

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: Friday, June 2, 2017

Time: 9:16 a.m.

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

Present: Wayne De Luz, Industry Member Chairperson  
Steven J. T. Chow, Esq., Public Member  
Byron Hansen, Public Member  
Carl D. Johnsen, Public Member  
Dennis Short, Industry Member

Christine Rutkowski, Executive Officer  
Mana Moriarty, Deputy Attorney General ("DAG")  
Lori Nishimura, Secretary

Excused: Russell Wong, Industry Member Vice-Chairperson

Guests: Jonathan Chang, Tesla Inc.  
Dave Rolf, Hawaii Automobile Dealers Association ("HADA")  
Ransen Taito, Motor Vehicle Salesperson Applicant  
Jon Yoshimura, Tesla Inc.

Call to Order: Chairperson De Luz called the meeting to order at 9:16 a.m. at which time quorum was established.

Aloha and Mahalo -  
Dennis Short

The consensus of the Board was to defer this agenda item until Mr. Short arrived.

Approval of Minutes  
April 18, 2017

Meeting: The consensus of the Board was to defer this agenda item until Mr. Short arrived.

Executive Officer's  
Report:

Executive Officer Rutkowski introduced DAG Mana Moriarty who will be assisting the Board for this meeting. The Executive Officer also introduced secretary Lori Nishimura who is also assisting while the secretary position is vacant.

Mr. Rolf informed/requested the Board defer Agenda item #8(b): Hawaii Automobile Dealers Association – Definition of Final Stage Manufacturer, stating that the HADA Board would be discussing this matter again. He stated that HADA would like to address the matter at the Board's next meeting.

Executive Officer Rutkowski suggested that Mr. Rolf share the Board's minutes of the meetings in which discussions of this matter occurred with the HADA Board. Executive Officer Rutkowski also suggested that HADA reach out to the stakeholders, motor vehicle dealers (specialty dealers), that may be impacted by HADA's proposal.

Executive Officer Rutkowski also requested that Mr. Rolf submit written materials for the Board's review at least 10 days before the Board's meeting date.

Mr. Short arrived to the meeting at 9:25 a.m.

The consensus of the Board was to defer Agenda item #8(b) to the next meeting.

Chair De Luz announce that the Board would return to the deferred Agenda items.

Aloha and Mahalo -  
Dennis Short

Mr. Short was presented with a certificate in appreciation of his public service. Chairperson De Luz, members, and Executive Officer thanked Mr. Short for his public service, contributions to the public and the industry. Mr. Short's term expires on June 30, 2017.

Approval of Minutes  
April 18, 2017  
Meeting:

It was moved by Mr. Hansen, seconded by Mr. Johnsen, and carried by majority vote (Mr. Chow abstained) to approve the minutes of the April 18, 2017 Board meeting as circulated.

At 9:30 a.m., Chairperson De Luz recessed the meeting for the purpose of the Chapter 91 meeting.

Chapter 91, HRS,  
Adjudicatory Matters:

a. In the Matter of the Motor Vehicle Dealer's License of Auto X-Change, Inc.; MVI 2016-28-L

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

After discussion, it was moved by Mr. Chow, seconded by

Mr. Short, and unanimously carried to approve the Settlement Agreement.

The Board reconvened its meeting at 9:35 a.m.

Executive Session: At 9:35 a.m., it was moved by Mr. Short, 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, §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 §92-5(a) (4), Hawaii Revised Statutes.

#### EXECUTIVE SESSION

At 11:20 a.m., it was moved by Mr. Chow, seconded by Mr. Hansen, and unanimously carried to return to the Board's regular order of business.

Chairperson De Luz called for a five minute recess.

At 11:25 a.m., the Board reconvened its meeting.

#### Licensing:

a. Ratifications

Motor Vehicle Salesperson Transfers  
Motor Vehicle Salesperson License  
Motor Vehicle Dealer License - Relocation

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

b. Applications

(i) Christina M. Molina – Motor Vehicle Salesperson

It was moved by Mr. Chow, seconded by Mr. Hansen, and unanimously carried to approve the motor vehicle salesperson application for Christina M. Molina, subject to the Board's receipt of a letter signed by the individual appointed by Lithia.

Board members briefly discussed that, in accordance with the application form instructions, the dealer principal is required to submit a signed letter, on the MVD's letterhead, regarding the applicant.

However, in the case of publicly held companies/MVD's, there most likely is not an individual who is the dealer principal. Board members agreed by consensus that publicly held companies may appoint, in writing, a designee who is authorized to sign on the MVD's behalf. Once designated, letters signed by that designee will be accepted by the Board.

