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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
VIA VIDEOCONFERENCE**

TIME: 10:31 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

September 27, 2021

1 State Board of Vehicle Manufacturers,
2 Dealers, and Salespersons
3 September 27, 2021
4
5

6 BOARD MEMBERS:
7

8 Kirk A. Davis, Chairman
9 Randall Derr, Secretary, Professional Member
10 K. Kalonji Johnson, Commissioner, Bureau of
11 Professional and Occupational Affairs
12 Mark Wolfe, Office of Attorney General, Consumer
13 Protection Representative
14 Steve T. Fretz, Professional Member - Absent
15 Angel Layton, Department of Transportation
16 Representative
17 George F. Mermon, Professional Member
18 Dale J. Yingst, Professional Member
19 Mark Baer, Professional Member
20 Irving Stein, Professional Member
21 Joseph Bizzarro, Professional Member
22
23

24 BUREAU PERSONNEL:
25

26 C. William Fritz II, Esquire, Board Counsel
27 Peter D. Kovach, Esquire, Board Prosecution Liaison
28 Heather J. McCarthy, Esquire, Board Prosecutor
29 Christopher K. McNally, Esquire, Board Prosecutor
30 David N. Smith, Esquire, Board Prosecutor
31 Timothy J. Henderson, Esquire, Board Prosecutor
32 Janice Cline, Board Administrator
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1 ***

2 State Board of Vehicle Manufacturers,
3 Dealers, and Salespersons
4 September 27, 2021

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
10 deliberations. The Board returned to open session at
11 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Vehicle Manufacturers, Dealers, and
15 Salespersons was held on Monday, September 27, 2021.
16 Kirk K. Davis, Chairman, Professional Member, called
17 the meeting to order at 10:31 a.m.

18 ***

19 [C. William Fritz II, Esquire, Board Counsel, noted
20 the Board met in Executive Session prior to open
21 session and conducted quasi-judicial deliberations.

22 Mr. Fritz also noted the meeting was being
23 recorded, and those who continued to participate were
24 giving their consent to be recorded.]

25 ***

1 Roll Call

2 [A roll call of Board members was taken by Mr. Fritz.]

3 ***

4 [K. Kalonji Johnson, Commissioner, Bureau of
5 Professional and Occupational Affairs, exited the
6 meeting at 10:31 a.m.]

7 ***

8 Approval of minutes of the August 3, 2021 meeting

9 CHAIRMAN DAVIS:

10 I am asking for approval of last month's
11 meeting minutes.

12 Do we have a motion for that?

13 MR. BAER:

14 So moved.

15 CHAIRMAN DAVIS:

16 Do we have a second?

17 MR. YINGST:

18 Second.

19 CHAIRMAN DAVIS:

20 Roll call.

21

22 Wolfe, aye; Mermon, aye; Baer, aye;

23 Derr, abstain; Yingst, aye; Layton, aye;

24 Stein, aye; Bizzaro, aye; Davis, aye.

25 [The motion carried. Mr. Derr abstained from voting

1 on the motion.]

2

3 Report of Prosecutorial Division

4 [Peter D. Kovach, Esquire, Board Prosecution Liaison,
5 presented the Consent Agreements for Case No. 20-60-
6 013210 and Case No. 21-60-007576.]

7

8 [Heather J. McCarthy, Esquire, Board Prosecutor, on
9 behalf of James Ritchie Espino Ostman, Esquire, Board
10 Prosecutor, presented the Consent Agreement for Case
11 No. 18-60-03407.]

12

13 [Christopher K. McNally, Esquire, Board Prosecutor,
14 presented the Consent Agreements for Case Nos. 21-60-
15 013778 & 21-60-009776. He noted Ms. Layton and Mr.
16 Yingst were recused from this matter.

17 Mr. McNally presented the Consent Agreements for
18 Case No. 19-60-007760, Case No. 19-60-014854, and Case
19 No. 19-60-015117.]

