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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**

TIME: 9:46 A.M.

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

August 8, 2017

1 State Board of Vehicle Manufacturers,
2 Dealers and Salespersons
3 August 8, 2017
4

5 BOARD MEMBERS:
6

7 Kirk Davis, Vice Chairman
8 Ian Harlow, Commissioner of Professional and
9 Occupational Affairs
10 Randall Derr, Professional Member
11 Steve Fretz, Professional Member
12 Neal Hufford Jr., Professional Member
13 David Tully, Attorney General Representative
14 James Luther and Robert Shaffer, Department of
15 Transportation Representatives
16 George Mermon, Professional Member
17 James Minor, Public Member
18 William Mohler, Professional Member
19 Dan Murphy III, Professional Member
20 Donald Stoy, Public Member
21 Scott Weisser, Professional Member
22
23

24 BUREAU PERSONNEL:
25

26 Maria Battista, Esquire, Board Counsel
27 Wade Fluck, Esquire, Board Prosecution Liaison
28 Amanda Wojciechowski, Board Prosecutor
29 Glenn Masser, Esquire, Board Prosecutor
30 Monty Batson, Esquire, Board Prosecutor
31 Janice Cline, Board Administrator
32
33 Thomas Blackburn, Esquire, Senior Counsel-in-Charge
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35

36 ALSO PRESENT:
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38 Marin A. Markoch, Jr., Respondent
39 Joseph Appel, Respondent
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1 ***

2 State Board of Vehicle Manufacturers,

3 Dealers and Salespersons

4 August 8, 2017

5 ***

6 The regularly scheduled meeting of the State

7 Board of Vehicle Manufacturers, Dealers and

8 Salespersons was held on Tuesday, August 8, 2017.

9 Kirk Davis, Vice Chairman, called the meeting to order

10 at 9:46 a.m.

11 The Pledge of Allegiance was recited. Roll call

12 was taken.

13 ***

14 Approval of Minutes of the June 27, 2017 meeting

15 [The Board discussed corrections to the minutes.]

16 VICE CHAIRMAN DAVIS:

17 Does anybody want to put forth a

18 motion?

19 MR. MOHLER:

20 I'll make a motion.

21 MR. MERMON:

22 Second.

23 VICE CHAIRMAN DAVIS:

24 Roll call vote.

25

1 George Mermon, aye; Randall Derr, aye;
2 Larry Hufford, aye; Dan Murphy,
3 abstained; Steve Fretz, abstained; Scott
4 Weisser, abstained; James Minor, aye;
5 William Mohler, abstained; Donald Stoy,
6 aye; James Luther, aye; David Tully,
7 abstained; Ian Harlow, aye; and Kirk
8 Davis, aye.

9 [The motion carried. Mr. Murphy, Mr. Fretz, Mr.
10 Weisser, Mr. Mohler, and Mr. Tully abstained from
11 voting on the motion.]

12 ***

13 Report of Prosecutorial Division

14 [Glenn Masser, Esquire, Board Prosecutor, presented a
15 Consent Agreement for File No. 16-60-06259.]

16 ***

17 [Monty Batson, Esquire, Board Prosecutor, presented
18 Consent Agreements for File No. 12-60-12204, File No.
19 13-60-05291, File No. 13-60-02261, File No. 12-60-
20 11917, File No. 12-60-07283, and File No. 13-60-
21 09782.]

22 ***

23 [Ian Harlow, Commissioner of Professional and
24 Occupational Affairs, exited the meeting at 10:00
25 a.m.]

1 ***

2 Report of Board Counsel

3 [Maria Battista, Esquire, Board Counsel, referred the
4 Board to the Status of Cases reports, both
5 disciplinary and protest, for review. She noted three
6 hearings scheduled for later in the meeting. Ms.
7 Battista also noted Adjudication and Orders for
8 Approval, a Proposed Adjudication and Order for
9 deliberation, a case to adjudicate from a prior
10 hearing with the Board, as well as Motions for Deem
11 Facts Admitted (MDFa) to be discussed in Executive
12 Session.]

13 ***

14 [A formal hearing was held from 10:04 a.m. to 11:06
15 a.m. In the Matter of the Petition for Reinstatement
16 of the Vehicle Salesperson License of Marin A. Markoch
17 Jr.; File No. 17-60-01962, Docket No. 0353-60-17.]