(ii) Christopher E. Brenna – Motor Vehicle Salesperson

It was moved by Mr. Hansen, seconded by Mr. Johnsen, and unanimously carried to deny the motor vehicle salesperson application for Christopher E. Brenna, on the basis of HRS §436B-19(14).

(iii) Crissar Karl B. Villejo – Motor Vehicle Salesperson

It was moved by Mr. Chow, seconded by Mr. Hansen, and unanimously carried to approve the motor vehicle salesperson application for Crissar Karl B. Villejo.

(iv) Ransen Taito – Motor Vehicle Salesperson

It was moved by Mr. Hansen, seconded by Mr. Johnsen, and unanimously carried to approve the motor vehicle salesperson application for Ransen Taito, subject to the Board's receipt of a letter, signed by the dealer principal/authorized individual, that complies with the application instructions. Mr. Hansen moved, Mr. Johnsen seconded that the Executive Officer be authorized to approve the application upon receipt of the letter. The motion was voted on and unanimously carried.

(v) Shon M. Otwell – Motor Vehicle Salesperson

It was moved by Mr. Short, seconded by Mr. Chow, and carried by majority vote (Chairperson De Luz abstained) to approve the motor vehicle salesperson application for Shon M. Otwell.

(vi) Tesla, Inc. – Motor Vehicle Branch Location

Mr. Chow stated that he had received an email from Jon Yoshimura concerning Tesla, Inc.'s ("Tesla") application for motor vehicle branch location. Mr. Chow related that Mr. Yoshimura's email did not contain any specific information about the applicant/application. Mr. Chow also said that he did not discuss the application with Mr. Yoshimura.

Thus, Mr. Chow stated that he believes he does not have a conflict in this matter and is able to vote fairly and impartially on Tesla's application.

The Executive Officer summarized the application that applicant proposes to engage in motor vehicle branch location activity in the International Market Place, which is located in the in the Waikiki Special District ("WSD"). It is the Board's understanding that zoning code for the WSD restricts motor vehicle dealer activity. Executive Officer stated that upon learning that the application would be placed on this agenda, applicant requested and was granted approval for an off premise display approval that expires June 2, 2017.

Board members reviewed and discussed a zoning determination letter applicant received from the City and County of Honolulu ("C&C"), dated April 8, 2016:

"Because the consumers will not be taking test drives from the site or acquiring the vehicle on site, we have determined that for zoning purposes the operations and activities you describe is a "retail establishment"". C&C also granted/approved the "Zoning Code" permit on March 24, 2017.

Jon Yoshimura stated that he represents the applicant. He explained that the issue before C & C is the look and feel of WSD; that WSD is to be devoid of large dealerships with cars parked in lots, unsightly signs advertising the dealerships and test drives. He added that the applicant was able to demonstrate to C & C that its business model is not that of a typical dealership. He also said that the vehicles are not delivered to the customer at the dealership. C & C was satisfied that applicant would operate at the International Marketplace more closely to a retail outlet and granted the determination.

Jonathan Chang stated that they have provided a complete application as well as C & C approval and while they would be willing to submit whatever information the Board seeks, they believe they have met the requirements and request the application be approved.

Board members discussed that pursuant to HRS Chapter 437, Tesla is engaged in motor vehicle dealer activity; that it is engaged in the business of selling, soliciting, offering, or attempting to negotiate sales, purchases, or exchanges of motor vehicles or any interest therein, including options

to purchase motor vehicles. Board members further discussed that regardless of whether Tesla performs only invoicing at the premise, it is performing motor vehicle dealer activity.

Mr. Hansen stated that the Board would be concerned that granting approval may set a precedent.

Executive Officer Rutkowski inquired about the last paragraph on the C&C letter, dated April 8, 2016, that states “. . . should the storefront appear to resemble an auto dealership, or be utilized only as a retail satellite to an auto dealership elsewhere on the island, we would consider the use to be automobile sales for purposes of the Land Use Ordinance.” Mr. Yoshimura stated that C&C did visit their site and has given their approval.

Mr. Short commented that he would like to defer decision making on Tesla's application. Mr. Yoshimura reiterated that he believes Tesla's application is complete, they meet the requirements, he does not see any inconsistencies, and C&C has provided their approval.

Chairperson De Luz stated that it appears that while WSD does not allow motor vehicle dealer activity, they are allowing Tesla to conduct motor vehicle dealer activity, pursuant to HRS chapter 437. He further stated that there are concerns about the zoning issue and the setting of a precedent. Chairperson De Luz suggested that the DAG may look into the matter and provide advice to the members.

