

MOTOR VEHICLE REPAIR INDUSTRY BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), Hawaii Revised Statutes ("HRS").

Date: Wednesday, May 16, 2012
Time: 9:30 a.m.
Place: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

Present: Steve J.T. Chow, Esq., Public Member, Chairperson
Roy Sasuga, Public Member, Vice-Chairperson
Swee Berkey, Public Member
Warren Higa, Industry Member
Alan Nakamura, Industry Member

Christine Rutkowski, Executive Officer
Rodney J. Tam, Deputy Attorney General
Alice Worthy, Secretary

Excused: James Hirakawa, Industry Member
Benjamin Waiolama, Public Member

Guests: Michael Barros, Honolulu Community College ("HCC")
John Hassler, Esq., Regulated Industries Complaints Office ("RICO")
Zachary Summerfield, Esq. (via telephone conference)
Paul Eisenberg, Respondent (via telephone conference)

Call to Order: With the presence of quorum, Chairperson Chow called the meeting to order at 9:36 a.m.

Agenda Additions/Revisions: None. Revised RAT lists were distributed to members.

Minutes of Previous Meeting: Minutes of the March 21, 2012 Meeting
It was moved by Mr. Sasuga, seconded by Mr. Nakamura, and unanimously carried to approve the minutes as circulated.

Chair's Report: None.

Executive Officer's Office of Information Practices – None.
Report:

Hawaii State Ethics Commission – None.

Other

The Executive Officer stated that Mr. Hirakawa and Mr. Waiolama were not available for today's meeting, and that today's meeting is their last meeting. Their terms expire on June 30, 2012. Mr. Waiolama served for two full terms; Mr. Hirakawa was not reappointed for a second term. There has been no word regarding the appointments for their replacements.

The Executive Officer also stated that, for meeting purposes, if no appointments are made to fill the two vacancies, at least four members must attend a meeting to meet the quorum requirement, and all five members must be in attendance to add items to the agenda.

Members were asked if continuing to meet on Wednesdays at 9:30 was okay; if not, did the members wish to consider changing the meeting day and time. Historically the meetings have been scheduled for the third Wednesday of every other month at 9:30 a.m. After polling the members, it was decided to consider meeting on the first, second or third Thursdays in the afternoon. The Deputy Attorney General will let the Executive Officer know his availability. The change in the meeting schedule would take effect with the July 2012 meeting.

Chairperson Chow, on behalf of the board, extended his thanks and gratitude to Mr. Hirakawa and Mr. Waiolama for their service and hard work, and wishes them the best of luck in their future endeavors.

Chairperson Chow announced that the agenda would be taken out of order.

Other Report from Honolulu Community College Regarding Motor
Organizations: Vehicle Certification Program FY 2009, 2010 and 2011

Mr. Mike Barros, Interim Dean-Tech 1, Transportation and Trades Program, appeared before the Board on behalf of HCC. Chairperson Chow welcomed Mr. Barros to the meeting.

Mr. Barros stated that he has been at HCC for about 2 years. He apologized to the Board for HCC's lack of attention to the Program over the recent years. He stated that it's taken him sometime to get up to speed with the Program; however, he is committed to working with the Board to remedy the problems and develop a program that works. Mr. Barros said that he and HCC were not aware of the Board's statutory obligation to administer the Program with UH.

Mr. Barros provided the Board with a report of expenditures as per the requested budget for FY 2011. Total expenditures for the period 7/1/2010 to 6/30/2011 were \$15,327.29. He said that the work was performed and HCC is requesting the Board to authorize payment. Mr. Barros noted that, for this period, HCC is not now asking the Board to fund any salaries or benefits for HCC staff and it will not ask for such payment in the future.

Mr. Barros stated that for the period 7/1/2011 to 6/30/2012, no work was performed on the Program. Therefore, there will be no charges at all.

