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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS
CONDUCTED VIA VIDEOCONFERENCE**

TIME: 10:30 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

September 15, 2020

1 State Board of Vehicle Manufacturers,
2 Dealers, and Salespersons
3 September 15, 2020
4
5

6 BOARD MEMBERS:
7

8 Dan G. Murphy III, Chairman
9 Kirk A. Davis, Secretary - Absent
10 K. Kalonji Johnson, Commissioner, Bureau of
11 Professional and Occupational Affairs
12 Randall Derr, Professional Member
13 Kyla R. Djannie, Deputy Attorney General, Consumer
14 Protection Representative, Office of Attorney
15 General
16 Steve T. Fretz, Professional Member
17 Neal L. Hufford Jr., Professional Member - Absent
18 George F. Mermon, Professional Member
19 William M. Mohler, Professional Member - Absent
20 Donald J. Stoy, Public Member
21 Dale J. Yingst, Professional Member
22
23

24 BUREAU PERSONNEL:
25

26 C. William Fritz II, Esquire, Board Counsel
27 Monty J. Batson, Esquire, Board Prosecution Liaison
28 Dean F. Picarella, Esquire, Senior Counsel, Bureau of
29 Professional and Occupational Affairs
30 Heather J. McCarthy, Esquire, Board Prosecutor
31 Janice Cline, Board Administrator
32 Theodore Stauffer, Executive Secretary, Bureau of
33 Professional and Occupational Affairs
34 Andrew LaFratte, MPA, Policy Office, Department of
35 State
36 Marc Farrell, Deputy Policy Director, Department of
37 State
38
39

40 ALSO PRESENT:
41

42 Chad W. Marsar, Esquire, General Counsel, Pennsylvania
43 Automotive Association
44
45
46
47
48
49
50

1 ***

2 State Board of Vehicle Manufacturers,
3 Dealers, and Salespersons
4 September 15, 2020

5 ***

6 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
7 9:00 a.m. the Board entered into Executive Session
8 with C. William Fritz II, Esquire, Board Counsel, for
9 the purpose of conducting quasi-judicial deliberations
10 and to receive advice of Counsel. The Board returned
11 to open session at 10:00 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Vehicle Manufacturers, Dealers, and
15 Salespersons was held on Tuesday, September 15, 2020.
16 Dan G. Murphy III, Chairman, called the meeting to
17 order at 10:30 a.m.

18 K. Kalonji Johnson, Commissioner, Bureau of
19 Professional and Occupational Affairs, was not present
20 at the commencement of the meeting.

21 ***

22 Approval of minutes of the August 4, 2020 meeting

23 CHAIRMAN MURPHY:

24 Approval of the minutes? Motion to
25 approve the minutes.

1 MR. STOY:

2 So moved.

3 CHAIRMAN MURPHY:

4 So moved and seconded.

5

6 Roll call.

7

8 Kyla Djannie, aye; George Mermon, aye;

9 Dale Yingst, aye; Steve Fretz, aye;

10 Donald Stoy, aye; Dan Murphy, aye.

11 [The motion carried. Mr. Stauffer, on behalf of
12 Commissioner Johnson, abstained from voting on the
13 motion.]

14 ***

15 [Theodore Stauffer, Executive Secretary, Bureau of
16 Professional and Occupational Affairs, noted the
17 meeting was being recorded, and those who remained on
18 the call were giving their consent to being recorded.]

19 ***

20 Roll Call

21 [Dan G. Murphy III, Chairman, requested a roll call of
22 everybody in attendance.]

23 ***

24 [K. Kalonji Johnson, Commissioner, Bureau of
25 Professional and Occupational Affairs, entered the

1 meeting at 10:35 a.m.]

2 ***

3 Report of Prosecutorial Division

4 [Monty J. Batson, Esquire, Board Prosecutor, presented
5 the Consent Agreement for Case No. 18-60-003957, Case
6 No. 19-60-004233, and Case No. 18-60-009304.]