18 ***

19 Report of Board Administrator

20 [Janice Cline, Board Administrator, reminded new
21 members of Board meeting dates for 2017 and 2018. She
22 noted the monthly listing of the active license
23 counts.]

24 ***

25 Informal Conference

1 [Maria Battista, Esquire, Board Counsel, and the Board
2 discussed informal conference updates.]

3 ***

4 Miscellaneous

5 [Maria Battista, Esquire, Board Counsel, discussed
6 Senate Bill 764. She addressed the case of Eric C.
7 Levengood. Ms. Battista also discussed the Delegation
8 Order issued on July 8, 2015, and the consideration of
9 a possible delegation of Quality Trailer Enterprises,
10 Inc., at File No. 13-60-08076, Docket No. 0528-60-17.]

11 MR. MOHLER:

12 I would like to make a motion we
13 delegate this matter (Quality Trailer
14 Enterprises, Inc.).

15 MR. MURPHY:

16 I second.

17 VICE CHAIRMAN DAVIS:

18 Roll call vote.

19
20 David Tully, aye; George Mermon, aye;
21 Randall Derr, aye; Larry Hufford, aye;
22 Dan Murphy, aye; Steve Fretz, aye; Scott
23 Weisser, aye; James Minor, aye; William
24 Mohler, aye; Donald Stoy, aye; James
25 Luther, aye; and Kirk Davis, aye.

1 [The motion carried unanimously.]

2 ***

3 Public Session

4 [Thomas Blackburn, Esquire, Senior Counsel-in-Charge,
5 discussed the status of the protest cases as of July
6 26, 2017.]

7 ***

8 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
9 11:44 a.m. the Board entered into Executive Session
10 with Maria Battista, Esquire, Board Counsel, for the
11 purpose of conducting quasi-judicial deliberations and
12 to receive advice of Counsel on the matters of which
13 the Board is about to vote. The Board returned to
14 open session at 1:57 p.m.]

15 ***

16 MOTIONS

17 MS. BATTISTA:

18 The first Executive Session, there were
19 discussions subsequent to the first
20 hearing. The first hearing was in the
21 matter of Bureau of Professional and
22 Occupational Affairs v. Marin A.
23 Markoch Jr. It was a reinstatement at
24 File No. 17-60-01962, Docket No. 0353-
25 60-17.

1 For that, we just had discussions on
2 that, and I will be bringing the
3 Hearing transcript at the next
4 particular meeting.

5 Also, in the second Executive
6 Session, we were addressing the Consent
7 Agreements that were presented this
8 morning from Prosecuting Attorney,
9 Monty Batson and Glenn Masser.

10 Based upon discussions in Executive
11 Session, I recommend the motion to
12 accept the following Consent
13 Agreements: The first one is the
14 Bureau of Professional and Occupational
15 Affairs vs. Chestnuthill Powersports at
16 File No. 12-60-12204, Docket No. 0107-
17 60-17. The second one is BPOA vs.
18 Khaled Malik, File No. 13-60-05291,
19 Docket No. 1905-60-16. The third
20 Consent Agreement for consideration is
21 Gordon Lee Hurler, File No. 13-60-
22 02261, Docket No. 0714-60-17. The
23 fourth one was the Bureau of
24 Professional and Occupational Affairs
25 vs. Acro Motors, File No. 12-60-11917,

1 Docket No. 0790-60-17. The fifth one
2 was the Bureau of Professional and
3 Occupational Affairs vs. PJ Trailers
4 Manufacturing, Inc., File No. 12-60-
5 07283, Docket No. 0187-60-17. The
6 sixth one of Mr. Batson brought by the
7 Commonwealth, Bureau of Professional
8 and Occupational Affairs vs. MAC
9 Trailer Manufacturing, Inc., at File
10 No. 13-60-09782, Docket No. 0927-60-17.
11 Finally, the seventh one, a Consent
12 Agreement brought by Mr. Masser on
13 behalf of the Commonwealth vs. Fairway
14 Motor Cars, Inc., No. 16-60-06259.
15 There was no docket number.

16 Based on all of those, I recommend a
17 motion to accept all of them as
18 written.

19 MR. MURPHY:

20 So moved.

21 MR. MINOR:

22 Second.

23 VICE CHAIRMAN DAVIS:

24 Roll Call.

25

1 David Tully, aye; George Mermon, aye;
2 Randall Derr, aye; Larry Hufford, aye;
3 Dan Murphy, aye; Steve Fretz, aye; Scott
4 Weisser, aye; James Minor, aye; William
5 Mohler, aye; Donald Stoy, aye; James
6 Luther, aye; and Kirk Davis, aye.