As far as the next FY 7/1/2012 to 6/30/113, Mr. Barros stated that HCC, with UH/ORS' endorsement, is asking for a no cost extension. During this period, HCC will study and work with the Board to develop the educational segment of the Program. Mr. Barros is suggesting that the course delivery be turned over to HCC's non-credit department. He added that that department's staff is experienced in coordinating and administering CE programs.

There was a brief discussion about distance learning and the various distance learning programs that are already in place at HCC.

At 10:05 a.m., it was moved by Mr. Sasuga, seconded by Mr. Higa, and unanimously carried to enter into Executive Session to consider and evaluate personal information relating to the individual applying for licensure in accordance with Chapter 92-5(a) (1), and to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities in accordance with Chapter 92-5(a) (4), Hawaii Revised Statutes.

EXECUTIVE SESSION

Honolulu Community College – Motor Vehicle Certification Program
Pacific Motor Works/Paul A. Eisenberg

At 10:57 a.m., it was moved by Mr. Sasuga, seconded by Mr. Higa, and unanimously carried to return to the Board's regular order of business.

Board members agreed that discussions with HCC should continue.

Upon a motion by Mr. Sasuga, seconded by Mr. Nakamura and unanimously carried to authorize payment of \$15,327.29 for the work performed for the program for the period 7/1/2010 to 6/30/2011.

Upon a motion by Mr. Sasuga, seconded by Mr. Nakamura and unanimously carried to approve HCC/UH's request to enter into a no cost extension for 7/1/2011 to 6/30/2012, subject to review by the Deputy Attorney General.

Upon a motion by Mr. Sasuga, seconded by Mr. Nakamura and unanimously carried to approve HCC/UH's request to enter into a no cost extension for 7/1/2012 to 6/30/2013 during which time HCC and the Board will work together to develop an educational program that meets the needs of potential students/attendees and the Program as a whole, subject to review by the Deputy Attorney General.

The Chair requested Mr. Barros to check if HCC has student attendance information for 2006, 2007 and 2008.

Chapter 91, HRS,
Adjudicatory
Matters:

Chairperson Chow recessed the meeting at 11:05 a.m. to deliberate on the following adjudicatory matter pursuant to Hawaii Revised Statutes ("HRS") Chapter 91

In the Matter of the Motor Vehicle Repair Dealer's License of PACIFIC MOTOR WORKS, INC., Respondent; ARP 2007-44-L, ARP 2008-85-L – Motion for Relief from Board's Final Order; Memorandum of Points and Authorities; Declaration of Paul Eisenberg; Supplemental Memorandum in Support of Respondent's Motion for Relief; Affidavit of John T. Hassler

A telephone conference was initiated by Chairperson Chow at the request of Zachary Summerfield, attorney for Respondent Pacific Motor Works, Inc. to discuss the above matter.

Chairperson Chow introduced everyone in the meeting room – Board members, staff and John Hassler, attorney for RICO. For the record, Mr. Hassler stated that he had no objection to participating in the telephone conference. Mr. Summerfield stated that Mr. Eisenberg was in attendance.

Chairperson Chow stated that the Board had received the documents submitted by Mr. Summerfield, and Mr. Hassler's Affidavit.

Pacific Motor Works, Inc. is seeking relief from the Board's Final Order of January 24, 2012 in which Respondent is ordered to pay a fine of \$17,500. Mr. Summerfield claims that the Board's Final Order is defective because the Final Order contains a mistake and is fatally flawed.

After a lengthy discussion, the Board determined that an error in the Board's Final Order did not nullify the fine amount due nor relieve Respondent of the requirement to pay this amount and therefore contrary to Respondent's assertion, the error is not fatal.

Nevertheless, upon a motion by Chairperson Chow, seconded by Mr. Sasuga, it was voted on and unanimously carried to grant Respondent an extension of time to comply with certain provisions in the Board's Final Order. Consequently, the Respondent shall:

- A. Provide proof in writing to RICO within fourteen (14) calendar days after the date Respondent receives this Board's Amended Final Order that it:
 1. Had entered into payment arrangements with the DLIR, IRS, and State DOT for the above tax liens;
 2. Had been making payments on those tax liens; and
 3. Is current in paying all of the tax liens above; and

- B. Pay the entire fine amount due (i.e., TEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$10,500.00) within sixty (60) calendar days after the date Respondent receives this Board's Amended Final Order.

