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

FINAL MINUTES

MEETING OF:

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

TIME: 9:44 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

October 23, 2018
State Board of Vehicle Manufacturers,
Dealers and Salespersons
October 23, 2018

BOARD MEMBERS:

Dan G. Murphy III, Chairman
Kirk A. Davis, Vice Chairman
Ian J. Harlow, Commissioner of Professional and
Occupational Affairs – Absent
Steve T. Fretz, Professional Member
Neal L. Hufford Jr., Professional Member
David Tully, Attorney General Representative
Robert M. Shaffer, Department of Transportation
Representative
George F. Mermon, Professional Member
William M. Mohler, Professional Member – Absent
Donald J. Stoy, Public Member

BUREAU PERSONNEL:

Juan Ruiz, Esquire, Board Counsel
Shana M. Walter, Esquire, Board Counsel
Amanda N. Wojciechowski, Board Prosecution Liaison
Glenn P. Masser, Esquire, Board Prosecutor
Erin Fure, Esquire, Board Prosecutor
Angela B. Lucci, Esquire, Board Prosecutor
Cynthia K. Montgomery, Esquire, Deputy Chief
Counsel
Janice Cline, Board Administrator

ALSO PRESENT:

Kimberly A. Mattis, Director, Bureau of Finance and
Operations
Kimberly Adams, Chief of Fiscal Management, Bureau of
Finance and Operations
John F. Mizner, Esquire, Mizner Law Firm

Sargent's Court Reporting Service, Inc.
(814) 536-8908
The regularly scheduled meeting of the State Board of Vehicle Manufacturers, Dealers, and Salespersons was held on Tuesday, October 23, 2018. Dan G. Murphy III, Chairman, called the meeting to order at 9:44 a.m.

The Pledge of Allegiance was recited. Roll call was taken.

Approval of Minutes of the September 18, 2018 meeting.

CHAIRMAN MURPHY:

Approval of the minutes?

MR. MERMON:

So moved.

MR. DAVIS:

Second.

CHAIRMAN MURPHY:

So moved and seconded.

Roll call.
David Tully, aye; George Mermon, aye;
Kirk Davis, aye; Neal Hufford Jr., aye;
Steve Fretz, aye; Donald Stoy, abstain;
Robert Shaffer, abstain; Dan Murphy,
aye.

[The motion carried. Donald Stoy and Robert Shaffer abstained from voting on the motion.]

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Appointment - Bureau of Enforcement and Investigation (BEI) Presentation

[John Soprano, Director, Bureau of Enforcement and Investigation (BEI), stated BEI conducts investigations for 29 Boards and Commissions for the Department of State. He commented that out of the 7,487 vehicle dealerships registered in Pennsylvania, 3,260 have been inspected and 381 are currently being investigated.

Mr. Soprano delineated the regional offices in Pittsburgh, Philadelphia, Harrisburg, and Scranton, noting a total of 95 investigators, 46 inspectors, and 8 vacancies in the process of being filled. He discussed routine and nondirected routine inspections with a benchmark of two years for nearly every profession.

Mr. Soprano explained the BEI inspectors are
responsible for all of the Boards with the exception of the Pharmacy Board and Funeral Board, each having two specialized inspectors. He also noted 9,000 inspections a year are conducted for the Board of Cosmetology.]

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Report of Prosecutorial Division

[Erin Fure, Esquire, Board Prosecutor, presented a Consent Agreement for File No. 16-60-11245.]

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[Glenn P. Masser, Esquire, Board Prosecution Liaison, presented a Consent Agreements for File No. 17-60-10975.]

***

[George F. Mermon, Professional Member, exited the meeting at 9:50 a.m. and reentered the meeting at 9:53 a.m.]

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Report of Board Counsel

[Juan Ruiz, Esquire, Board Counsel, noted the continuance of a hearing scheduled for later in the meeting. He also noted the Bureau of Finance and Operations presentation, two final Adjudications and Orders, three proposed Adjudications and Orders, and three Motions to Enter Default and Deem Facts Admitted.
for discussion in Executive Session.

Mr. Ruiz stated Cynthia Montgomery, Esquire, Deputy Chief Counsel, would speak with the Board in Executive Session concerning personnel matters.

