

MOTOR VEHICLE INDUSTRY LICENSING 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 §92-7(b), Hawaii Revised Statutes (HRS).

Date: Tuesday, February 21, 2012

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Present: Werner Umbhau, Public Member, Chairperson  
Thomas Nakama, Industry Member, Vice-Chairperson  
Russell Y. J. Chung, Public Member  
Carl D. Johnsen, Public Member  
Stan Masamitsu, Industry Member  
Dennis Short, Industry Member  
Donald Touchi, Public Member  
Christine Rutkowski, Executive Officer  
Rodney J. Tam, Deputy Attorney General  
Alice Worthy, Secretary

Guests: Marc Cutter, Cutter Automotive Galleries  
Clarence Ng, Cutter Automotive Galleries  
Dave Rolf, HADA  
Jeff Crabtree, Law Offices of Jeff Crabtree  
John Caudell, HIADA Member

Call to Order: Chairperson Umbhau called the meeting to order at 9:08 a.m., at which time quorum was established.

Additions/Revisions  
to Agenda: None.

Approval of Minutes  
of Previous Meeting: Dave Rolf requested the Board to consider amending page 6. He stated that he reviewed the HIADA bills.

It was moved by Mr. Touchi, seconded by Mr. Johnsen, and unanimously carried to approve the meeting minutes of December 13, 2011, as amended.

Page 6, HADA, HIADA, Organizations, 2<sup>nd</sup> line should read "...he reviewed HIADA's two bills which were forwarded to him."

Chair's Report: None.

Executive Officer's Office of Information Practice – None.

Report:

Hawaii State Ethics Commission – None.

Other

The Executive Officer reminded the members that the deadline to file their financial disclosure statements with the State Ethics Commission is May 31, 2012. Members should call the State Ethics Commission directly if they have any questions.

There was a brief discussion regarding members' parking while attending Board meetings. Members were encouraged to review the April 2011 memo concerning this matter.

The Executive Officer stated that Dave Rolf had inquired as to the member vacancies whose terms expire on June 30, 2012. The Executive Officer explained that Mr. Touchi and Mr. Chung, both public members, are eligible to serve one more year. If they are interested in serving for another year, they need to reapply with the Governor's office. The Executive Officer reported that she has not heard on who will be replacing Mr. Nakama for the industry position.

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

Licensing: Ratifications

Motor Vehicle Salespersons Transfers  
Motor Vehicle Salespersons License  
Motor Vehicle Dealer Relocation License  
Motor Vehicle Dealers License  
Motor Vehicle Manufacturer License  
Motor Vehicle Distributor License  
Motor Vehicle Auction  
Motor Vehicle Consumer Consultant

Upon a motion by Mr. Nakama, seconded by Mr. Short, it was unanimously carried to ratify the above lists for the licenses sought (as attached).

Applications

C & C Auto Group Inc. dba Cutter Mazda of Waipahu - Dealer

Marc Cutter and Clarence Ng appeared before the Board on behalf of applicant.

The Board reviewed the application and expressed concerns about its tradename, signage and blueprints.

At 9:37 a.m., it was moved by Mr. Chung, seconded by Mr. Touchi, 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

At 10:16 a.m., it was moved by Mr. Short, seconded by Mr. Chung, and unanimously carried to return to the Board's regular order of business.

#### Chapter 91, HRS Adjudicatory Matters:

The Chairperson called for a recess from the meeting at 10:16 a.m. to deliberate on the following adjudicatory matters, pursuant to Hawaii Revised Statutes ("HRS") Chapter 91.

#### In the Matter of the Motor Vehicle Dealer License of AUTOSOURCE, LLC, Respondent; MVI 2011-36-L – Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order

Deputy Attorney General Tam summarized the above matter and a brief discussion followed.

After discussion, it was moved by Mr. Masamitsu, seconded by Mr. Short, and unanimously carried to approve the settlement agreement in which:

1. Respondent admits to the veracity of the allegations and that Respondent's acts violate the following statute(s) and/or rule(s): HRS §§ 437-12(a) (no legal ownership certificate prior to sale), 437-12(b) (failure to deliver ownership certificate within the time period specified), 437-28(a)(2) (failure to comply with laws relating to sale), and 437-28(a)(13) (entering into an agreement contrary to chapter).
2. Respondent enters into this settlement strictly as a compromise and in order to conserve on the expense of proceeding with an administrative hearing.
3. Respondent agrees to pay a fine in the amount of Two Thousand and No/100 Dollars (\$2,000.00). Payment shall be due at the time the fully executed Settlement Agreement is returned to RICO.
4. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement, Respondent's license shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to

such failure. In case of such revocation, Respondent understands Respondent cannot apply for a new license until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become licensed again, Respondent must apply to the Board for a new license pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

In the Matter of the Motor Vehicle Dealer's License of RYSZARD J. WOLF dba PROFESSIONAL AUTOBODY, Respondent; MVI 2009-69-L – Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order Granting Petitioner's Motion for Summary Judgment

Deputy Attorney General Tam summarized the above matter and a brief discussion followed.