7 [The motion carried unanimously.]

8 ***

9 MS. BATTISTA:

10 The next matter in Executive Session
11 was the proposed Adjudication and Order
12 that was in the matter of the Bureau of
13 Professional and Occupational Affairs
14 vs. James D. McCauley, File No. 15-60-
15 05495, Docket No. 0111-60-17.

16 Based on discussions in Executive
17 Session, I recommend a motion that the
18 Board Counsel draft an Adjudication and
19 Order to reflect discussions in
20 Executive Session.

21 MR. MURPHY:

22 So moved.

23 MR. STOY:

24 Second.

25 VICE CHAIRMAN DAVIS:

1 Roll Call.

2

3 David Tully, aye; George Mermon, aye;
4 Randall Derr, aye; Larry Hufford, aye;
5 Dan Murphy, aye; Steve Fretz, aye; Scott
6 Weisser, aye; James Minor, aye; William
7 Mohler, aye; Donald Stoy, aye; James
8 Luther, aye; and Kirk Davis, aye.

9 [The motion carried unanimously.]

10

11 MS. BATTISTA:

12 Also in Executive Session, I recommend
13 a motion to grant the default and
14 direct counsel to draft adjudications
15 in the following matters: In the
16 Matter of the Bureau of Professional
17 and Occupational Affairs vs. Nicholas
18 F. Anzelmi at File No. 12-60-00738,
19 Docket No. 0730-60-15; Clifford M.
20 Corum at File No. 14-60-04592, Docket
21 No. 2376-60-16; Dwayne Edward Mills at
22 File No. 12-60-07715, Docket No. 0789-
23 60-16; Edwinn E. Raymond at File No.
24 12-60-07826, Docket No. 0681-60-14; and
25 Anthony M. Sherman at File No. 13-60-

1 06670, Docket No. 2255-60-16.

2 MR. MURPHY:

3 So moved.

4 MR. MINOR:

5 Second.

6 VICE CHAIRMAN DAVIS:

7 Roll Call.

8

9 David Tully, aye; George Mermon, aye;
10 Randall Derr, aye; Larry Hufford, aye;
11 Dan Murphy, aye; Steve Fretz, aye; Scott
12 Weisser, aye; James Minor, aye; William
13 Mohler, aye; Donald Stoy, aye; James
14 Luther, aye; and Kirk Davis, aye.

15 [The motion carried unanimously.]

16

17 [A formal hearing was held from 2:04 p.m. to 2:13
18 p.m. In the Matter of the Commonwealth of Pennsylvania
19 vs. Joseph Appel, File No. 14-60-11803, Docket No.
20 0281-60-17.]

21

22 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
23 2:13 p.m. the Board entered into Executive Session
24 with Maria Battista, Esquire, Board Counsel, for the
25 purpose of conducting quasi-judicial deliberations and

1 to receive advice of Counsel on the matters of which
2 the Board is about to vote. The Board returned to
3 open session at 2:28 p.m.]

4 ***

5 MOTIONS

6 MS. BATTISTA:

7 The first matters that the Board
8 deliberated on were the Adjudication
9 and Orders that were listed on the
10 agenda.

11 Based upon discussions in Executive
12 Session, I recommend a motion to
13 approve the Adjudications and Orders
14 drafted by Board Counsel.

15 MR. DERR:

16 So moved.

17 MR. MERMON:

18 Second.

19 VICE CHAIRMAN DAVIS:

20 Roll Call.

21

22 David Tully, aye; George Mermon, aye;
23 Randall Derr, aye; Larry Hufford, aye;
24 Dan Murphy, aye; Steve Fretz, aye; Scott
25 Weisser, aye; James Minor, aye; William

1 Mohler, aye; Donald Stoy, aye; James
2 Luther, aye; and Kirk Davis, aye.

3 [The motion carried unanimously.]

4 ***

5 MS. BATTISTA:

6 The adjudications listed in the agenda
7 were the Bureau of Professional and
8 Occupational Affairs vs. Saad Adda,
9 File No. 14-60-09164; Eugeniu Stegari,
10 File No. 15-60-00739; Joseph MacNichol,
11 File No. 13-60-05533; David Layton,
12 File No. 11-60-04984; Lighthouse
13 Motors, File No. 15-60-02392;
14 Habibullah Khan, File No. 12-60-10901;
15 and Sharif Aly, File No. 13-60-12488.
16 I should have identified the specific
17 names prior to the vote, but there were
18 the seven listed on the agenda.