20

21 [C. William Fritz II, Esquire, Board Counsel, noted
22 being informed by Mr. Smith just before the Board
23 meeting that he was requesting the Consent Agreement
24 for Case Nos. 21-60-000058 & 21-60-000059 be tabled
25 for the time being.]

1 ***

2 [Timothy J. Henderson, Esquire, Board Prosecutor,
3 presented the Consent Agreement for Case No. 19-60-
4 001490.]

5 ***

6 [K. Kalonji Johnson, Commissioner, Bureau of
7 Professional and Occupational Affairs, reentered the
8 meeting at 11:03 a.m.]

9 ***

10 Report of Board Counsel

11 [C. William Fritz II, Esquire, Board Counsel, informed
12 the Board that the hearing scheduled for today has
13 been continued to the next Board meeting. He referred
14 to the Status of Cases Report, noting 5 additional
15 files have been opened in addition to the 71 open
16 files as of September 14, 2021. He reported a total
17 of six open protest cases with one active protest case
18 and that Mr. Stein has very graciously volunteered to
19 sit with him during that hearing.

20 Mr. Fritz stated the fee increase regulation is
21 almost across the finish line, but the Board needs to
22 look at some of the comments from the Independent
23 Regulatory Review Commission (IRRC).

24 Mr. Fritz noted that the out-of-state RV fee
25 regulation is almost totally complete.

1 Mr. Fritz commented that the motion for
2 continuance was granted for the scheduled hearing
3 after the status of cases was given to the Board
4 administrator for the agenda and had been moved to
5 November 15, 2021. He also informed the Board of a
6 hearing scheduled for the December meeting with Mr.
7 Kovach.]

8 ***

9 MOTIONS

10 Report of Board Counsel - Adjudications and Orders for
11 Approval

12 MR. FRITZ:

13 The Board would entertain a motion to
14 approve the following Adjudications and
15 Orders: Commonwealth v. Brandon Varner,
16 Case No. 19-60-017116; Commonwealth v.
17 Justin Vanderhoff, Case No. 19-60-
18 016143; Commonwealth v. Ryan Wood, Case
19 No. 19-60-04735; Commonwealth v. Chris
20 Neal, Case No. 21-60-004004;
21 Commonwealth v. Allyse Hauser, Case No.
22 18-60-01600.

23 MR. WOLFE:

24 So moved.

25 MR. DERR:

1 Second.

2 CHAIRMAN DAVIS:

3 Roll call.

4

5 Wolfe, aye; Mermon, aye; Derr, aye;

6 Baer, aye; Yingst, aye; Layton, aye;

7 Stein, aye; Bizzarro, aye; Davis, aye.

8 [The motion carried unanimously.]

9

10 MR. FRITZ:

11 The Board would entertain a motion to

12 approve the Consent Agreement at Case

13 No. 20-60-013210.

14 MR. DERR:

15 So moved.

16 MR. MERMON:

17 Second.

18 CHAIRMAN DAVIS:

19 Roll call.

20

21 Wolfe, aye; Mermon, aye; Derr, aye;

22 Baer, aye; Yingst, aye; Layton, aye;

23 Stein, aye; Davis, aye.

24 [The motion carried unanimously. The Respondent's
25 name is David Limonnik.]

1

2 [Joseph Bizzarro had technical difficulty.]

3

4 MR. FRITZ:

5

6

7

The Board would entertain a motion to
approve the Consent Agreement at Case
No. 21-60-007576.

8 MR. DERR:

9

So moved.

10 MR. MERMON:

11

Second.

12 CHAIRMAN DAVIS:

13

Roll call.

14

15

Wolfe, aye; Mermon, aye; Derr, aye;

16

Baer, aye; Yingst, aye; Stein, aye;

17

Layton, aye; Davis, aye.

18 [The motion carried unanimously. The Respondent's
19 name is Star Automall.]

20

21 MR. FRITZ:

22

23

24

The Board would entertain a motion to
approve the Consent Agreement at Case
No. 18-60-03407.