After discussion, it was moved by Mr. Nakama, seconded by Mr. Touchi, and unanimously carried (Mr. Short abstained) to adopt the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order Granting Petitioner's Motion for Summary Judgment, and to issue the Board's Final Order.

The Board finds that the preponderance of the evidence presented was sufficient to establish that Respondent violated HRS §§ 437-24, 437-27, and 437-28(a) (1), (2), (3), (5) and (6), together with HRS §§ 436B-19(2), (5), (7), (8), and (17), and that Respondent be ordered to pay a fine of One Thousand and No/100 Dollars (\$1,000.00) within sixty (60) days of the Board's Final Order, and that payment of the fine be made a condition for relicensure following the revocation period.

For violations found, Respondent's license is revoked and Respondent will be required to immediately submit all indicia of licensure as a motor vehicle salesperson in the State of Hawaii to the Executive Officer of the Board.

At 10:35 a.m., the Chairperson announced that the Board would return to its regular order of business.

Licensing:

Applications

C & C Auto Group, Inc. dba Cutter Mazda of Waipahu – Dealer

Discussions continued regarding the dealer's proposed sign and the architectural drawing and location survey map that applicant submitted.

Marc Cutter and Clarence Ng were notified that (1) the Board would not take any position on the signage issue, but informed applicant that any false, deceptive, or misleading advertising would be cause for disciplinary

action against a dealer's license; and (2) the Board does not accept architectural or construction documents.

After discussion, it was moved by Mr. Masamitsu, seconded by Mr. Touchi, and unanimously carried to require applicant to submit a single line diagram depicting the premises, and that its application will remain pending until receipt of the new diagram.

#### Cutter Buick GMC, Inc. - Dealer

Marc Cutter and Clarence Ng appeared before the Board on behalf of applicant.

The Board reviewed the application for Cutter Buick GMC, Inc.

Marc Cutter and Clarence Ng were notified that (1) the Board would not take any position on the signage issue, but informed applicant that any false, deceptive, or misleading advertising would be cause for disciplinary action against a dealer's license; and (2) the Board does not accept architectural or construction documents.

After discussion, it was moved by Mr. Touchi, seconded by Mr. Nakama, and unanimously carried to require applicant to submit a single line diagram depicting the premises, and that its application will remain pending until receipt of the new diagram.

#### BYD Motor, Inc. – Distributor

The Board reviewed the application for BYD Motor, Inc. Members found that the notices sent to applicant regarding a deficiency are correct.

After a brief discussion, it was moved by Mr. Nakama, seconded by Mr. Touchi, and unanimously carried to require applicant to submit the required document. Applicant's application will remain in pending status until the document is received.

#### Logan S. Rees – Salesperson

Board members discussed Mr. Rees' application for a motor vehicle salesperson's license.

After discussion, it was moved by Mr. Short, seconded by Mr. Nakama, and unanimously carried to approve Mr. Rees' license application.

#### Delegation to Executive Officer

There was a brief discussion regarding the delegation of authority to the Executive Officer with respect to applications for salespersons with the moving violation of speeding convictions.

Upon a motion by Mr. Nakama, seconded by Mr. Touchi, it was unanimously carried to delegate to the Executive Officer the authority to approve the applications of motor vehicle salespersons in which there is indication that the applicant was convicted of the moving violation of speeding, and in which applicant has complied with all court orders, provided that there are no issues that require the Board to exercise discretionary decision-making.

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

Correspondence:      Undated Letter from Kevin Hurst Regarding Red Flag Rule, Enforcement

Members reviewed Mr. Hurst's letter. After a brief discussion, the Board determined that no action is required. Members noted that licensed motor vehicle dealers in Hawaii are aware of the Red Flag rule.

New Business:      None.

Unfinished Business:      2012 Legislative Session – S.B. No. 2296

John Caudell, a HIADA member, appeared before the Board to comment on HIADA's position regarding S.B. No. 2296.

The Executive Officer reported that the Senate Committee on Transportation and International Affairs heard the bill on Feb. 6, 2012. The Chair submitted testimony on behalf of the Board. The bill passed out as is. The bill will now go before the Committee on Commerce and Consumer Protection.