Mr. Yoshimura stated that he would be happy to assist the DAG in doing research if the DAG would tell him what he would be looking for. DAG Moriarty replied in the negative.

Mr. Chow asked Mr. Yoshimura and Mr. Chang if they would be willing to provide a copy of the letters Mr. Randall Sakumoto of McCorriston Miller, Mukai, MacKinnon, LLP (“McCorriston”) wrote to C & C. Mr. Chang stated that they would submit the letters.

It was moved by Mr. Short, seconded by Mr. Chow, and unanimously carried to defer decision-making on Tesla's application for motor vehicle branch location and request:

1. that Tesla provide copies of the letters from McCorriston to C&C and any other correspondence between applicant and C & C; and

2. DAG Moriarty to research and provide the Board with clarification/opinion as to the zoning issue in relation to license activity under discussion.

It was moved by Mr. Short, seconded by Mr. Johnsen, and unanimously carried to grant approval of Tesla's Request for Off-Premise Display at the unlicensed premise located at 2330 Kalakaua Avenue, Store 198 and 298, Honolulu, HI 96815, expire on August 22, 2017.

(vii) Ariens Company – Motor Vehicle Distributor or Manufacturer

Executive Officer Rutkowski stated that the Board approved that at the last meeting, the Board approved applicant, Ariens Company ("Ariens"), for a Motor Vehicle Manufacturer license subject to Ariens submitting a revised application form and statement that it is a motor vehicle manufacturer of the Gravely line make and that the Executive Officer is authorized to approve the application upon receipt of the required documents.

Executive Officer Rutkowski stated that soon thereafter, Ariens provided the required document and also disclosed/corrected the letter from the Board stating that Ariens does not paint and affix the Ariens' logo onto the vehicles (as what the Board had believed when approving Ariens for a Motor Vehicle Manufacturer license); thus, not in agreement/understanding of the Board when approval was made.

After discussion, it was moved by Mr. Chow, seconded by Mr. Hansen, and unanimously carried to approve the application for a Motor Vehicle Manufacturer with a statement that it is a motor vehicle manufacturer of the Gravely line make; OR to approve the application for a Motor Vehicle Distributor license subject to submission of a copy of the executed agreement Ariens has with the company that manufactures the Gravely that authorizes Ariens the franchise to distribute the Gravely in this State. The Board also authorized the Executive Officer to approve the application for either license upon receipt of the applicable required documents.

New Business:

- a. Request from Angela Shovein Regarding Motor Vehicle Dealer License and a Vehicle Lease Titling Trust

The Board was provided with a copy of Ms. Shovein's inquiry asking whether a motor vehicle dealer's license was required of

the beneficial owner of a vehicle lease titling trust or the lease titling trust. Board members commented that insufficient information was provided by the requester.

After discussion, the Executive Officer was directed to reply and provide the following information:

"Dealer" includes "auction" as defined in this section or any person or entity not expressly excluded by this chapter who sells three or more vehicles within a calendar year, or who is engaged in the business of selling, soliciting, offering, or attempting to negotiate sales, purchases, or exchanges of motor vehicles or any interest therein, including options to purchase motor vehicles. The term "dealer" excludes a person who sells or purchases motor vehicles in the capacity of:

...

(7) A Hawaii bank or its affiliate selling or offering for sale motor vehicles surrendered or redelivered to it under the terms of a lease or sold by it pursuant to a purchase option contained in a lease.

Further, that in accordance with HAR section 16-201-90, the interpretation is for informational and explanatory purposes only and is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the DCCA.

- b. Executive Officer's Request for Clarification on the License Application Question: "Has any license ever been suspended, revoked or otherwise subject to disciplinary action?"

Executive Officer Rutkowski as for clarification if this question pertains to a driver license. Board members, after discussion agreed by consensus that that there is no concern with the suspension of a driver license. The Executive Officer was instructed to revise the application form to clarify that the question does not apply to a driver license.

Old Business:

- a. First Hawaii Bank International Auto Show

Executive Officer Rutkowski suggested deferring this matter until Vice-Chairperson Wong was present. It was agreed by consensus that the matter be deferred to the next meeting.

- b. Hawaii Automobile Dealers Association – Definition of Final Stage Manufacturer

As previously noted, it was agreed by consensus that the matter be deferred to the next meeting, as requested by Mr. Rolf.



Public Comment: None.

