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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: 9:44 A.M.

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

October 23, 2018

1 State Board of Vehicle Manufacturers,
2 Dealers and Salespersons
3 October 23, 2018
4
5

6 BOARD MEMBERS:
7

8 Dan G. Murphy III, Chairman
9 Kirk A. Davis, Vice Chairman
10 Ian J. Harlow, Commissioner of Professional and
11 Occupational Affairs - Absent
12 Steve T. Fretz, Professional Member
13 Neal L. Hufford Jr., Professional Member
14 David Tully, Attorney General Representative
15 Robert M. Shaffer, Department of Transportation
16 Representative
17 George F. Mermon, Professional Member
18 William M. Mohler, Professional Member - Absent
19 Donald J. Stoy, Public Member
20
21

22 BUREAU PERSONNEL:
23

24 Juan Ruiz, Esquire, Board Counsel
25 Shana M. Walter, Esquire, Board Counsel
26 Amanda N. Wojciechowski, Board Prosecution Liaison
27 Glenn P. Masser, Esquire, Board Prosecutor
28 Erin Fure, Esquire, Board Prosecutor
29 Angela B. Lucci, Esquire, Board Prosecutor
30 Cynthia K. Montgomery, Esquire, Deputy Chief
31 Counsel
32 Janice Cline, Board Administrator
33
34

35 ALSO PRESENT:
36

37 Kimberly A. Mattis, Director, Bureau of Finance and
38 Operations
39 Kimberly Adams, Chief of Fiscal Management, Bureau of
40 Finance and Operations
41 John F. Mizner, Esquire, Mizner Law Firm
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1 ***

2 State Board of Vehicle Manufacturers,
3 Dealers, and Salespersons

4 October 23, 2018

5 ***

6 The regularly scheduled meeting of the State
7 Board of Vehicle Manufacturers, Dealers, and
8 Salespersons was held on Tuesday, October 23, 2018.
9 Dan G. Murphy III, Chairman, called the meeting to
10 order at 9:44 a.m.

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

13 ***

14 Approval of Minutes of the September 18, 2018 meeting.

15 CHAIRMAN MURPHY:

16 Approval of the minutes?

17 MR. MERMON:

18 So moved.

19 MR. DAVIS:

20 Second.

21 CHAIRMAN MURPHY:

22 So moved and seconded.

23

24 Roll call.

25

1 David Tully, aye; George Mermon, aye;
2 Kirk Davis, aye; Neal Hufford Jr., aye;
3 Steve Fretz, aye; Donald Stoy, abstain;
4 Robert Shaffer, abstain; Dan Murphy,
5 aye.

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

8 ***

9 Appointment - Bureau of Enforcement and Investigation
10 (BEI) Presentation

11 [John Soprano, Director, Bureau of Enforcement and
12 Investigation (BEI), stated BEI conducts
13 investigations for 29 Boards and Commissions for the
14 Department of State. He commented that out of the
15 7,487 vehicle dealerships registered in Pennsylvania,
16 3,260 have been inspected and 381 are currently being
17 investigated.

18 Mr. Soprano delineated the regional offices in
19 Pittsburgh, Philadelphia, Harrisburg, and Scranton,
20 noting a total of 95 investigators, 46 inspectors, and
21 8 vacancies in the process of being filled. He
22 discussed routine and nondirected routine inspections
23 with a benchmark of two years for nearly every
24 profession.

25 Mr. Soprano explained the BEI inspectors are

1 responsible for all of the Boards with the exception
2 of the Pharmacy Board and Funeral Board, each having
3 two specialized inspectors. He also noted 9,000
4 inspections a year are conducted for the Board of
5 Cosmetology.]

6

7 Report of Prosecutorial Division

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

10

11 [Glenn P. Masser, Esquire, Board Prosecution Liaison,
12 presented a Consent Agreements for File No. 17-60-
13 10975.]

14

15 [George F. Mermon, Professional Member, exited the
16 meeting at 9:50 a.m. and reentered the meeting at
17 9:53 a.m.]

18

19 Report of Board Counsel

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

1 for discussion in Executive Session.

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

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

7 ***

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

9 ***

10 [A Formal Hearing was held from 10:04 a.m. until
11 10:46 a.m. in the Matter of the Commonwealth of
12 Pennsylvania Bureau of Professional and Occupational
13 Affairs vs. Gerald C. Munsch, Case No. 17-60-11449.]

14 ***

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

16 ***

17 Application Review - Informal Conferences

18 [The Applicant Review Committee made the following
19 recommendations regarding the following Criminal
20 Conviction Applications: Gary Allen Resch, approved
21 with five years' probation; Levi James Morton,
22 approved with probation concurrent with his probation;
23 Hassan Aly Elghawy, approved without restrictions;
24 Steven Hartsock, approved without restrictions;
25 Brandon Markeith Stern, approved with two years'

1 probation; Neal Gregory Pistiner, approved with no
2 restrictions; Joseph A. Stevens, no show; Anthony
3 Michael Vitelli, approved with no restrictions; Warren
4 Ernest Jr., no show; Frank Joseph Swick, approved with
5 no restrictions; Sean Allen Shockley, approved with no
6 restrictions; Kirsten Marie Parks, approved with
7 probation until renewal; Andrew N. Hermiz, no show;
8 Michael Joseph Rauch Sr., approved with no
9 restrictions; and John M. Leone, no show.]

10 ***

11 Report of Board Chair - No Report

12 ***

13 Report of Commissioner - No Report

14 ***

15 Report of Board Administrator - No Report

16 ***

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

18 ***

19 Appointment - Bureau of Finance and Operations

20 Presentation

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

25 Chairman Murphy discussed the increased costs to

1 the Department related to inspections and the burden
2 placed on the Department by allowing salesmen to move
3 from one dealership to another with a common
4 ownership. He noted a loss of income by not seeking a
5 sales license from manufacturer representatives.

