

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, April 16, 2013
Time: 9:00 a.m.
Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

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

Excused: Dennis Short, Industry Member
Bill van den Hurk, Industry Member

Guests: Samuel Churchill, Applicant (Car Care Consultant-King Windward Nissan)
Cari Frisbie (with Samuel Churchill)
Philip Reinhardt, Aloha Car Deals LLC
R. Erik Soderholm, Soderholm Sales & Leasing, Inc.
Jeff Miller, Attorney for Soderholm
Tom Roeske, Applicant (Honolulu Ford)
Dave Rolf, HADA
Kimo Pierce, HIADA

Call to Order: Chairperson Umbhau called the meeting to order at 9:13 a.m., at which time quorum was established.

After the meeting was called to order, Erik Soderholm asked Chair Uhmbhau to allow his issue to be heard first because some of his issues could impact another area of the agenda.

Additions/Revisions to Agenda: Additional documents distributed to Board members at the start of the meeting: (1) February 19, 2013 meeting and executive session minutes and (2) additional information regarding Aloha Car Deals LLC and Colton Brennan under item 7.b., Applications.

It was moved by Mr. Touchi, seconded by Mr. Chung, and unanimously carried to add the following items to the agenda under item 7.b., Applications:

Corey Johnson – Motor Vehicle Salesperson
Thomas M. Roeske – Motor Vehicle Salesperson

Chair Umbhau informed the members that the agenda would be taken out of order. The Chair asked Erik Soderholm to approach the Board.

Erik Soderholm introduced his attorney, Jeff Miller. Mr. Soderholm stated that he is a licensed motor vehicle dealer with licenses on every island. He stated that he is a bus dealer. He said that he also is licensed as a MV repair dealer on all islands.

He stated that everyone should get licensed and comply with the licensing laws. He added that as a licensed dealer he has about 10 to 14 franchise agreements, and throughout the year, he adds new franchises, so he is familiar with the system.

Mr. Soderholm related that he emailed the Executive Officer questions about the following:

1. He used to be able to update his license with a new franchise and then have the manufacturer get licensed later; for example, Alexander Dennis. Recently, he wasn't allowed to do so. He questioned why.
2. Motor vehicle manufacturers, motor vehicle dealers, salespersons should be licensed simultaneously.
 - a. He has worked hard over the years to obtain and maintain his licenses, all he wants is a level playing field;
 - b. A motor vehicle manufacturer should not be licensed if it has no Hawaii dealer, just as a franchise agreement should not be recognized if the motor vehicle manufacturer is not licensed.
3. Where in the law is the Executive Officer or DCCA staff allowed to approve motor vehicle manufacturer and distributor applications? Manufacturers/distributors are too important and the Board should be the approver. He added that he is a lawyer by trade, but doesn't practice.

Chair Umbhau stated that the Executive Officer answered #1 and referred him to the minutes of the 09/2012 meeting. Therefore, this matter has been answered.

The Deputy Attorney General stated that regarding #2, there is nothing in the law that requires a motor vehicle manufacturer to have a Hawaii licensed motor vehicle dealer in order to obtain a motor vehicle manufacturer license. Therefore, his request for the Board to deny approvals of motor vehicle manufacturer applications for manufacturers that do not have a Hawaii licensed motor vehicle dealer will not be done.

Chair Umbhau stated that for #3, section 436B-8, HRS, gives the Board the authority to delegate to the Executive Officer. Mr. Soderholm refuted the Chair's statement and maintained that section 436B-8 does not apply because it is only a broad law; that the Board is authorized to administer Ch. 437, HRS. He added that the Deputy Attorney General should review the matter and advise the Board that the Executive Officer is not authorized to issue approvals to these applications before the Board reviews them.

The Executive Officer stated that regarding processing of license applications, staff performs ministerial functions as well as those authorized by the Board. When the applications meet the requirements and those requirements are ministerial, staff approves the applications so that the applicants can begin engaging in the licensed activity. Otherwise, applicants would be required to wait for the Board to grant approval even though the applicant clearly met the ministerial requirements. This would have the impact of impeding commerce. If as Mr. Soderholm is asserting, the Board requires all motor vehicle manufacturer/distributor applications to be withheld until the next Board meeting, the consequence would be that the manufacturer/distributor **and the franchised dealer** would be required to wait before it could do business regarding the specific make/brand of vehicle. Mr. Soderholm stated that he recognized this and would accept the consequences of not being able to sell a specific make/brand of vehicle until the Board approves the manufacturer/distributor license applications and the paperwork to process/approve his franchise agreements are completed.