Mr. Ruiz informed the Board of the settlement of the protest case on the agenda.] ***

[The Board recessed from 9:57 a.m. until 10:04 a.m.] ***

[A Formal Hearing was held from 10:04 a.m. until 10:46 a.m. in the Matter of the Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs vs. Gerald C. Munsch, Case No. 17-60-11449.] ***

[The Board recessed from 10:46 a.m. until 10:49 a.m.] ***

Application Review – Informal Conferences

[The Applicant Review Committee made the following recommendations regarding the following Criminal Conviction Applications: Gary Allen Resch, approved with five years’ probation; Levi James Morton, approved with probation concurrent with his probation; Hassan Aly Elghawy, approved without restrictions; Steven Hartsock, approved without restrictions; Brandon Markeith Stern, approved with two years’
probation; Neal Gregory Pistiner, approved with no restrictions; Joseph A. Stevens, no show; Anthony Michael Vitelli, approved with no restrictions; Warren Ernest Jr., no show; Frank Joseph Swick, approved with no restrictions; Sean Allen Shockley, approved with no restrictions; Kirsten Marie Parks, approved with probation until renewal; Andrew N. Hermiz, no show; Michael Joseph Rauch Sr., approved with no restrictions; and John M. Leone, no show.]

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Report of Board Chair – No Report

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Report of Commissioner – No Report

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Report of Board Administrator – No Report

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[The Board recessed from 10:52 a.m. until 11:01 a.m.]

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Appointment – Bureau of Finance and Operations

Presentation

[Kimberly Adams, Chief of Fiscal Management, Bureau of Finance and Operations, and Kimberly A. Mattis, Director, Bureau of Finance and Operations, presented before the Board.

Chairman Murphy discussed the increased costs to
the Department related to inspections and the burden placed on the Department by allowing salesmen to move from one dealership to another with a common ownership. He noted a loss of income by not seeking a sales license from manufacturer representatives.

Ms. Adams referred members to the information on revenue based on the current licensed population for FY18-19 and FY19-20. She projected the Board going into the red with revenue just under $6 million and expenses just over $6 million. She stated the Board currently had approximately 44,100 licensees.

Ms. Adams reviewed the expenses and revenue history with the biggest changes in enforcement and investigation as well as legal services due to resolving old legal cases. She referred to bar graphs reflecting the bulk of the Board's revenue and expenses. There was discussion regarding a revenue surplus for the current fiscal year due to license renewals. She noted a negative balance in FY21-22 and a positive balance in FY22-23.

Ms. Adams discussed changes following the increases in fees in the past compared to the Board’s decision in 2017 and the direction of the Independent Regulatory Review Commission (IRRC) to the Board. She suggested that the Board's approval of a 30 percent
increase in renewal fees was too much and will not get past IRRC. An increase of 15 percent to 20 percent would be more appropriate.

Mr. Ruiz commented on the importance of approving a fee increase percentage that would be approved by IRRC.

Ms. Adams suggested an application fee increase from $25 to $65, noting that BPOA did the cost analysis and determined $65 to process. It was noted that small tweaks to renewal fees and changes to the application fee would be sufficient for the Board to move in the right direction. There was discussion regarding the projected results of a 15, 20 and 30 percent increase. The Board will revisit the issue at a later meeting.]

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 11:40 a.m. the Board entered into Executive Session with Juan Ruiz, Esquire, Board Counsel, and Shana M. Walter, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations and to receive advice of Counsel. The Board returned to open session at 12:58 p.m.]

***

MR. RUIZ:
The Board was just in Executive Session conducting quasi-judicial deliberations on a number of matters currently pending before the Board and to discuss personnel matters.

***

[A Formal Hearing was held from 1:02 p.m. until 1:13 p.m. in the Matter of the Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs vs. Josue T. Vega; File No. 14-60-05174, Docket No. 1545-60-17.]

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 1:14 p.m. the Board entered into Executive Session with Juan Ruiz, Esquire, Board Counsel, and Shana M. Walter, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations and to receive advice of Counsel. The Board returned to open session at 1:16 p.m.]

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MOTIONS

MR. RUIZ:

The Board was just in Executive Session conducting quasi-judicial deliberations concerning the hearing on Josue T. Vega.
Is there a motion to grant reinstatement to Josue T. Vega?