The Executive Officer explained that Senate Bill No. 2296 proposes to amend Chapter 437, HRS, by (1) mandating motor vehicle insurance when a dealer acquires a vehicle at a motor vehicle auction; (2) requiring applicants for a dealer's license to present proof of motor vehicle insurance for each vehicle to be sold as a prerequisite for a license; (3) excluding dealers of new cars and trucks from submitting a bond in lieu of the flooring line of credit; (4) requiring that the site where a motor vehicle dealer's premise is located be zoned to allow for the sale of motor vehicles; and (5) amending the bond, bond amounts, and terms under which the board may impose a bond when deciding upon whether to issue a license or discipline a license.

Jeff Crabtree, Esq., stated that he has represented consumers who have had problems with dealers. He suggested that the Board consider raising the bond requirement because the \$25,000 is not enough to protect consumers.

John Caudell apologized that HIADA did not come to the Board earlier to discuss the bill. He related that HIADA is still learning this process.

There was discussion about the proposal to require the Board to ensure that dealers have insurance for vehicles in their inventory. State laws have requirements regarding insurance of vehicles. Mr. Caudell stated that HIADA is concerned that dealers need to take responsibility to protect consumers. Therefore, they should be required to show proof of insurance before being allowed to remove a vehicle from auction and when applying for license.

Mr. Caudell also said that the dealer bond requirement needs to be increased to keep up with increased cost/value of vehicles. He added that one dealer recently injured a number of consumers and other dealers, when he failed to transfer the titles. Now those consumers and dealers are left with vehicles that they cannot drive or sell.

Regarding the proposal on zoning, Mr. Caudell stated that dealers should not be allowed to do business if the location is not zoned for it.

Board members agreed that dealers need to be responsible and insure their inventory. A member noted that the Board is not the appropriate agency to oversee dealers' insurance.

Board members agreed by consensus that dealers should only operate in locations properly zoned for motor vehicle activity. Board members cited to the Counties as being the appropriate governmental authority to oversee zoning, since it is under their respective jurisdictions.

Regarding amending §437-29, Board members stated that licenses have not been issued or disciplined under this section for over a decade. Therefore, the Board members agreed by consensus to not comment on this proposal.

After discussion, it was moved by Mr. Masamitsu, seconded by Mr. Touchi, and unanimously carried to oppose amendments (1) that require the Board to oversee dealers' vehicle insurance because it is not appropriate and because State laws already require vehicle insurance; and (2) that excludes dealers of new cars and trucks from submitting bonds in lieu of the flooring line of credit.

Scope Questions: None.

HADA, HIADA,  
Organizations: None.

Next Meeting: Tuesday, April 17, 2012  
9:00 a.m.  
Queen Liliuokalani Conference Room  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Adjournment:            There being no further business to discuss, the meeting adjourned at  
11:49 a.m.

Taken and recorded by:

/s/ Alice Worthy

\_\_\_\_\_  
Alice Worthy, Secretary

Reviewed and approved by:

/s/ Christine Rutkowski

\_\_\_\_\_  
Christine Rutkowski  
Executive Officer

CR:aw  
3/22/12

Minutes approved as is.

Minutes approved with changes. See Minutes of \_\_\_\_\_.