25 MR. MERMON:

1 So moved.

2 MR. WOLFE:

3 Second.

4 CHAIRMAN DAVIS:

5 Roll call.

6

7 Wolfe, aye; Mermon, aye; Derr, aye;

8 Baer, aye; Yingst, aye; Layton, aye;

9 Stein, aye; Davis, aye.

10 [The motion carried unanimously. The Respondent's
11 name is Luke's Automotive.]

12 ***

13 MR. FRITZ:

14 The Board would entertain a motion to
15 approve the Consent Agreement at Case
16 No. 19-60-007760.]

17 MR. MERMON:

18 So moved.

19 MR. STEIN:

20 Second.

21 CHAIRMAN DAVIS:

22 Roll call.

23

24 Wolfe, aye; Mermon, aye; Derr, aye;

25 Baer, aye; Yingst, aye; Stein, aye;

1 Layton, aye; Davis, aye.

2 [The motion carried unanimously. The Respondent's
3 name is Anna Koldakova.]

4 ***

5 MR. FRITZ:

6 The Board would entertain a motion to
7 approve the Consent Agreement at Case
8 No. 21-60-013778 & 21-60-009776.]

9 MR. WOLF:

10 So moved.

11 MR. STEIN:

12 Second.

13 CHAIRMAN DAVIS:

14 Roll call.

15

16 Wolfe, aye; Mermon, aye; Derr, aye;
17 Stein, aye; Baer, aye; Yingst, recuse;
18 Layton, recuse; Davis, aye.

19 [The motion carried. Mr. Yingst and Ms. Layton
20 recused themselves from deliberations and voting on
21 the motion. The Respondent's name is Bryan J. Depew.]

22 ***

23 MR. FRITZ:

24 The Board would entertain a motion to
25 approve the Consent Agreement at Case

1 No. 19-60-014854. Ms. Layton and Mr.
2 Mermon are recused.

3 MR. WOLFE:

4 So moved.

5 MR. STEIN:

6 Second.

7 CHAIRMAN DAVIS:

8 Roll call.

9

10 Wolfe, aye; Derr, aye; Stein, aye;
11 Mermon, recuse; Baer, aye; Yingst, aye;
12 Layton, recuse; Davis, aye.

13 [The motion carried. Ms. Layton and Mr. Mermon
14 recused themselves from deliberations and voting on
15 the motion. The Respondent's name is Luxury Unlimited
16 Auto Sales Inc.]

17

18 MR. FRITZ:

19 The Board would entertain a motion to
20 approve the Consent Agreement at Case
21 No. 19-60-015117.

22 MR. STEIN:

23 So moved.

24 MR. WOLFE:

25 Second.

1 CHAIRMAN DAVIS:

2 Roll call.

3

4 Wolfe, aye; Mermon, aye; Derr, aye;
5 Baer, aye; Yingst, aye; Layton, aye;
6 Stein, aye; Davis, aye.

7 [The motion carried unanimously. The Respondent's
8 name is Zhanna Pristatskiy.]

9

10 MR. FRITZ:

11 As we noted earlier, the Consent
12 Agreement that was to be provided by
13 David Smith, the prosecutor, is being
14 tabled to a later date.

15

16 MR. FRITZ:

17 The Board would entertain a motion to
18 approve the Consent Agreement at Case
19 No. 19-60-001490.

20 MR. YINGST:

21 Motion to approve.

22 MR. DERR:

23 Second.

24 CHAIRMAN DAVIS:

25 Roll call.

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Wolfe, aye; Mermon, aye; Derr, aye;
Baer, aye; Yingst, aye; Layton, aye;
Stein, aye; Davis, aye.

[The motion carried unanimously. The Respondent's
name is Neil C. Neary.]

Report of Board Counsel - Proposed Adjudications and
Orders for Approval

MR. FRITZ:

The Board would entertain a motion to
adopt the Proposed Adjudication and
Order in the Matter of the Commonwealth
v. Mitch Graber, Case No. 17-60-04735.