7 ***

8 MR. FRITZ:

9 The Board would entertain a motion to
10 approve the Consent Agreement at Case
11 No. 18-60-003957.

12 MR. YINGST:

13 So moved.

14 MR. FRETZ:

15 Second.

16 CHAIRMAN MURPHY:

17 Roll call.

18
19 Kyla Djannie, aye; George Mermon, aye;
20 Randall Derr, aye; Dale Yingst, aye;
21 Steve Fretz, aye; Donald Stoy, aye; Dan
22 Murphy, aye.

23 [The motion carried unanimously. The Respondent's
24 name is AutoPROVED.]

25 ***

1 No. 18-60-009304.

2 CHAIRMAN MURPHY:

3 Motion.

4 MR. YINGST:

5 Second.

6 CHAIRMAN MURPHY:

7 Roll call.

8

9 Kyla Djannie, aye; George Mermon, aye;
10 Donald Stoy, aye; Randall Derr, aye;
11 Steve Fretz, aye; Dale Yingst, aye; Dan
12 Murphy, aye; K. Kalonji Johnson, aye.

13 [The motion carried unanimously. The Respondent's
14 name is Chesaco RV.]

15 ***

16 Report of Board Counsel

17 [C. William Fritz II, Esquire, Board Counsel, provided
18 a status of cases report for the Board's review. He
19 noted the proposed adjudication for Rebecca Acosta and
20 a hearing scheduled for the next meeting. He
21 requested Board members advise him of any recusals.
22 He stated that all of the protests are in limbo and
23 stayed for mediation. He mentioned a second protest
24 was filed by Transteck, Inc., with different
25 dealerships against the same manufacturer, which is

1 stayed for mediation. He noted the active protest
2 requests of both parties to be granted a Motion for
3 Continuance and will be addressed at the beginning of
4 next year.

5 Mr. Fritz referred to 16A-6015 regarding the
6 general fee increase regulation sent out as an
7 exposure draft for stakeholder comments. He mentioned
8 comments received from the Pennsylvania Automotive
9 Association (PAA) will be discussed later during the
10 meeting.

11 Mr. Fritz referred to 16A-6011 regarding the
12 proposed fee to out-of-state RV dealers and is working
13 on questions received from the Office of General
14 Counsel (OGC) and Office of Budget and Policy.

15 Mr. Fritz noted a hearing scheduled for October
16 27, 2020. He informed the Board of a request to
17 change the October 27th Board meeting date, where the
18 Board agreed to rescheduling the meeting to Thursday,
19 October 29, 2020.]

20

21 Adjudication and Order for Approval

22 MR. FRITZ:

23

24

25

The Board would entertain a motion
approving the Adjudication and Order for
Cory Darnell Johnson, Case No. 19-60-

1 015737.

2 MR. MERMON:

3 So moved.

4 MR. DERR:

5 Second.

6 CHAIRMAN MURPHY:

7 Roll call.

8

9 Kyla Djannie, aye; George Mermon, aye;
10 Randall Derr, aye; Dale Yingst, aye;
11 Steve Fretz, aye; Donald Stoy, aye; Dan
12 Murphy, aye.

13 [The motion carried unanimously.]

14 ***

15 Proposed Adjudications and Orders

16 MR. FRITZ:

17 The Board would entertain a motion
18 adopting the proposed Adjudication and
19 Order in the case of Brodie Duffin, Case
20 No. 19-60-005105.

21 CHAIRMAN MURPHY:

22 Motion?

23 MR. DERR:

24 So moved.

25 MR. FRETZ:

1 Second.

2 CHAIRMAN MURPHY:

3 Roll call.

4

5 Kyla Djannie, aye; George Mermon, aye;

6 Randall Derr, aye; Dale Yingst, aye;

7 Steve Fretz, aye; Donald Stoy, aye; Dan

8 Murphy, aye.

9 [The motion carried unanimously.]