At 9:40 a.m., it was moved by Mr. Touchi, seconded by Mr. Johnsen, 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

Erik Soderholm – Soderholm Sales & Leasing, Inc.
Aloha Car Deals LLC – Motor Vehicle Dealer
Colton Brennan – Motor Vehicles Salesperson
Samuel K. Churchill – Motor Vehicle Salesperson
Corey Johnson – Motor Vehicle Salesperson
Thomas M. Roeske – Motor Vehicle Salesperson

At 10:13 a.m., it was moved by Mr. Touchi, 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 10:13 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's License of SANDRA G. SIRACUSA dba METRO MOTORS, Respondent; MVI 2011-84-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. Touchi, seconded by Mr. Johnsen, and unanimously carried to approve the settlement agreement in which:

1. Respondent does not admit to violating any law or rule. Respondent enters into this settlement strictly as a compromise and in order to conserve on the expense of proceeding with an administrative hearing.
2. Respondent agrees to pay a fine in the amount of One Thousand and No/100 Dollars (\$1,000.00). Payment shall be due at the time the fully executed Settlement Agreement is returned to RICO.
3. 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 and Motor Vehicle Salespersons License of JOE LEE'S AUTO SALES, INC., and JOSEPH LEE, JR., Respondents; MVI 2011-55-L, MVI 2011-56-L – Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order

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

After discussion, it was moved by Mr. Johnsen, seconded by Mr. Touchi, and unanimously carried to adopt the Hearings Officer's Findings of Fact, Conclusions of Law, and Recommended Order and to issue the Board's

Final Order, in which the Board finds and concludes that Respondents Joe Lee's Auto Sales, Inc. and Joseph Lee, Jr. violated HRS §§437-2(b) and 437-28(a)(2).

For violations found, Respondents are required to jointly pay a fine in the amount of \$500.00.

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

Approval of Minutes of Previous Meeting: It was moved by Mr. Touchi, seconded by Mr. Chung, and unanimously carried to approve the meeting minutes of February 19, 2013, as circulated.

Chair's Report: None.

Executive Officer's Report: The Executive Officer reminded Board members that May 31, 2013 is the deadline to file their Financial Disclosure Statements. Members can visit the Ethics Commission's website at <http://hawaii.gov/ethics> to download the form. Members should call the Ethics Commission if they have any questions.

Licensing: Ratifications

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

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

Applications

Aloha Car Deals LLC – Motor Vehicle Dealer

Board members reviewed the additional information submitted by applicant.

It was moved by Mr. Touchi, seconded by Mr. Johnsen, and unanimously carried to approve the application for a motor vehicle dealer's license for Aloha Car Deals LLC.

Colton Brennan – Motor Vehicle Salesperson

Board members reviewed the additional information submitted by applicant.

It was it was moved by Mr. Chung, seconded by Mr. Touchi, and unanimously carried to approve the application for a motor vehicle salesperson's license for Colton Brennan.

Samuel K. Churchill – Motor Vehicle Salesperson

Board members reviewed the application and documents submitted.

It was moved by Mr. Chung, seconded by Mr. Johnsen, and unanimously carried to approve the application for a motor vehicle salesperson's license for Samuel K. Churchill.

Corey Johnson – Motor Vehicle Salesperson

Board members reviewed the application and documents submitted.

It was moved by Mr. Touchi, seconded by Mr. Johnsen, and unanimously carried to approve the application for a motor vehicle salesperson's license for Corey Johnson.

Thomas M. Roeske – Motor Vehicle Salesperson

Board members reviewed the application and documents submitted.

It was moved by Mr. Chung, seconded by Mr. Johnsen, and unanimously carried to approve the application for a motor vehicle salesperson's license for Thomas M. Roeske subject to receipt of additional documents from the State of California and to delegate to the Executive Officer to approve the application provided that the documents have no deviation from the verbal information presented by Mr. Roeske.

Correspondence: None.