<b>APPLICATIONS FOR SALESPERSON'S TRANSFERS</b>						
<b>Tuesday, February 21, 2012</b>						
<b>HONOLULU</b>						
ADDISON III, HENRY				CUTTER MAZDA OF WAIPAHU		
ALCANTARA JR, ANTONIO				HAWAII AUTOMOTIVE RETAILING GRP		
ARANITA, CLAYTON				AUTO MART USA LLC		
CABRERA, RUEL				PACIFIC NISSAN DBA TONY NISSAN		
CANESO, ERICSON				VINNIE'S GROUP LLC		
CHOI, CHAUNCEY				CUTTER MAZDA OF WAIPAHU		
CLUTTER, WILLIAM				JN GROUP INC DBA JN EXOTICS		
CUMMINGS, MARIA				ISLAND AUTO EXCHANGE		
CUMMINGS II, WILLIAM				ISLAND AUTO EXCHANGE		
DOYLE, ROBERT				BMW OF HONOLULU		
FULTZ, MARK				CUTTER MAZDA OF WAIPAHU		
GANTE, MARLON				CUTTER CHRYSLER JEEP DODGE INC		
GERKEN, LEE				HONOLULU FORD INC		
JORDAN, ROGERIO				STOEBNER HOLDINGS INC		
KATO, JOHN				PACIFIC NISSAN DBA TONY NISSAN		
KITAOKA, SKY				WINDWARD AUTO SALES INC		
KITO-HO, DAVIN				TONY HAWAII AUTOMOTIVE GROUP		
KOZLIK, MARTIN				JJCO INC DBA JACKSON VOLVO		
LI, PAUL				SERVCO PACIFIC INC		
MATSUMOTO, TIFFANY				TONY HAWAII AUTOMOTIVE GROUP		
ODA, DOUGLAS				HAWAII AUTOMOTIVE RETAILING GRP		
PENNY, JOHN				PRINCE AUTO SALES INC		
ROSE, JOSEPH				CUTTER MAZDA OF WAIPAHU		
ROWAN III, WILLIAM				JN GROUP INC DBA AUDI HAWAII		
SCIMECA, FRANK				MERCEDES-BENZ OF HONOLULU		
SILVA, SHANE				CUTTER CHRYSLER JEEP DODGE INC		
SINCLAIR, MICHAEL				SERVCO PACIFIC INC		
SMITH, MICAH				HAWAII AUTOMOTIVE RETAILING GRP		
SONICO, DUSTIN				TONY HAWAII CORP DBA TONY HONDA		
TRAPP, ARIC				A-1 AUTO SALES LLC		
WHYNE, MARK				CUTTER CHRYSLER JEEP DODGE INC		
WONG, KEN				HAWAII AUTOMOTIVE RETAILING GRP		
WONG, LARRY				JJCO INC DBA JACKSON VOLVO		
WONG, TONY				MAX MOTORS LLC		
ZIMMERMAN, SHAUN				HONOLULU FORD INC		
<b>HAWAII</b>						
BILL, CHARLIE				PRE-OWNED MOTOR CARS LTD		
REGAN, TIMOTHY				PRE-OWNED MOTOR CARS LTD		
VAUGHT, AARON				PRE-OWNED MOTOR CARS LTD		
<b>MAUI</b>						
ALEY, BRYAN				MAUI TOYOTO		
BUSHART, RANDY				VALLEY ISLE MOTORS, LTD.		
MCGUIRE, MICHAEL				KULAGIRL ENTERPRISES LLC		
WOLCOTT, RYAN				JIM FAULK MOTORS OF MAUI INC		