10

11 MR. FRITZ:

12 The Board would entertain a motion
13 adopting the proposed Adjudication and
14 Order and substituting the Board Order
15 in the Matter of the Commonwealth v.
16 William Brown, Case No. 19-60-015923.

17 CHAIRMAN MURPHY:

18 Motion?

19 MR. FRETZ:

20 So moved.

21 MR. YINGST:

22 Second.

23 CHAIRMAN MURPHY:

24 Roll call.

25

1 Kyla Djannie, aye; George Mermon, aye;
2 Randall Derr, recuse; Dale Yingst, aye;
3 Steve Fretz, aye; Donald Stoy, aye; Dan
4 Murphy, aye.

5 [The motion carried. Randall Derr recused himself
6 from deliberations and voting on the motion.]

7 ***

8 Motion to Deem Facts Admitted

9 MR. FRITZ:

10 The Board would entertain a motion to
11 grant the following Motions to Deem
12 Facts Admitted and directing Board
13 counsel to draft an Adjudication and
14 Order in the Matter of the Commonwealth
15 v. Austin Dean Gooch, Case No. 19-60-
16 005708 and Commonwealth v. Angelo
17 Manganello, Case No. 19-60-006260.

18 CHAIRMAN MURPHY:

19 Motion?

20 MR. YINGST:

21 So moved.

22 MR. DERR:

23 Second.

24 CHAIRMAN MURPHY:

25 Roll call.

1

2

Kyla Djannie, aye; George Mermon, aye;

3

Randall Derr, aye; Dale Yingst, aye;

4

Steve Fretz, aye; Donald Stoy, aye; Dan

5

Murphy, aye.

6

[The motion carried unanimously.]

7

8

[C. William Fritz II, Esquire, Board Counsel, referred

9

to 16A-6015 regarding the general fee increase, noting

10

comments from PAA.

11

Chad W. Marsar, Esquire, General Counsel,

12

Pennsylvania Automotive Association, commented that

13

renewal fees are appropriate but believed application

14

fee increases to be excessive and requested the Board

15

to consider a more graduated increase.

16

Chairman Murphy commented that there was a study

17

almost three years ago by Saint Francis University

18

comparing 21 states and other boards. He noted being

19

on the committee with Commissioner Johnson and

20

believed Governor Wolf published the results, where

21

Pennsylvania was at or below the fees of surrounding

22

states, and Vehicle Board fees were lower than

23

everybody else. He also mentioned this to be driven

24

by the budget department and not necessarily the

25

Board.

1 Commissioner Johnson reminded all of the
2 statutory requirement to make sure the Board maintains
3 an adequate financial structure regardless of what the
4 comparative evaluations are to other states. He noted
5 graduated fee increases were considered, but the
6 budget office generated the numbers and determined the
7 lowest acceptable increase to still allow continued
8 Board function.

9 Mr. Stoy questioned whether PPA had any dealer
10 applicant state that the \$75 difference in the
11 application cost would absolutely be a barrier to them
12 being able to go into business.

13 Mr. Marsar explained that it would not be a
14 barrier for a new dealer to go into business, but the
15 175% fee increase seems drastic from PPA's
16 perspective. He stated that PPA is in favor of
17 gradual increases over time but not a 175% increase
18 after not raising fees in 20 years.

19 Chairman Murphy explained that some of the red
20 tape involved when trying to change fees makes it
21 almost prohibitive on a gradual basis every year. He
22 acknowledges the fee increase should have been done
23 over time noted being constrained by regulations,
24 policies, and procedures.

25 Mr. Marsar reiterated that PPA numbers are based

1 off of the Consumer Price Index (CPI) and believed fee
2 increases should be based more on CPI increases versus
3 budgetary needs.

4 Chairman Murphy stated the Board met with the
5 budget office three or four times throughout the
6 assessment and noted the Board's need to be fair,
7 equitable, and self-sufficient.]