MR. YINGST:

Motion to approve.

MR. DERR:

Second.

CHAIRMAN DAVIS:

Roll call.

Wolfe, aye; Mermon, aye; Derr, aye;
Baer, aye; Yingst, aye; Layton, aye;
Stein, aye; Davis, aye.

1 [The motion carried unanimously.]

2 ***

3 Report of Board Counsel - Motions to Deem Facts

4 Admitted

5 MR. FRITZ:

6 The Board would entertain a motion to
7 deny the Motion to Deem Facts Admitted
8 in the case of Commonwealth v. Muhammad
9 Abdul-Hadi, Case No. 19-60-006619

10 MR. MERMON:

11 So moved.

12 MR. DERR:

13 Second.

14 CHAIRMAN DAVIS:

15 Roll call.

16

17 Wolfe, aye; Mermon, aye; Derr, aye;

18 Baer, aye; Yingst, aye; Stein, aye;

19 Layton, aye; Davis, aye.

20 [The motion carried unanimously.]

21 ***

22 MR. FRITZ:

23 The Board would entertain a motion to
24 grant the following Motion to Deem Facts
25 Admitted and Enter Default and directing

1 Board counsel to draft an Adjudication
2 and Order for Commonwealth v. Peter
3 Lucas, Case No. 19-60-004380;
4 Commonwealth v. John Bednarski, Case No.
5 19-60-007230; Commonwealth v. Tyler
6 Lyden, Case No. 19-60-004903;
7 Commonwealth v. Jerome Myers, Case No.
8 19-60-007959; and Commonwealth v. Kelly
9 Rogers, Case No. 19-60-002767.

10 MR. STEIN:

11 So moved.

12 MR. BAER:

13 Second.

14 CHAIRMAN DAVIS:

15 Roll call.

16

17 Wolfe, aye; Mermon, aye; Derr, aye;

18 Baer, aye; Yingst, aye; Stein, aye;

19 Layton, aye; Davis, aye.

20 [The motion carried unanimously.]

21

22 Report of Board Counsel - Regulations

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

24 addressed 16A-6015 regarding the proposed fee

25 increases. He reiterated that the Board has not had a

1 renewal increase since 2007 or a new license
2 application fee increase since 2000. He stated the
3 renewal fees go into effect June 1, 2023, and
4 application fees go into effect July 1, 2023. The
5 Board has already seen this annex for the regulation.

6 Mr. Fritz addressed comments submitted by the
7 Independent Regulatory Review Commission, noting he
8 did not see anything that would need to be changed in
9 the annex, and he would be dealing with most of the
10 concerns with the Bureau of Finance and Operations
11 (BFO). He informed the Board that IRRC is concerned
12 with where they came up with the numbers and why
13 certain fees are being increased.

14 Mr. Fritz noted that BFO projected the Board will
15 be going into a deficit at the end of the next fiscal
16 year, but IRRC was concerned as to why there was such
17 an increase in expenses for legal costs and expenses
18 in general.

19 Mr. Fritz addressed the legal cost increase,
20 noting 516 open cases in 2018 with a jump to 1,829
21 cases in 2019. He explained that the Pennsylvania
22 Justice Network (JNET) now notifies them of any
23 licensee with a criminal arrest or conviction. He
24 explained that the number of cases increased because
25 they are now opening files they would have not heard

1 about in the past.

2 Mr. Fritz reported 887 cases have already been
3 opened as of the beginning of September, and the Board
4 is busier now than in the past.]

5 ***

6 MR. FRITZ:

7 The Board would entertain a motion to
8 approve the annex as written for the
9 Vehicle Board fee increase regulation.

10 MR. MERMON:

11 So moved.

12 MR. BAER:

13 Second.

14 CHAIRMAN DAVIS:

15 Roll call.

16

17 Wolfe, aye; Mermon, aye; Derr, aye;
18 Baer, aye; Yingst, aye; Layton, aye;
19 Stein, aye; Davis, aye.

20 [The motion carried unanimously.]