New Business: Email Request from Erik Soderholm Regarding

- Requirements for a motor vehicle dealer to add a new franchise to its license
- Requirement that a motor vehicle manufacturer must have a motor vehicle dealer licensed under HRS 437
- HRS 437 requirement that the Department or Director has the right to grant a motor vehicle dealer, franchise or motor vehicle manufacturer license prior to a vote from the Board

Deputy Attorney General Tam stated that Mr. Soderholm's request regarding bullets #1 and #2 have been answered. Regarding bullet #3,

Deputy Attorney General Tam stated that he would review the matter and the matter will be carried over to the next Board meeting.

Unfinished
Business:

None.

Open Forum:

Kimo Pierce, HIADA, reported that he did not have anything for the Board, but that HIADA is still determining which issues to work on for the next legislative session. Mr. Pierce also reported that he had spoken with the industry association and indicated to the association that they need to work together in the future on legislative issues.

Dave Rolf, HADA, had no report for the Board.

Next Meeting:

Tuesday, June 18, 2013
9:00 a.m.
Queen Liliuokalani Conference Room
335 Merchant Street, 1st Floor
Honolulu, HI 96813

Mr. Masamitsu stated that he will not be available for the June 18th meeting as he will be out of town.

Adjournment:

There being no further business to discuss, the meeting adjourned at 10:26 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
5/6/13

[X] Minutes approved as is.

[] Minutes approved with changes. See Minutes of _____.

APPLICATIONS FOR SALESPERSON'S TRANSFERS						
Tuesday, April 16, 2013						
HONOLULU						
AGUILAR, RUDY			JN GROUP INC			
AHMAD, SHONEN			PACIFIC NISSAN DBA TONY NISSAN			
AKI, LAHELA			PACIFIC NISSAN DBA TONY NISSAN			
BENTKOWSKI JR, THOMAS			HI AUTOMOTIVE RETAILING GRP INC			
BRAINE, ARIANA			FRANK THE USED CAR GUY LLC			
CALLES, CLAYTON			GAC AUTO GROUP INC			
CHEN, SAMUEL			COX AUTO SALES AND RENTAL LLC			
CHERRY, CHARLES			KING WINDWARD NISSAN LLC			
CHONG, TROY			ALOHA AUTO GROUP LTD			
DAVIS, LARRY			CUTTER CJD INC			
DEVERA II, MANUEL			TONY HAWAII AUTOMOTIVE GROUP			
FOY, NICHOLAS			ALOHA AUTO GROUP LTD			
FUKUSHIMA, SCOTTY			PRINCE AUTO SALES INC			
GALINDO-KAY, LULU			JN GROUP INC			
GRANT, KEVIN			CUTTER CJD INC			
HIRATA, KENNETH			TONY HAWAII AUTOMOTIVE GROUP			
INOUE, ROY			JN GROUP INC			
KANESHIRO, JASON			GAC AUTO GROUP INC			
KARY, RONALD			ALOHA AUTO GROUP LTD			
KAWASHIMA, YOSHIO			TONY HAWAII AUTOMOTIVE GROUP			
KIM, KEVIN			TONY HAWAII AUTOMOTIVE GROUP			
KINGSLEY, SANG			HI AUTOMOTIVE RETAILING GRP INC			
LAWRENCE, SHANE			GAC AUTO GROUP INC			
LOESCH, K C			HONOLULU FORD INC			
MARKOS, THOMAS			ALOHA ISLAND AUTOS LLC			
MINNIS, DONALD			J/R MOTORS 744 LLC			
MORRIS, DONALD			HONOLULU FORD INC			
MULLIGAN, MELVIN			HI AUTOMOTIVE RETAILING GRP INC			
MURRAY, ANGELIQUE			CUTTER CHRYSLER JEEP DODGE PEARL CITY			
ORONA, RENE			JN GROUP INC			
SANTIAGO, ASHLEY			CUTTER FORD INC			
SHERLOCK, MARK			HI AUTOMOTIVE RETAILING GRP INC			
SMITH, BRANDON			PACIFIC NISSAN DBA TONY NISSAN			
SWITKEN, CURTIS			WINDWARD AUTO SALES INC			
VALENZUELA, RENE			STOEBNER HOLDINGS INC			
HAWAII						
HIRAI, RILEY			KAMAAINA NISSAN INC			
JACKSON, MARC			JJCO INC			
KLINE, GARY			BIG ISLAND TOYOTA INC			
MICKEY, MICHAEL			IK MOTORS INC			
MAUI						
OROZCO, RAMON			ISLAND AUTO CENTER			