LTYPE	REMARK	VAT_02_BPR_LEGAL_NAME_1
CS	HAWAII AUTOMOTIVE GROUP LLC	OAHU JASON T <AARNIO<
CS	TONY HAWAII AUTOMOTIVE GRP	OAHU PAUL T <AKIMOTO<
CS	JJCO INC	OAHU KAREN L <ALDRIDGE<
CS	GASPASIN FARMS INC	OAHU FRANKLIN T <ANDREWS<
CS	CUTTER FORD INC	OAHU LILIVAU <AULAUMEA<
CS	JN GROUP INC	OAHU GARY J <BECHARD<
CS	JJCO INC	OAHU SCOTT A <BELL<
CS	CYCLE CITY LTD	MAUI MICHAEL T <BIGLAKE<
CS	ALOHA AUTO GROUP LTD	OAHU ARIANNA D <BOEHM<
CS	JJCO INC	BIG ISLAND DAVID M <CABEBE<
CS	ISLAND AUTO EXCHANGES	OAHU MARCO C J <CALATRAVA<
CS	ALOHA AUTO GROUP LTD	OAHU THOMAS <CAPRIO<
CS	J/R HILO ACQUISITION	BIG ISLAND ANDREW MING-WAH <CHAN<
CS	HONOLULU FORD INC	OAHU JOHN <CHILTON<
CS	JN GROUP INC	OAHU LORI A <CLARK<
CS	VALLEY ISLE MOTORS LTD	MAUI RORY A <CLARK<
CS	VOYAGER CORPORATION	OAHU DONALD P <COLLINS<
CS	HAWAII AUTOMOTIVE LLC	OAHU JOSEPH A <CRISAFULLI<
CS	CYCLE CITY LTD	MAUI STEVEN A <DAVIS<
CS	CUTTER FORD	OAHU CHRISTOPHER T <DESTURA<
CS	THE CAR STORE INC	OAHU ISSAM <ELARCHI<
CS	BMW OF HONOLULU	OAHU MIKHAIL A <FOMENKO<
CS	SERVCO PACIFIC INC	KAUAI KELLY RALPH-SHIGERU <FOSTER<
CS	HAWAII AUTOMOTIVE RTLING GROUP	OAHU DYLAN M <FUJIMOTO<
CS	MAUI AUTOMOTIVE LLC	MAUI MAUREEN M <HARVEY<
CS	KING INFINITI	OAHU MICHAEL L <ILES<
CS	JIM FALK MOTORS OF MAUI	MAUI BRIAN J <JOACHIM<
CS	CUTTER CHRYSLER JEEP	OAHU STEPHEN R <JONES<
CS	HAWAII AUTOMOTIVE RTLING	OAHU ELSWORTH K <KAANAANA<
CS	KUHIO MOTORS INC	LIHUE WESRIC J K <KANEAKUA<
CS	ISLAND AUTO CENTER	MAUI PAMELA A <KERNS<
CS	SERVCO PACIFIC INC	OAHU KANIELA R K K <KIMURA<
CS	AUTO X CHANGE INC	OAHU ROBERT W <KIRLAND<
CS	CUTTER BUICK GMC	OAHU CHIHUAH <LOPEZ<
CS	MID'S AFFORDABLE CAR SALES	OAHU DOMINADOR M <LOPEZ<
CS	VOYAGER CORPORATION	OAHU DUANE <LUFF<
CS	TONY HYUNDAI	OAHU JOHN H <LUIZ<
CS	CYCLE CITY LTD	MAUI MICHAEL M <MARLER<
CS	CUTTER CJD INC	OAHU KITRELL K <MARSHALL-CHILTON<
CS	SERVCO PACIFIC INC	OAHU DEREK Y <MATSUMURA<
CS	J/R HILO ACQUISITION LLC	BIG ISLAND DAVID C <MCLAIN<
CS	KING WINDWARD NISSAN	OAHU ROLLY V <MEDRANO<
CS	AUTO X-CHANGE INC	OAHU RICHARD M <MORGENSTEIN< JR
CS	HONOLULU FORD INC	OAHU BRIAN K <NAKASHIMA<
CS	ANTOINE NGUYEN AND COMPANY LLC	OAHU SYLVESTER P <NGHIEM<
CS	808OCTOPUS LLC	OAHU MICHAEL J <O'BITTS<
CS	JN GROUP INC	OAHU RENE <ORONA<
CS	CYCLE CITY LTD	MAUI JOSEPH <PESTANO<
CS	JN GROUP INC	OAHU JAMES P <RAINEY< III
CS	JIM FALK MOTORS OF MAUI	MAUI STEVEN <RICHARD<
CS	CUTTER CHRYSLER JEEP DODGE	OAHU XAVIER H <SAMPSON<
CS	ALOHA KIA MAUI	MAUI SANDRA L <SAWICZ<
CS	CUTTER BUICK GMC	OAHU ALLEN G <SIEBERT<
CS	A-1 AUTO SALES	OAHU DARREN <SISINO<
CS	JJCO INC	OAHU BRIAN E <SLEVIN<
CS	GAC AUTO GROUP	OAHU MICHAEL J <SORENSEN<
CS	HAWAII AUTOMOTIVE RTLING	OAHU SHANE P <SOTELO<

LTYPE	REMARK		VAT_02_BPR_LEGAL_NAME_1
CS	GAC AUTO GROUP	OAHU	ALEKSANDAR <SPIRIC<
CS	JIM FALK MOTORS OF MAUI	MAUI	ORLANDO P <TADENA<
CS	PACIFIC NISSAN	OAHU	CHADWICK <TEANIO<
CS	KING AUTO CENTER	KAUAI	MICHAEL J A <TERRY<
CS	JN GROUP INC	OAHU	JAMES S <TOYOMURA<
CS	PRE-OWNED MOTORS CAR	BIG ISLAND	TODD A <TRYGSTAD<
CS	ALOHA AUTO GROUP LTD	OAHU	FRANK A <TYNAN<
CS	CUTTER CJD INC	OAHU	RICHARD I E <VAUGHN<
CS	HONOLULU FORD INC	OAHU	RICHARD C <WEBB<
CS	ALOHA AUTO GROUP	OAHU	JEFFREY S <WEINSTEIN<
CS	ANTOINE NGUYEN AND COMPANY LLC	OAHU	MARK M <YAMAUCHI<
CS	HAWAII AUTOMOTIV RTLING GRP INC	OAHU	ALI <ZIBAKALAM<

VAT\_02\_AT\_LIC\_BPR\_VIEW

Friday February 10, 2012

**Branch** TRANS VAT\_02\_BPR\_LEGAL\_NAME\_1

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MVB LICN ALOHA AUTO GROUP LTD

**Manufacturer**

F	149	C	SC	29680	J H GLOBAL SERVICES INC
F	150	C	CO	81506	FAIRPLAY ELECTRIC CARS LLC

**MVI RELOCATIONS 2-21-12bd mtg**

Capt. Ron Auto Sales LLC  
94-709 Unit C Farrington Hwy  
Waipahu HI 96797

MVD-805