

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, August 21, 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")
LaJoy Lindsey, Secretary
Lori Nishimura, Secretary

Excused: Larry Ignas, Public Member

Guest: None.

Call to Order: Chairperson De Luz called the meeting to order at 9:03 a.m. at which time quorum was established.

Approval of Minutes of the June 19, 2018 Meeting: It was moved by Mr. Wong, seconded by Mr. Hansen, and unanimously carried to approve the minutes of the June 19, 2018 Board meeting as circulated.

Executive Officer's Report: None.

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 Michael K. Mills; MVI 2017-17-L

*SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER*

After discussion, it was moved by Vice-Chairperson Chow, seconded by Mr. Johnsen, and unanimously carried to approve the Settlement Agreement for the Motor Vehicle Salesperson's License of Michael K. Mills; MVI 2017-17-L.

The Board reconvened its meeting at 9:12 a.m., and immediately entered into Executive Session

At 9:12 a.m., it was moved by Vice-Chairperson Chow, 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 HRS section 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 HRS section 92-5(a)(4).

EXECUTIVE SESSION

At 10:15 a.m., it was moved by Vice-Chairperson Chow, seconded by Mr. Wong, and unanimously carried to return to the Board's regular order of business.

Licensing:

a. Ratifications

Motor Vehicle Car Salesperson Transfers
Motor Vehicle Branch Licenses
Motor Vehicle Branch License - Relocation
Motor Vehicle Dealer Licenses
Motor Vehicle Dealer License - Relocation
Motor Vehicle Manufacturer License

Mr. Wong noted that the Ratification List, page 4, 5th from bottom, incorrectly listed a Car Salesperson Licensee's name. After discussion, it was moved by Mr. Wong, seconded by Vice-Chairperson Chow, and unanimously carried to ratify the above lists for the licenses sought (as attached) and to defer the ratification of approval of the incorrectly named Car Salesperson on page 4 from the Ratification List.

b. Applications

(i) MJC, Inc. dba Cutter Automotive Galleries
Common Ownership Designation

After discussion, it was moved by Mr. Wong, seconded by Mr. Hansen, and unanimously carried to approve the Common Ownership Designation application for MJC, Inc. dba Cutter Automotive Galleries, subject to the Board's receipt of shares issued and outstanding, and declaration

that the ownership remains the same as their document indicates.

- (ii) I. Kitagawa and Company Ltd.
Common Ownership Designation
- (iii) Cutter Management Co.
Common Ownership Designation

After discussion, it was moved by Mr. Wong, seconded by Vice-Chairperson Chow, and unanimously carried to defer decision-making on the Common Ownership Designation applications for I. Kitagawa and Company Ltd., and Cutter Management Co., pending receipt of documentation to show shares issued and outstanding, and to show current holders of stock to determine common ownership.

Discussion ensued on documentation that may be submitted to determine common ownership. Examples included, but were not limited to:

- Articles of incorporation;
- Certificate of Incorporator;
- Resolution of the board of directors;
- Declaration of current officers; or
- Declaration form a current officer of the entity who has competent knowledge of the number of shares.

It was also noted that the application must be signed by an identified officer to the entity.

Chairperson De Luz commented that the above listing may help to determine exact same ownership.

New Business: a. Delegation of Responsibility to the Executive Officer to Approve Common Ownership Designation Forms

After discussion, it was moved by Vice-Chairperson Chow, seconded by Mr. Johnsen, and unanimously carried to delegate to the Executive Officer the authority to approve the applications of Common Ownership Designation.

Correspondence: a. Questions from John Caudell of the Hawaii Independence Automobile Dealers Association:

- (i) "What is the current requirement for garage keeper insurance to be a Motor Vehicle Dealer in Hawaii?".

Executive Officer Kleinhans stated that there is no reference in the Board's statutes and rules that address Mr. Caudell's inquiry. Mr. Kleinhans did note that a similar discussion occurred on February 21, 2012, whereby the Board discussed Senate Bill No. 2296, introduced during the 2012 Legislative Session – the bill proposed “to require the Board to ensure that dealers have insurance for vehicles in their inventory.” Mr. Caudell was present at the February 21, 2012 Board meeting and the minutes from that meeting reflect that he “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.”

(i) “Who is enforcing the requirement?”.

Board members agreed by consensus that “there is no requirement”.

Vice-Chairperson Chow motioned to reaffirm the Board's position as stated at its February 21, 2012 meeting: that the Board does not “oversee dealers' vehicle insurance because it is not appropriate and because State laws already require vehicle insurance”.

Chairperson De Luz commented that dealers assume a contingent liability; therefore, proof of insurance as well as proof of a driver's license is confirmed before a purchased car is released to the buyer.

Mr. Wong commented that a requirement would require a legislative change.

The motion by Vice-Chairperson Chow was seconded by Mr. Wong, and unanimously carried by the Board.

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, October 16, 2018
9:00 a.m.
King Kalakaua Building
Queen Liliuokalani Conference Room

335 Merchant Street, 1st Floor
Honolulu, HI 96813

Adjournment: There being no further business to discuss, the meeting adjourned at 10:46 a.m.

Taken and recorded by:

/s/ Lori Nishimura

Lori Nishimura, Secretary

Reviewed and approved by:

/s/ Kedin Kleinhans

Kedin Kleinhans
Executive Officer

09/18

Minutes approved as is.

Minutes approved with changes. See Minutes of _____.