21 ***

22 Application Review

23 MR. FRITZ:

24 The Board would entertain a motion to
25 approve the following Application

1 subject to a period of one-year
2 probation for Frank Barkovic.

3 MR. WOLFE:

4 So moved.

5 MR. STEIN:

6 Second.

7 CHAIRMAN DAVIS:

8 Roll call.

9

10 Wolfe, aye; Mermon, aye; Derr, aye;
11 Baer, aye; Yingst, aye; Layton, aye;
12 Stein, aye; Davis, aye.

13 [The motion carried unanimously.]

14

15 MR. FRITZ:

16 For the next several applicants, the
17 Board would entertain a motion to
18 approve the following Applications
19 without restriction for Thomas Ryan
20 Benjamin, Ryan Timothy McGarvey, David
21 Joshua McIntyre, and Roberto Valentin
22 Sr.

23 MR. STEIN:

24 So moved.

25 MR. YINGST:

1 Second.

2 CHAIRMAN DAVIS:

3 Roll call.

4

5 Wolfe, aye; Mermon, aye; Derr, aye;

6 Baer, aye; Yingst, aye; Stein, aye;

7 Layton, aye; Davis, aye.

8 [The motion carried unanimously.]

9

10 MR. FRITZ:

11 The Board would entertain a motion to

12 approve the Application of Yoiss

13 Jermaine Finga subject to one year of

14 probation.

15 MR. MERMON:

16 So moved.

17 MR. DERR:

18 Second.

19 CHAIRMAN DAVIS:

20 Roll call.

21

22 Wolfe, aye; Mermon, aye; Derr, aye;

23 Baer, aye; Yingst, aye; Stein, aye;

24 Layton, aye; Davis, aye.

25 [The motion carried unanimously.]

1 ***

2 MR. FRITZ:

3 The Board would entertain a motion to
4 approve the Application without
5 restriction for Troy Holtzman.

6 MR. YINGST:

7 So moved.

8 MR. WOLFE:

9 Second.

10 CHAIRMAN DAVIS:

11 Roll call.

12

13 Wolfe, aye; Mermon, aye; Derr, aye;
14 Baer, aye; Yingst, aye; Layton, aye;
15 Stein, aye; Davis, aye.

16 [The motion carried unanimously.]

17

18 MR. FRITZ:

19 The Board would entertain a motion to
20 approve the Application submitted by
21 Anthwan Emerson subject to a period of
22 three years' probation.

23 MR. WOLFE:

24 So moved.

25 CHAIRMAN DAVIS:

1 Is there a second?

2 MR. BAER:

3 Second.

4 CHAIRMAN DAVIS:

5 Roll call.

6

7 Wolfe, aye; Mermon, aye; Derr, aye;

8 Baer, aye; Yingst, aye; Layton, aye;

9 Stein, aye; Davis, aye.

10 [The motion carried unanimously.]

11

12 MR. FRITZ:

13 I would note the Application submitted
14 by Dano Delacruz. We were not able to
15 get in touch with that applicant, so
16 we'll table that in case we are not able
17 to get in touch with him. If we are,
18 then that application will show up at a
19 future Board meeting agenda.

20

21 MR. FRITZ:

22 The Board would entertain a motion to
23 approve the following applications
24 subject to a period of probation to run
25 concurrent with each one's criminal

1 probation for Jason Ewing, Christopher
2 Arias, Kyle Ficklin, and Beverly Guest.

3 MR. YINGST:

4 So moved.

5 MR. DERR:

6 Second.

7 CHAIRMAN DAVIS:

8 Roll call.

9

10 Wolfe, aye; Mermon, aye; Derr, aye;
11 Baer, aye; Yingst, aye; Layton, aye;
12 Stein, aye; Davis, aye.

13 [The motion carried unanimously.]