19 ***

20 MS. BATTISTA:

21 The next item where the Board
22 deliberated in Executive Session dealt
23 with a prior hearing in the matter of
24 the Bureau of Professional and
25 Occupational Affairs vs. Eduardo

1 Guarenghi at File No. 14-60-02315,
2 Docket No. 1769-60-16.

3 I recommend a motion to direct
4 counsel to draft an A&O pursuant to
5 discussions in Executive Session.

6 MR. MINOR:

7 I make a motion.

8 MR. DERR:

9 Second.

10 VICE CHAIRMAN DAVIS:

11 Roll Call.

12

13 David Tully, aye; George Mermon, aye;
14 Randall Derr, aye; Larry Hufford, aye;
15 Dan Murphy, aye; Steve Fretz, aye; Scott
16 Weisser, aye; James Minor, aye; William
17 Mohler, aye; Donald Stoy, aye; James
18 Luther, aye; and Kirk Davis, aye.

19 [The motion carried unanimously.]

20

21 MS. BATTISTA:

22 Last in Executive Session, the Board
23 deliberated on the matter of the Bureau
24 of Professional and Occupational
25 Affairs vs. Joseph Appel, which was the

1 third matter scheduled for hearing
2 today. Well, the second hearing we
3 actually had. It was the third case
4 for hearing at File No. 14-60-11803,
5 Docket No. 0281-60-17.

6 ***

7 Miscellaneous (continued)

8 Election of Officers

9 [Vice Chairman Davis discussed the election of
10 officers with the Board.]

11 VICE CHAIRMAN DAVIS:

12 Does anybody want to put forth a
13 motion?

14 MR. MINOR:

15 I nominate Dan Murphy to be Chair.

16 VICE CHAIRMAN DAVIS:

17 Are there any other motions?

18 MR. MOHLER:

19 I nominate Donald Stoy to be Chairman
20 for a year.

21 VICE CHAIRMAN DAVIS:

22 All right. Let's go ahead, show of
23 hands for Dan Murphy for Chairman of
24 the Board. We have a majority, so Dan
25 is Chairman.

1 MR. MINOR:

2 I nominate Kirk Davis to be Secretary.

3 MS. BATTISTA:

4 We have a motion. Do we have a second?

5 MR. MURPHY:

6 Second.

7 MS. BATTISTA:

8 All in favor, say aye. Any opposed?

9 Team member, congratulations.

10 ***

11 Adjournment

12 VICE CHAIRMAN DAVIS:

13 Do we have a motion for adjournment?

14 MR. STOY:

15 I motion.

16 MR. MURPHY:

17 Second.

18 [There being no further business, the State Board of
19 Vehicle meeting adjourned at 2:36 p.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.



Corey Elizabeth Summers,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS
REFERENCE INDEX
August 8, 2017

| | TIME | AGENDA |
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| 1 | | |
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| 7 | | |
| 8 | 9:46 | Official Call to Order |
| 9 | | |
| 10 | 9:46 | Pledge of Allegiance |
| 11 | | |
| 12 | 9:47 | Roll Call |
| 13 | | |
| 14 | 9:54 | Approval of Minutes |
| 15 | | |
| 16 | 9:54 | Report of Prosecutorial Division |
| 17 | | |
| 18 | 10:04 | Report of Board Counsel |
| 19 | | |
| 20 | 10:04 | Formal Hearing - <u>Marin A. Markoch Jr.</u> |
| 21 | | |
| 22 | 10:43 | Recess |
| 23 | 10:59 | Return to Open Session |
| 24 | | |
| 25 | 11:07 | Report of Board Administrator |
| 26 | | |
| 27 | 11:08 | Informal Conference |
| 28 | | |
| 29 | 11:24 | Miscellaneous |
| 30 | | |
| 31 | 0:00 | Lunch Break |
| 32 | | |
| 33 | 11:44 | Executive Session |
| 34 | 1:57 | Return to Open Session |
| 35 | | |
| 36 | 1:57 | Motions |
| 37 | | |
| 38 | 2:04 | Formal Hearing - <u>Joseph Appel</u> |
| 39 | | |
| 40 | 2:13 | Executive Session |
| 41 | 2:28 | Return to Open Session |
| 42 | | |
| 43 | 2:36 | Adjournment |
| 44 | | |
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