LTYPE	REMARK	VAT_02_BPR_LEGAL_NAME_1
CS	JN GROUP INC	OAHU AIFULAGI E <ALA<
CS	ENVY HAWAII LLC	OAHU JEFFERY D <ALBRIGHT<
CS	BIG ISLAND SCRAP METAL	BIG ISLAND DAMIEN <ANINION<
CS	FERDINAND SANTOS	OAHU FRANCISCO R <BARRO<
CS	HONOLULU FORD INC	OAHU STEVEN L <BASKETT<
CS	ALOHA AUTO GROUP	BIG ISLAND ANDREW <BERGSTROM<
CS	JN GROUP INC	OAHU PETER A <BINGHAM<
CS	CUTTER CJD INC	OAHU ROBERT L <BRANCO<
CS	JIM FALK MOTORS OF MAUI	MAUI CHRISTIAN <BRIDGER<
CS	HARBOR MOTORS INC	KAUAI AI M <BUNGULA<
CS	CUTTER BUICK GMC	OAHU ANDRE T <CALDEN<
CS	JIM FALK MOTORS OF MAUI	MAUI KYLE K <CAMBRA<
CS	QIU'S COMPANY	OAHU CHE HAO <CHANG<
CS	RAINBOW CHEVROLET	OAHU KAWIKA A <CHO<
CS	JN GROUP INC	OAHU KEAHI J <CHUN<
CS	AUTO MART USA LLC	OAHU JAYMEN G K <CORPUZ<
CS	KING WINDWARD NISSAN	OAHU JUDE <DOMIZIO<
CS	HONOLULU FORD INC	OAHU WAGNER G <DOS SANTOS<
CS	KIHEI AUTO SALES INC	MAUI NEAL T <DREWRY<
CS	CUTTER CHRYSLER JEEP	OAHU JUSTIN C <DRUSKIS<
CS	CUTTER FORD	OAHU DOUGLAS W <DUDLEY<
CS	PARADISE AUTOS INC	OAHU JOHN B W <EAGLE<
CS	808OCTOPUS LLC	OAHU BEAU <EARNBERGER<
CS	JN GROUP INC	OAHU MARIO M <EVANS<
CS	GAC AUTO GROUP INC	OAHU MATTHEW I <FELDMAN<
CS	JN GROUP INC	OAHU JAMES K <GAGLIANO<
CS	TONY HAWAII CORP	OAHU LULU <GALINDO-KAY<
CS	HAWAII AUTOMOTIVE RTLING GRP	OAHU MELISSA M <GETTY<
CS	CUTTER CJD INC	OAHU DAVID F <GONZALEZ<
CS	CYCLE CITY	OAHU MICHAEL B <GRAY<
CS	CYCLE CITY LTD	OAHU SHELDON L <GRIDLEY<
CS	KING WINDWARD NISSAN	OAHU JON S <HAISLIP<
CS	HAWAII SPECIALTY VEHICLES	OAHU RICHARD S <HALEY<
CS	CUTTER FORD INC	OAHU ARCHIEBALD U <HERNANDEZ<
CS	CUTTER CJD INC	OAHU EVA J <HERNANDEZ<
CS	SERVCO PACIFIC	OAHU JULIE A <HIGASHIHARA<
CS	JN GROUP INC	OAHU MICHAEL G <HUSKEY<
CS	CUTTER CHRYSLER JEEP	OAHU DALLAS I K <KAAHANUI<
CS	JN GROUP INC	OAHU RONALD <KARY<
CS	KING WINDWARD NISSAN	OAHU ARI K <KATZ<
CS	JIM FALK MOTORS INC	MAUI JOSHUA J <KELLY<
CS	HAWAII AUTOMOTIVE RTLING GROUP	OAHU DONNY <KIM<
CS	AUTO MART USA LLC	OAHU GARY <KIMBERLY<
CS	TONY HAWAII CORP	OAHU COLLEEN T <KIMURA<
CS	ALOHA AUTO GROUP	MAUI TED J <KORD<
CS	JN GROUP INC	OAHU HEATHER M <KRESGE<
CS	SERVCO SUBARU	OAHU JONATHAN T <KUNIMURA<
CS	CUTTER FORD INC	OAHU CHRISTOPHER J <LAM<
CS	STOEBNER HOLDINGS	OAHU JASON K <LEE<
CS	WINDWARD AUTO SALES	OAHU ADAM J <LEVINSON<
CS	QIU'S COMPANY INC	OAHU MICHAEL <LIAO<
CS	TONY HAWAII CORP	OAHU TODD <LUCIANO-DESMITH<
CS	VOYAGER CORPORATION	OAHU MICHAEL A <LYNCH<
CS	HONOLULU FORD INC	OAHU CHARLES M <MARSHALL< JR
CS	HAWAII AUTOMOTIVE RTLING GROUP	OAHU NATHAN K <MASUNARI<
CS	TONY HAWAII CORP	OAHU SCOTT M <MATSUOKA<