MR. TULLY:
So moved.

MR. MERMON:
Second.

CHAIRMAN MURPHY:
So moved and seconded.

Roll call.

David Tully, aye; George Mermon, aye; Kirk Davis, aye; Neal Hufford Jr., aye; Steve Fretz, aye; Donald Stoy, aye; Robert Shaffer, aye; and Dan Murphy, aye.

[The motion carried unanimously.]

***

MR. RUIZ:
Is there a motion to approve the Consent Agreements of File No. 16-60-11245 and File No. 17-60-10975?

MR. DAVIS:
So moved.

MR. SHAFFER:
Second.

CHAIRMAN MURPHY:

So moved and seconded.

Roll call.

David Tully, aye; George Mermon, aye; Kirk Davis, aye; Neal Hufford Jr., aye; Steve Fretz, aye; Donald Stoy, aye; Robert Shaffer, aye; and Dan Murphy, aye.

[The motion carried unanimously. The Respondent’s name for File No. 16-60-11245 is **Manuel E. Ricar-Nuesi**. The Respondent’s name for File No. 17-60-10975 is **Kaddian Motors LLC.**]

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MR. RUIZ:

Is there a motion to approve the final Adjudications and Orders in the case of **Rory D. Nero Jr.** at File No. 15-60-12488 and **Louis Pavoni Jr.** at File No. 16-60-05833?

MR. DAVIS:

So moved.

MR. TULLY:
Second.

CHAIRMAN MURPHY:

So moved and seconded.

Roll call.

David Tully, aye; George Mermon, aye; Kirk Davis, aye; Neal Hufford Jr., aye; Steve Fretz, aye; Donald Stoy, aye; Robert Shaffer, aye; and Dan Murphy, aye.

[The motion carried unanimously.]

***

MR. RUIZ:

Is there a motion to approve the proposed Adjudications and Orders and adopt as the Board’s final orders in the case of Jesse P. Culley at File No. 17-60-01135, Marc William Platowsky at File No. 15-60-07139, and Daniel J. Sheffield at File No. 17-60-10618?

MR. MERMON:

So moved.

MR. STOY:

Second.
CHAIRMAN MURPHY:

So moved and seconded.

Roll call.

David Tully, aye; George Mermon, aye; Kirk Davis, aye; Neal Hufford Jr., aye; Steve Fretz, aye; Donald Stoy, aye; Robert Shaffer, aye; and Dan Murphy, aye.

[The motion carried unanimously.]

***

MR. RUIZ:

Is there a motion to grant the Motions to Deem Facts Admitted in the cases of Louis Domiano III at File No. 15-60-05413, Frank P. Fricchione at File No. 16-60-00127, and Wesley D. Middleton at File No. 16-60-10280?

MR. MERMON:

So moved.

MR. SHAFFER:

Second.

CHAIRMAN MURPHY:

So moved and seconded.
Roll call.

David Tully, aye; George Mermon, aye; Kirk Davis, aye; Neal Hufford Jr., aye; Steve Fretz, aye; Donald Stoy, aye; Robert Shaffer, aye; and Dan Murphy, aye.

[The motion carried unanimously.]

***

MR. RUIZ:

Is there a motion to approve the option for a 20 percent increase of the renewal fees across the board as presented to us by BFO today and directing Counsel to draft the regulation package?

MR. STOY:

So moved.

MR. DAVIS:

Second.

CHAIRMAN MURPHY:

So moved and seconded.

Roll call.
David Tully, aye; George Mermon, aye;
Kirk Davis, aye; Neal Hufford Jr., aye;
Steve Fretz, aye; Donald Stoy, aye;
Robert Shaffer, aye; and Dan Murphy, aye.

[The motion carried unanimously.]***

[Robert M. Shaffer, Department of Transportation Representative, exited the meeting during Executive Session.]***

Adjournment

CHAIRMAN MURPHY:
    Motion to adjourn.

MR. TULLY:
    So moved.

MR. MERMON:
    Second.

[The State Board of Vehicle Manufacturers, Dealers, and Salespersons Meeting adjourned at 1:19 p.m.]***
CERTIFICATE

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

Seth R. Baier,
Minute Clerk
Sargent’s Court Reporting Service, Inc.
STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS
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