14 ***

15 Report of Board Chair

16 [Kirk A. Davis, Chairman, Professional Member,
17 informed the Board that several dealers in the
18 Pittsburgh area have reduced sales staff and may lower
19 revenue to some degree in the next 18 to 24 months but
20 is hopeful the fee increase will help with revenue.]

21 ***

22 Report of Board Administrator

23 [Janice Cline, Board Administrator, thanked George
24 Mermon for his service to the Board, along with other
25 Board members.]

1 Mr. Fritz welcomed and thanked new Board member,
2 Joseph Bizzarro, for being a member of the Board.]

3 ***

4 Report of Commissioner

5 [K. Kalonji Johnson, Commissioner, Bureau of
6 Professional and Occupational Affairs, echoed the
7 Board members' sentiments for Mr. Mermon's dedicated
8 service record. He could provide a proper farewell at
9 the next in-person Board meeting if Mr. Mermon was
10 available.

11 Commissioner Johnson also welcomed Joseph
12 Bizzarro, noting the Board is a very prodigious group
13 of individuals and very invested in the work that gets
14 done.

15 Mr. Bizzarro commented that he looks forward to
16 meeting in person at the next meeting.

17 Commissioner Johnson noted the emergency
18 declaration formally expires on September 30, 2021,
19 and all regulatory suspensions will expire, including
20 the physical presence requirement to allow meetings
21 virtually. He stated Board members will be expected
22 to return to Penn Center at the next public meeting.

23 Commissioner Johnson noted all Commonwealth of
24 Pennsylvania employees are required to wear masks and
25 that members of the public will be encouraged to wear

1 masks, along with observing social distancing. He
2 also noted personal protective equipment (PPE) and
3 sanitizer will be provided in the front lobby and
4 board rooms.

5 Commissioner Johnson announced the return of
6 physical travel for regional and national conferences.
7 He encouraged Board members to let Ms. Cline know of
8 any requests early because they need to be on the
9 record and voted upon before moving those through the
10 administrative chain. He also encouraged planning
11 early due to staffing shortages nationally. He
12 mentioned that travel requests are now processed
13 through the internal employee portal for the
14 Commonwealth of Pennsylvania and to contact the
15 commissioner's office or Ms. Cline for assistance.

16 Chairman Davis thanked Mr. Mermon for his service
17 and dedication to the Board.]

18 ***

19 Report of Board Administrator (cont.)

20 [C. William Fritz II, Esquire, Board Counsel, noted
21 remaining 2021 and 2022 Board meeting dates. He
22 encouraged Board members to contact Ms. Cline with any
23 meeting dates they are not available to attend to
24 ensure a quorum.

25 Mr. Fritz referred to Board member terms provided

1 by Ms. Cline. He asked everyone review their terms,
2 especially if they are coming up on the end of their
3 first term and would like to request a second term.
4 He commented that the process is taking longer and
5 recommended everyone reach out earlier.

6 Mr. Fritz encouraged everyone to watch their
7 emails for anything that may require virtual meetings
8 again.]

9 ***

10 Adjournment

11 CHAIRMAN DAVIS:

12 Could we have a motion for adjournment?

13 MR. DERR:

14 So moved.

15 CHAIRMAN DAVIS:

16 Do we have a second?

17 MR. YINGST:

18 Second.

19 CHAIRMAN DAVIS:

20 We're adjourned.

21 [The motion carried unanimously.]

22 ***

23 [The State Board of Vehicle Manufacturers, Dealers,
24 and Salespersons Meeting adjourned at 11:40 a.m.]

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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.



Amber Garbinski,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

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

September 27, 2021

TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:31	Official Call to Order
10:31	Roll Call
10:33	Approval of Minutes
10:34	Report of Prosecutorial Division
11:03	Report of Board Counsel
11:06	Motions
11:24	Application Review
11:29	Report of Board Chair
11:31	Report of Board Administrator
11:32	Report of Commissioner
11:38	Report of Board Administrator (cont.)
11:40	Adjournment