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

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

21 Ms. Adams discussed changes following the
22 increases in fees in the past compared to the Board's
23 decision in 2017 and the direction of the Independent
24 Regulatory Review Commission (IRRC) to the Board. She
25 suggested that the Board's approval of a 30 percent

1 increase in renewal fees was too much and will not get
2 past IRRC. An increase of 15 percent to 20 percent
3 would be more appropriate.

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

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

16

17 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
18 11:40 a.m. the Board entered into Executive Session
19 with Juan Ruiz, Esquire, Board Counsel, and Shana M.
20 Walter, Esquire, Board Counsel, for the purpose of
21 conducting quasi-judicial deliberations and to receive
22 advice of Counsel. The Board returned to open session
23 at 12:58 p.m.]

24

25 MR. RUIZ:

1 The Board was just in Executive Session
2 conducting quasi-judicial deliberations
3 on a number of matters currently pending
4 before the Board and to discuss
5 personnel matters.

6

7 [A Formal Hearing was held from 1:02 p.m. until
8 1:13 p.m. in the Matter of the Commonwealth of
9 Pennsylvania Bureau of Professional and Occupational
10 Affairs vs. Josue T. Vega; File No. 14-60-05174,
11 Docket No. 1545-60-17.]

12

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

20

21 MOTIONS

22 MR. RUIZ:

23

24

25

The Board was just in Executive Session
conducting quasi-judicial deliberations
concerning the hearing on Josue T. Vega.

1 Is there a motion to grant
2 reinstatement to Josue T. Vega?

3 MR. TULLY:

4 So moved.

5 MR. MERMON:

6 Second.

7 CHAIRMAN MURPHY:

8 So moved and seconded.

9

10 Roll call.

11

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

17 [The motion carried unanimously.]

18

19 MR. RUIZ:

20 Is there a motion to approve the Consent
21 Agreements of File No. 16-60-11245 and
22 File No. 17-60-10975?

23 MR. DAVIS:

24 So moved.

25 MR. SHAFFER:

1 Second.

2 CHAIRMAN MURPHY:

3 So moved and seconded.

4

5 Roll call.

6

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

12 [The motion carried unanimously. The Respondent's
13 name for File No. 16-60-11245 is Manuel E. Ricar-
14 Nuesi. The Respondent's name for File No. 17-60-10975
15 is Kaddian Motors LLC.]

16

17 MR. RUIZ:

18 Is there a motion to approve the final
19 Adjudications and Orders in the case of
20 Rory D. Nero Jr. at File No. 15-60-12488
21 and Louis Pavoni Jr. at File No. 16-60-
22 05833?

23 MR. DAVIS:

24 So moved.

25 MR. TULLY:

1 Second.

2 CHAIRMAN MURPHY:

3 So moved and seconded.

4

5 Roll call.

6

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

12 [The motion carried unanimously.]

13

14 MR. RUIZ:

15 Is there a motion to approve the
16 proposed Adjudications and Orders and
17 adopt as the Board's final orders in the
18 case of Jesse P. Culley at File No. 17-
19 60-01135, Marc William Platowsky at File
20 No. 15-60-07139, and Daniel J. Sheffield
21 at File No. 17-60-10618?

22 MR. MERMON:

23 So moved.

24 MR. STOY:

25 Second.

1 CHAIRMAN MURPHY:

2 So moved and seconded.

3

4 Roll call.

5

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

11 [The motion carried unanimously.]

12

13 MR. RUIZ:

14 Is there a motion to grant the Motions
15 to Deem Facts Admitted in the cases of
16 Louis Domiano III at File No. 15-60-
17 05413, Frank P. Fricchione at File No.
18 16-60-00127, and Wesley D. Middleton at
19 File No. 16-60-10280?

20 MR. MERMON:

21 So moved.

22 MR. SHAFFER:

23 Second.

24 CHAIRMAN MURPHY:

25 So moved and seconded.

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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.

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

6 [The motion carried unanimously.]

7 ***

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

11 ***

12 Adjournment

13 CHAIRMAN MURPHY:

14 Motion to adjourn.

15 MR. TULLY:

16 So moved.

17 MR. MERMON:

18 Second.

19 ***

20 [The State Board of Vehicle Manufacturers, Dealers,
21 and Salespersons Meeting adjourned at 1:19 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.



Seth R. Baier,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS
REFERENCE INDEX
October 23, 2018

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8	9:44	Official Call to Order
9		
10	9:45	Pledge of Allegiance
11		
12	9:45	Roll Call
13		
14	9:45	Approval of Minutes
15		
16	9:46	Appointment - Bureau of Enforcement and
17		Investigation
18		
19	9:50	Report of Prosecutorial Division
20		
21	9:55	Report of Board Counsel
22		
23	9:57	Recess
24	10:04	Return to Open Session
25		
26	10:04	Formal Hearing - Gerald C. Munsch
27	10:46	
28		
29	10:17	Recess
30	10:49	Return to Open Session
31		
32	10:52	Recess
33	11:01	Return to Open Session
34		
35	11:02	Appointment - Bureau of Finance and
36		Operations Presentation
37		
38	11:40	Executive Session
39	12:58	Return to Open Session
40		
41	1:02	Formal Hearing - Josue T. Vega
42	1:13	
43		
44	1:14	Executive Session
45	1:16	Return to Open Session
46		
47	1:16	Motions
48		
49	1:19	Adjournment
50		