LTYPE	REMARK	VAT_02_BPR_LEGAL_NAME_1
CS	WESLEY TOMLINSON	OAHU RAUL V <MENINA<
CS	JIM FALK MOTORS OF MAUI	MAUI JACKIE L <METHE<
CS	PACIFIC NISSAN	OAHU DANIEL <MORISATO<
CS	HAWAII NISSAN INC	OAHU EDWARD M <MORISHIMA< JR
CS	ALOHA AUTO GROUP	OAHU MICHAEL P <MORRIS<
CS	KING WINDWARD NISSAN	OAHU LUCAS P <MURPHY<
CS	GAC AUTO GROUP	OAHU KATRIN R <NAVA<
CS	JIM FALK MOTORS	MAUI MITCHELL S <NOHARA<
CS	GAC AUTO GROUP INC	OAHU SHAY T <OKAMURA<
CS	CUTTER FORD INC	OAHU ZACHARY L <OLANDER<
CS	HAWAII AUTOMOTIVE RTLING GROUP	OAHU KENNETH <OLASO< JR
CS	WINDWARD AUTO SALES	OAHU ALEXANDER G <PECK<
CS	ALOHA KIA WINDWARD	OAHU JASON E <PENDERGAST<
CS	SOUTH SEAS CYCLE	OAHU WINSTON S J <PETERSON<
CS	CUTTER CHRYSLER JEEP	OAHU RICHARD A <RASNER<
CS	CUTTER CHRYSLER JEEP	OAHU CHRISTOPHER L <RILEY<
CS	TONY HAWAII	OAHU SCOT K <ROBERTSON<
CS	MIRIKATANI MOTORS LLC	OAHU ERIC A <SALKEWICZ<
CS	GARDEN ISLAND AUTO	LIHUE RADFORD K <SAM FONG<
CS	KING WINDWARD NISSAN	OAHU DAVID L <SCHUCK<
CS	ALOHA AUTO GROUP	OAHU VIRGIL GABRIEL <SEGUE<
CS	KING WINDWARD NISSAN	OAHU ALAN M <SIMPKINS<
CS	HAWAII AUTOMOTIVE RTLING	OAHU THEODORE J <SMITH<
CS	KING WINDWARD NISSAN	OAHU CHRISTIAN <STEVENS<
CS	SERVCO PACIFIC	OAHU CLIFFORD V <TABUYO<
CS	BIG ISLAND TOYOTA	BIG ISLAND DENNIS A <TAKETA<
CS	CUTTER BUICK GMC	OAHU BENJAMIN C <TIBURCIO<
CS	KING WINDWARD NISSAN	OAHU MARTIN H <TJOMSLAND<
CS	ALOHA AUTO GROUP LTD	OAHU ALAN T <UYEOKA<
CS	PACIFIC NISSAN	OAHU KAOMEALANI H <WHITE<
CS	WINDWARD AUTO SALES	OAHU BRIAN K <WHITTED<
CS	AUTOMART USA	OAHU NATHANIEL L <WHITFORD<
CS	AUTO MART USA	OAHU LARRY W K <YIP<
CS	ALOHA AUTO GROUP	OAHU JAMES J <YOO<
CS	JN GROUP INC	OAHU JOSHUA M <ZARET<
CS	KING WINDWARD NISSAN	OAHU ALI <ZIBAKALAM<

LTYPE	LIC NUM	BUSN	ST	BUSN ZIP	BP NAME PART 1
MVD	977	HI	96786	COX AUTO SALES AND RENTAL LLC	

MANUFACTURER

F	158	GA	30809	CLUB CAR LLC
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