

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, June 19, 2018
Time: 9:00 a.m.
Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Wayne De Luz, Industry Member, Chairperson
Steven J. T. Chow, Esq., Public Member, Vice-Chairperson
Byron Hansen, Public Member
Carl D. Johnsen, Public Member
Russell Wong, Industry Member

Kedin Kleinhans, Executive Officer
Mana Moriarty, Deputy Attorney General (“DAG”)
Lori Nishimura, Secretary

Excused: Larry Ignas, Public Member

Guest: None.

Call to Order: Chairperson De Luz called the meeting to order at 9:00 a.m. at which time quorum was established.

Approval of Minutes Of the April 17, 2018 Meeting: It was moved by Vice-Chairperson Chow, seconded by Mr. Johnsen, and unanimously carried to approve the minutes of the April 17, 2018 Board meeting as circulated.

Executive Officer’s Report:

a. Common Ownership Designation form

Executive Officer Kleinhans informed the Board that Senate Bill 2490, S.D. 1, H.D. 2, C.D. 1, has not been signed by the Governor, but once signed, will authorize a license holder to engage in business at motor vehicle dealer locations that are affiliated by common ownership under the same license. The Act would have been effective July 1, 2018.

Executive Officer Kleinhans also informed the Board that he has begun drafting the “Common Ownership Designation” form – commenting “it is a work in progress”. The Board will be receiving

applications for "Common Ownership Designation" at its next meeting.

Vice-Chairperson Chow inquired if notification will be made to licensees. Executive Officer Kleinhans informed the Board that once the bill becomes law, he will request for Mr. Dave Rolf's assistance through the Hawaii Auto Dealer Association, to disseminate this information to Motor Vehicle Dealers.

Chairperson De Luz announced the Board will recess its meeting to go into adjudicatory matters and subsequently go into Executive Session; the meeting recessed at 9:05 a.m.

Chapter 91, HRS,

Adjudicatory Matters: a.

In the Matter of the Motor Vehicle Salesperson's License of Walter C. Amarino; MVI 2016-056-L

HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER; BOARD'S FINAL ORDER

After discussion, it was moved by Mr. Wong, seconded by Mr. Hansen, and unanimously carried (Chairperson De Luz recused himself from decision-making) to approve the Board's Final Order for the Motor Vehicle Salesperson's License of Walter C. Amarino; MVI 2016-056-L.

- b. In the Matter of the Motor Vehicle Dealer's and Salesperson's License of European Auto, Inc., and Angel L. Santiago; MVI 2011-1-L; MVI 2011-46-L; MVI 2011-64-L

HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER; RESPONDENT ANGEL SANTIAGO'S WRITTEN EXCEPTIONS TO HEARING OFFICER'S RECOMMENDED ORDER; AND BOARD'S PROPOSED FINAL ORDER

After discussion, it was moved by Mr. Wong, seconded by Mr. Johnsen, and unanimously carried to approve the Board's Proposed Final Order for the Motor Vehicle Dealer's and Salesperson's License of European Auto, Inc., and Angel L. Santiago; MVI 2011-1-L; MVI 2011-46-L; MVI 2011-64-L.

The Board reconvened its meeting at 9:55 a.m.

Licensing:

- a. Ratifications

Motor Vehicle Car Salesperson Transfers
Motor Vehicle Car Salesperson Licenses
Motor Vehicle Branch License - Relocation
Motor Vehicle Distributor

Motor Vehicle Manufacturer License

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

Motor Vehicle Dealer License

Upon a motion by Mr. Wong, seconded by Mr. Hansen, it was unanimously carried (Vice-Chairperson Chow recused himself from decision-making) to ratify the Motor Vehicle Dealer license sought (as attached).

b. Applications

- (i) Mary P. Benson
Motor Vehicle Consumer Consultant

It was moved by Vice-Chairperson Chow, seconded by Mr. Wong, and unanimously carried to approve the Motor Vehicle Consumer Consultant application for Mary P. Benson.

New Business:

- a. Question from Arent Fox LLP – What license is required for an entity that engages in Motor Vehicle Broker activity and receives compensation, either directly or indirectly, from a Motor Vehicle Dealer?

Executive Officer Kleinhans stated the Board received an inquiry from Arent Fox LLP asking what license is required for an entity that engages in Motor Vehicle Broker activity and receives compensation, either directly or indirectly, from a Motor Vehicle Dealer. Mr. Kleinhans stated that the regulation of Auto Brokers in Hawaii ended in 1961. “Broker” was initially defined as “any person who is engaged in the business of offering or attempting to negotiate the purchase of motor vehicles or any interest therein where title to such motor vehicles not pass through such person.”

It was mentioned that the regulation of Auto Brokers ceased, to “protect the general public in that franchised new car dealers, by virtue of their contracts with their respective manufacturers, are compelled to provide necessary repair, parts and servicing facilities and also uphold and carry out warranty provision of the manufacturer”. Executive Officer Kleinhans stated there are currently two (2) auto brokers licensed in this State due to a “grandfather” clause which initially permitted all licensed brokers to continue their operations.

After discussion, the consensus of the Board was that based on the information provided, a Motor Vehicle Dealer's license is required for an entity that engages in Motor Vehicle Broker activity and receives compensation, either directly or indirectly, from a Motor Vehicle Dealer.

In accordance with HAR section 16-201-90, the above interpretation is for informational and explanatory purposes only and based solely on the information provided. It is not an official opinion or decision and therefore not binding upon the Board.

Public Comment: None.

Next Meeting: Tuesday, August 21, 2018
9:00 a.m.
King Kalakaua Building
Queen Liliuokalani Conference Room
335 Merchant Street, 1st Floor
Honolulu, HI 96813

DAG Moriarty informed the Board that he may not be able to attend the next scheduled Board meeting due to a conflict in schedule.

Adjournment: There being no further business to discuss, the meeting adjourned at 10:07 a.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Kedin Kleinhans

Kedin Kleinhans
Executive Officer

08/21/18

[X] Minutes approved as is.

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