8 ***

9 Report of Board Chairman

10 [Dan G. Murphy III, Chairman, addressed Board terms
11 and vacancies, including the Pennsylvania Department
12 of Transportation (PennDOT). He noted five Board
13 member terms will be ending next year with one member
14 not taking a second term. He noted the need for other
15 appointments or extended terms to cover the deficit.]

16 ***

17 Report of Commissioner

18 [K. Kalonji Johnson, Commissioner, Bureau of
19 Professional and Occupational Affairs, noted working
20 with PennDOT to identify a candidate for the position.
21 He mentioned working closely with Governor Wolf's
22 Office to make sure there is no interruption of Board
23 activities going into 2021. He commented that the
24 decision ultimately falls on the Senate, and his
25 ability to control term limits was shadowed by the

1 fact that it is a legislative function.

2 Mr. Murphy commented on being on the licensing
3 committee.

4 Commissioner Johnson stated the Office of Policy
5 continues to build on the original licensing report
6 and stay in touch with the Department of Labor who
7 awarded the grant in 2018. He mentioned a refresh of
8 the licensing report that expands into all 50 states.

9 Commissioner Johnson reminded everybody that the
10 assessment and process for determining what the
11 appropriate fee structure is for licensees is not
12 based solely on a comparative analysis and is based
13 primarily on ensuring the needs as an administrative
14 body are met. He stated the numbers are not
15 reflective of anything other than the bare minimum
16 required to continue to function.

17 Commissioner Johnson welcomed Kyla Djannie to the
18 Board and thanked her taking on the obligation in the
19 role.]

20 ***

21 Report of Board Administrator - No Report

22 ***

23 Application Review

24 MR. FRITZ:

25 The Board would entertain a motion

1 granting the Application of Wayne Toney,
2 granting his application subject to
3 probation concurrent with criminal
4 probation.

5 CHAIRMAN MURPHY:

6 Motion.

7 MR. YINGST:

8 Second.

9 CHAIRMAN MURPHY:

10 Roll call.

11

12 Kyla Djannie, aye; George Mermon, aye;
13 Randall Derr, aye; Dale Yingst, aye;
14 Steve Fretz, aye; Donald Stoy, aye; Dan
15 Murphy, aye; K. Kalonji Johnson, aye.

16 [The motion carried unanimously.]

17

18 MR. FRITZ:

19 The Jose Delgado Application will be
20 tabled until the next meeting.

21

22 MR. FRITZ:

23 The Board would entertain a motion to
24 provisionally deny the Application of
25 Abdulsalam Moustafa for reasons that

1 We are adjourned.

2 [The motion carried unanimously.]

3 ***

4 [The State Board of Vehicle Manufacturers, Dealers,
5 and Salespersons Meeting adjourned at 11:19 a.m.]

6 ***

7

8 CERTIFICATE

9

10 I hereby certify that the foregoing summary
11 minutes of the State Board of Vehicle Manufacturers,
12 Dealers and Salespersons meeting, was reduced to
13 writing by me or under my supervision, and that the
14 minutes accurately summarize the substance of the
15 State Board of Vehicle Manufacturers, Dealers and
16 Salespersons meeting.

17

18

19


Kelly Gallick,

20

21

Minute Clerk

22

Sargent's Court Reporting

23

Service, Inc.

24

25

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS, AND SALESPERSONS
REFERENCE INDEX

September 15, 2020

	TIME	AGENDA
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7		
8		
9		
10	9:00	Executive Session
11	10:00	Return to Open Session
12		
13	10:30	Official Call to Order
14		
15	10:31	Roll Call
16		
17	10:31	Approval of Minutes
18		
19	10:35	Report of Prosecutorial Division
20		
21	10:43	Report of Board Counsel
22		
23	11:11	Report of Board Chairman
24		
25	11:12	Report of Commissioner
26		
27	11:17	Application Review
28		
29	11:19	Adjournment
30		
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