Next Meeting: Tuesday, August 22, 2017  
9:00 a.m.  
King Kalakaua Building  
Queen Liliuokalani Conference Room  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, HI 96813

Mr. Hansen stated that he will not be able to attend the August 22, 2017 meeting due to a conflict in his schedule. The Board discussed the possible rescheduling of the next scheduled meeting to a tentative date of August 1, 2017.

Adjournment: There being no further business to discuss, the meeting adjourned at 12:25 p.m.

Taken and recorded by

/s/ Lori Nishimura

\_\_\_\_\_  
Lori Nishimura  
Secretary

Reviewed and approved by

/s/ Christine Rutkowski

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

06/17

[ X ] Minutes approved as is.

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

## MOTOR VEHICLE INDUSTRY LICENSING BOARD MEETING

### RATIFICATION LISTS

Friday, June 2, 2017

#### CAR SALESPERSON TRANSFERS

a. City and County of Honolulu

BENAVENTE, George M.	J/R Motors 818 Kapiolani LLC dba Mercedes-Benz of Honolulu
BENSON, Mark L.	JN Group Inc. dba JN Chevrolet
CHANG, Michael H.	Servco Subaru Inc. dba Servco Subaru Honolulu
GERMAIN, Justin K.	GAC Auto Group Inc. dba Cutter Mazda of Honolulu
HO, Huy Q.	Stoebner Holdings Inc. dba Honda Windward
KAAI, Mark L.	Cutter Buick GMC Inc.
KEAWE, John K.	Cutter Buick GMC Inc.
MARKOS, Thomas G.	Auto Connection LLC
MOWITZ, Danielle E.	Rainbow Chevrolet Inc. dba Cutter Chevrolet
NICHOLSON, Daniel M.	Cutter CJD Inc. dba Cutter Chrysler Jeep Dodge of Pearl City
OHARA, Crystal C.	GAC Auto Group Inc. dba Cutter Mazda of Honolulu
PAYOMO, Phillip P.	GAC Auto Group Inc. dba Cutter Mazda of Honolulu
SANTANA, Juan M.	Cutter CJD Inc. dba Cutter Chrysler Jeep Dodge of Pearl City
SARAE, Robert H.	Lithia of Honolulu-A Inc. dba Acura of Honolulu
STEWART, William C.	Hawaii Nissan Inc. dba New City Nissan
YAMASHIRO, Reid M.	Servco Pacific Inc. dba Servco Auto Waipahu

b. County of Maui

BUSHART, Randy H.	Jim Falk Motors of Maui Inc.
CAMBRA, Kyle K.	Jim Falk Automotive Inc.
CROSBY, Geoffrey V.	Jim Falk Automotive Inc.
DAFUN, Bryson K.	Jim Falk Automotive Inc.
GANDEZA, Denise T.	Jim Falk Motors of Maui Inc.
JENISON, Jesse A.	Jim Falk Motors of Maui Inc.
KUGE, Kasey C.	Jim Falk Automotive Inc.
MURASHIGE, Dean K.	Aloha Auto Group Ltd. dba Aloha Kia

c. County of Kauai

EHIA, Jim M., Jr.	Aloha Auto Group Ltd dba Aloha Kia Kauai
RIGGAN, Randy	Niethammer Family LLC dba King Honda, King Auto Center

