Woodridge. In addition, they provided her with a brochure that gave her step-by-step instructions on the process for individuals to follow when pursuing an issue through court and a brochure regarding the Transaction Recovery Fund.

On March 8, 2008, Ms. Maddox filed a Warrant in Debt in the Prince William County General District Court against Southernns. After filing the Warrant in Debt, Ms. Maddox had additional repairs that had to be made on the vehicle. On March 13, 2008, Ms. Maddox submitted a letter to the Dealer Board requesting a claim request form for the Recovery Fund. On March 17, the Board acknowledged and provided Ms. Maddox with information regarding the Fund and what documents was needed in order to submit a claim against the Fund. On March 31, 2008, the Board received, from Ms. Maddox, all the required documentation involving the purchase of the 2004 Hummer from Southernns. On April 12, 2008, due to the unreliably and expense of the repairs on the 2004 Hummer, Ms. Maddox traded-in the vehicle and purchased a 2005 Hummer from Moore's Cadillac in Chantilly, Virginia. Moore's gave her a trade-in allowance of \$20,400.00 minus the amount owed \$34,596.07 and the balance of \$14,196.07 was rolled over to the financing of the 2005 Hummer she purchased from them.

On April 24, 2008, the Prince William General District Court awarded Ms. Maddox a judgment against Southernns in the amount of \$1,812.46. The judgment amount was based on the DMV fees Ms. Maddox had to repay in the amount of \$1,293.12 plus two repairs totaling \$519.34. On June 13, the Board received the Judgment Claim Request form from Ms. Maddox with the Judgment Order, along with the appropriate paper work. On July 18, 2008, the Board staff contacted Moore's Cadillac and spoke with Lisa Castro regarding the 2004 Hummer that Ms. Maddox had traded-in to them. She indicated that Ms. Maddox had signed an affidavit to pay off the loan balance in order to obtain title. Moore's Cadillac paid off the loan and had wholesaled the vehicle to Leesburg Auto Finance and that Moore's was still trying to obtain a title. They will probably seek legal counsel in order to obtain the title.

After carefully reviewing all the documentation, staff requested that the Recovery Fund Committee and Full Board approve Ms. Maddox's claim in the amount of \$1,860.46, this amount is based on the judgment order in the amount of \$1,812.48, plus \$48.00 in costs. On August 11, 2008, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Ms. Maddox receive the total amount of \$1,860.46 as recommended by the Board staff.

Motion was made Henry Jones to accept the hearing officer's recommendation. David Lacy seconded. The motion carried unanimously.

- **William R. Brown and Dianne B. Brown and Alan Mullins Chrysler, Jeep, Inc.** On March 23, 2007, William and Dianne Brown purchased a 2007 Chevrolet Suburban from Alan Mullins Chrysler Jeep, Inc. with a sales price of \$41,800.00. The Brown's allege that they would purchase the vehicle on the condition that the sale is financed through Citizens Automobile Finance and that life and disability insurance on William R. Brown be purchased from Citizens at the same time. Alan Mullins agreed to the conditions and the Brown's signed the necessary documentation in order to purchase the Suburban. Several months later Citizens declined the life and disability insurance coverage on William R. Brown. Alan Mullins then offered to arrange for refinancing the Suburban through Wells Fargo Auto Finance and represented to the Brown's that Wells Fargo would write the life and disability insurance as well as pay-off the balance owed to Citizens in the amount of \$52,120.15.

On September 14, 2007, relying on Alan Mullins representations, the Brown's signed the necessary documentation in order to refinance the purchase of the Suburban through the dealership with a lien to Well Fargo. Wells Fargo then wired or sent funds to Alan Mullins in the amount of \$52,120.15 to refinance the 2007 Chevrolet Suburban. Alan Mullins accepted the funds and then wrote a check to Citizens for the same amount to pay off the loan balance. On September 26th and 27th, 2007 the check Alan Mullins had sent to Citizens to pay off the loan was returned for insufficient funds. On October 11, 2007, Citizens sent a letter to Mr. Brown notifying him that the check from Alan Mullins had been returned for insufficient funds and that the payment has been reversed from his loan and requested a check or money order to cover this payment. The Brown's pleaded with Alan Mullins to pay off the Citizens loan and on numerous occasions was told that the dealership was looking into it and that they would make the check good. To date, Alan Mullins has failed to make the check good or pay any amount of the \$52,120.15 to Citizens as promised. Unfortunately, the Brown's are now being held liable on the notes secured by both liens on their Suburban exceeding a total of \$104,000.00

Due to Alan Mullins misuse of the money obtained from Wells Fargo in order to pay the loan to Citizens, the Brown's eventually sought legal counsel in order to seek a civil judgment against the dealership. On February 8, 2008, Arthur Donaldson, attorney for the Brown's, submitted to the Dealer Board the Complaint that had been filed against Alan Mullins Chrysler Jeep, Inc. in the Circuit Court of Frederick County. On February 12, 2008, the Dealer Board staff acknowledged the Brown's claim and advised counsel that his client's claim would be liable through the dealer's surety bond, thereafter the Fund would be liable for the next \$75,000.00 in those cases in which the Fund itself may be liable. On March 6, 2008, the Dealer Board received a letter from the dealer's surety bond company (Universal Underwriters Insurance Company) that they had received a claim from counsel on behalf of the Brown's. On April 16, 2008, the Dealer Board received a letter from counsel advising the Dealer Board that his client's had received a payment of \$25,000.00 from the dealer's surety bond. Counsel on behalf of the Brown's is now requesting the maximum amount allowable from the Fund (\$20,000.00) toward the remaining portion of the judgment.

On April 22, 2008, the Dealer Board received from counsel documentation supporting his client's claim against the Fund. In April 2008 and July 2008, the Dealer Board staff contacted counsel for the Brown's and requested additional documentation pertaining to the Retail Installment Contract and Buyers Order and a copy of the check from Citizens Auto Finance to Alan Mullins Chrysler Jeep.

On July 31, 2008, after carefully reviewing the findings of fact, the conclusion of the law, the Dealer Board staff sent a letter to counsel indicating that if appeared that his client's claim may not be compensable for any additional payment from the Fund as the Brown's have already received an amount that exceeds the statutory limit. However, should counsel and his client's wish to proceed with filing a claim against the Fund they may certainly do so. On August 6, 2008, the Dealer Board spoke with counsel and he did indicate that he would like to proceed with the Informal Fact-Finding Conference regarding his client's claim against the Fund.

After reviewing the case, there are several issues of concerns regarding the claim. First, at the last Board meeting, the Board made a decision that the Fund did not allow the "stacking" of claims and therefore if a surety bond company paid in excess of \$20,000.00 on a claim, then the Fund was not liable for anymore. Secondly, the Board needs to determine where the claim is compensable under the language of §46.2-1527.3, a claim is only compensable if it is for "any loss or damage in connection with the purchase or lease of a motor vehicle by reason of any fraud" by a licensed dealer. There is no allegation of fraud with the purchase and initial financing of the vehicle with Citizens on March 23, 2007. It was only when the application for the life and disability insurance was denied and the transaction was refinanced on September 14, 2007 with Wells Fargo. The fraud was in the refinancing and that Alan Mullins absconded with the money received from Wells Fargo.

On August 25, 2008, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Mr. Mullins have his licenses or certificates revoked until the judgment is satisfied and also be assessed a civil penalty of \$1,000. Additionally, the hearing officer could not make a payment recommendation to the Board with so many variables in the mix.

Motion was made David Lacy to table this issue indefinitely. Frank Pohanka 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 10, 2008.

The meeting adjourned at 10:28 a.m.