If the Respondent fails to timely comply with any of these requirements, Respondent's motor vehicle repair dealer's license shall be automatically revoked without a hearing upon the filing of an affidavit from RICO attesting to such failure.

It was moved by Chairperson Chow, seconded by Ms. Berkey and unanimously carried to delegate to the Executive Officer the authority to sign and issue the Board's Amended Final Order.

Chairperson Chow announced that the Board would return to the order of the agenda.

Licensing: Ratification

The Board members reviewed the ratification lists for motor vehicle repair dealer and motor vehicle mechanic licenses. Upon a motion by Mr. Sasuga, seconded by Mr. Nakamura, it was unanimously carried to ratify the lists (attached).

Applications: None.

New Business: H.B. 1543, S.D. 1, C.D. 1

Members were provided the bill and respective Committee Reports.

This bill proposes to amend chap. 437, HRS, the licensing law governing the sale of motor vehicles in Hawaii. The bill does not directly impact chap. 437B, HRS, the licensing law that oversees the motor vehicle repair industry.

The bill requires DCCA to conduct a review of motor vehicle cost of repairs.

Industry members stated that this bill could impact repair dealers, depending on the scope of review DCCA performs.

After discussion, members authorized the Executive Officer to submit the Board's comments regarding the bill.

A motion by Mr. Sasuga, seconded by Mr. Nakamura, and unanimously carried to authorize the Executive Officer to submit the Board's comments regarding the bill citing to the Board's concerns regarding impact to small businesses.

Unfinished
Business:

2012 Legislative Session

The Executive Officer reported that the bill regarding military members and military spouses were sent to the Governor for signature.

Sec. 437B-23, HRS Amendments

The Board briefly discussed that it will continue to discuss the possibility of amending the law to repeal the requirement for the Board to contract with UH for the motor vehicle certification program.

Ms. Berkey, who volunteered to do the legislative research, did submit the research to the Executive Officer.

February 17, 2012 Email from Marlo Duarte Regarding ASE L1
and L2 Classifications

Chairperson Chow asked whether Mr. Duarte, who had made a presentation at the last meeting, had submitted his written proposal for Board review. The Executive Officer reported that Mr. Duarte had not submitted his proposal. Members agreed that this matter should be deferred until Mr. Duarte submits information.

Correspondence: None.

Next Meeting: Wednesday, July 18, 2012, subject to the rescheduling of the meeting days, dates and times.
9:30 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
Honolulu, Hawaii 96813

Adjournment: The meeting adjourned at 1:21 p.m.

Taken and recorded by:

/s/ Alice Worthy

Alice Worthy, Secretary

Reviewed and approved by:

/s/ Christine Rutkowski

Christine Rutkowski
Executive Officer

CR:aw
6/15/12

Minutes approved as is.

Minutes approved with changes; see minutes of _____.

VLI_LICENSE_VIEW

Wednesday May 09, 2012

LTYPE	LIC NUM	BP NAME PART 1
RD	4180	EAST HAWAII AUTO CENTER LLC
RD	4181	SPECIAL T AUTO REPAIR LLC
RD	4182	ROY'S AUTO BODY INC
RD	4183	RICHARD J <WEISER< JR
RD	4184	C & C AUTO GROUP INC
RD	4185	FIVE STAR AUTO REPAIR INC

MC	8474	TIMOTHY <LUNSON<
MC	8475	JUAN M <FRATE<
MC	8476	STEVEN M <HIRAKI<
MC	8477	DAVID A <CARLEY<
MC	8478	JOSIAH K <MILLER<
MC	8479	CHAD <ANDRADE<
MC	8480	JOHN F <SERAFICA<
MC	8481	BURT Y <FUJIYAMA<