d. County of Hawaii

none

**CAR SALESPERSON LICENSES**

OAHU JOSEPH K <AKUNA<	ALOHA AUTO GROUP LTD
OAHU TYLER B <ALDERSON<	CUTTER FORD INC
OAHU SERGIO <AMBROSINO< JR	JN GROUP INC
OAHU CLAYTON <ARANITA<	LITHIA OF HONOLULU
OAHU RONALD K <ASATO<	SERVCO AUTO WAIPAHA
OAHU GEORGE D <BLALACK<	KONA'Z DEALZ ON WHEELZ INC
OAHU JARRIN K <BLAND-LESSARY<	SERVCO TOYOTA HONOLULU
OAHU BRENT W K <CARTER<	SERVCO TOYOTA HONOLULU
HAWAII ALLEN W <CROCKER<	KONA AUTO CENTER INC
OAHU PAUL H <CROSS<	CUTTER FORD INC
OAHU DORENE <CRUZ<	HONOLULU FORD
HAWAII JON S <DAHL<	SHELLY EUROCARS LLC
HAWAII JORDAN D <DEMATTOS<	ORCHID ISLE AUTO CENTER
OAHU KEEGAN T <DRUMMOND<	ALOHA AUTO DEPOT LLC
MAUI ADAM C <DUTCHAK<	VALLEY ISLE MOTORS LTD
OAHU JONAH J <DYSARZ<	SERVCO TOYOTA HONOLULU
OAHU HAKIM A <EBRAHIMI<	HONOLULU FORD
OAHU CLAY R <ENNISS<	FIRST NATIONAL AUTO GROUP INC
OAHU STEVEN K Q <FELIX<	SERVCO LEXUS HONOLULU
OAHU MARK W <FREDETTE<	CUTTER FORD INC
MAUI JAMES A <FREITAS<	VALLEY ISLE MOTORS LTD
OAHU SHIRLY V <GADIAZA<	ALOHA AUTO GROUP LTD
MAUI MICHEAL D <GOODYEAR<	VALLEY ISLE MOTORS LTD
HAWAII JOSEPH <HAWK<	IK MOTORS INC DBA KAMAAINA MOTORS
MAUI RENALDO S <HENRY<	JIM FALK MOTORS OF MAUI INC
OAHU RYAN W <HOLDER<	JN GROUP INC
MAUI SABRINA <JONES-SMITH<	VALLEY ISLE MOTORS INC
OAHU BRETT H <KAMI<	BMW OF HONOLULU
OAHU JOHNATHON M <KIRIAUOS<	ALOHA AUTO DEPOT LLC
HAWAII ERNEST T <KUBA<	KAMAAINA NISSAN INC
OAHU CURTIS A <KUGE<	JN GROUP INC DBA JN CHEVROLET

**CAR SALESPERSON LICENSES - CONTINUED**

OAHU ANDRE D <LAUGHLIN<	VOLVO OF HONOLULU
OAHU JIA W <LUO<	AUTOMAX INC
MAUI JOHNNY H <MARTINEZ<	SOUTH MAUI MOTORS INC
OAHU LUIS F <MIRANDA-VILLEDA<	CUTTER CJD INC
OAHU TORY A K <NAGO<	SERVCO TOYOTA HONOLULU
OAHU JONATHAN C <NEYLAND<	CUTTER MAZDA OF HONOLULU
KAUAI JOSHUA L <NORTON<	KUHIO MOTORS INC
OAHU RANDY G <OBERES<	C & C AUTO GROUP INC
OAHU GUY K <OGATA<	JC GROUP INC
OAHU SHARON Y <OH<	RAINBOW CHEVROLET INC
OAHU LAUREN K <PAKELE<	HONOLULU BUICK GMC CADILLAC
OAHU ZACHARY <PARENTE<	CUTTER HONOLULU
OAHU JARIS D K <PILAYO<	GILL ISLAND MOTORS INC
OAHU COREY K <POPE<	* TONY HAWAII CORPORATION
MAUI VICTORIANO R <PULA<	JIM FALK AUTOMOTIVE INC
OAHU KEITH A T <RALSTON<	PACIFIC NISSAN INC DBA TONY NISSAN
MAUI JAYSON L <ROSETES<	JIM FALK MOTORS OF MAUI INC
OAHU FRANK T <SCIMECA<	JN GROUP INC
MAUI BRIAN M <SMITH<	VALLEY ISLE MOTORS LTD
HAWAII SPENCER B <SOUTHWELL<	BIG ISLAND MOTORS INC
OAHU WILLIAM H <SPENCER<	WINDWARD AUTO SALES INC
OAHU JACOB <STERIO<	PROTECH AUTO SALES
MAUI JONATHAN A <TEODORO<	JIM FALK MOTORS OF MAUI INC
OAHU PATRICK P <TOCHER< III	OAHU LEASING INC DBA OAHU USED CAR
OAHU JAIR K <TRAIL<	CUTTER HONOLULU
OAHU RODNEY O <UM<	SERVCO LEXUS HONOLULU
HAWAII EDUARDO <VASQUEZ<	WEST HAWAII TOWING & REPAIR INC
OAHU JOSE M V <VEGA<	LITHIA OF HONOLULU
OAHU ERICK A <VEIZAGA<	SHELLY EUROCARS LLC
OAHU REX <XIE<	DH AUTO LLC
OAHU CRYSTAL J E <YAP<	NIETHAMMER FAMILY LLC
OAHU LARRY W K <YIP<	LITHIA OF HONOLULU-A INC DBA ACURA OF HONOLULU
OAHU BERNARD <YOUNG<	HONOLULU BUICK GMC CADILLAC

**MOTOR VEHICLE DEALER LICENSE - RELOCATION**

MVD 672	AUTOSOURCE LLC
MVD 980	ABBA CARS UNLIMITED LLC
MVD 1010	FIRST NATIONAL AUTO GROUP INC