

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, October 15, 2019  
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: Wayne De Luz, Industry Member, Chairperson  
Steven J. T. Chow, Esq., Public Member, Vice-Chairperson  
Byron Hansen, Public Member  
Larry Ignas, Public Member  
John Uekawa, Industry Member  
Russell Wong, Industry Member  
Kedin C. Kleinhans, Executive Officer (“EO”)  
Christopher J. I. Leong, Deputy Attorney General (“DAG”)  
LaJoy Lindsey, Secretary

Guests: None

Call to Order: Chairperson De Luz called the meeting to order at 9:02 a.m. at which time a quorum was established.

Approval of Minutes of August 20, 2019, meeting: It was moved by Mr. Wong, seconded by Mr. Hansen and unanimously carried to accept both the open and executive session minutes of August 20, 2019.

Chapter 91, HRS, Adjudicatory Matters: In the Matter of the Motor Vehicle Salesperson’s License of Jason E. Lalonde;  
RECESS IN: 9:05 a.m. RECESS OUT: 9:07 a.m.

It was moved by Mr. Chow, seconded by Mr. Wong and unanimously carried to approve Mr. Lalonde’s settlement agreement.

Executive Session: IN: At 9:08 a.m. it was moved by Mr. Chow, seconded by Mr. Uekawa and unanimously carried to enter in to executive session.

OUT: At 9:10 a.m. it was moved by Mr. Chow, seconded by Mr. Hansen and unanimously carried to exit executive session and move to open session.

Licensing:

a. Ratifications

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

It was then moved by Mr. Wong, seconded by Mr. Hansen and unanimously carried to ratify the above lists.

b. Applications

i. Joseph W. Langsdale – Motor Vehicle Salesperson – It was moved by Mr. Chow, seconded by Mr. Uekawa and unanimously carried to approve Mr. Langsdale’s application.

ii. Mark K. Fukuda – Motor Vehicle Salesperson – It was moved by Mr. Chow, seconded by Mr. Hansen and unanimously carried to approve Mr. Fukuda’s application.

Executive Officer’s Report:

a. Department of Human Resources Development Discrimination/ Harassment-Free Workplace Policy and Acknowledgement Form

All board members were provided with this policy for their perusal and acknowledgement.

b. Department of Commerce and Consumer Affairs Workplace Violence Action Plan

All board members were provided with this plan for their perusal. There was feedback that it is a sound plan that can be adopted for other work places.

Revisions to HAR Chapter 86- Draft 1

It was suggested that a clean copy be provided for easier review. Chair DeLuz mentioned review of rules for Chapter 437 as well. EO Kleinhans asked what the requirement is for records retention. Mr. Wong stated that there is too much regulation. EO Kleinhans advised that at this time he’s just seeking public comment and not looking for board approval yet.

Mr. Wong commented that there is a trend to eliminate paper records and whether or not the rules allow for electronic copies. This area is not addressed in subchapter 6, item 4.

A discussion ensued regarding the confusion of a rebate and factory incentive. If the rebate appears on the dealer’s website, it is a discount.

A dealer incentive if what a consumer is entitled to by the manufacturer. Dealers do not always show the rebates. Chair DeLuz gave specific examples. It was suggested that the administrative rules require that dealer websites indicate that a rebate is from the manufacturer not the dealer.

#### §16-86-19 Advertising

The industry should address this issue. DAG Leong mentioned that there's nothing that appears for them to make a determination. Mr. Wong suggested separating rebates from dealer or manufacturer. There ought to be clarification to prevent confusion. Advertising should follow through on websites. Oftentimes the manufacturer's suggested retail price ("MSRP") on the websites are not the true MSRP. Mr. Uekawa commented that mainland dealers advertise differently than Hawaii dealers. Mr. Wong also stated that internet prices must be checked and questioned why can't the price be different? Dealers stock 300-400 cars when advertising in the newspaper and will match the online prices. The prices must be double checked so there is no confusion.

Chair DeLuz mentioned that all should adhere to the same rules. There aren't as many issues regarding new car sales as there are with used car sales.

EO Kleinhans stated that §16-86-19(4) makes it harder for dealers to offer rebates. Chair DeLuz advised that all rebates are deducted from the MSRP. If a vehicle is listed for \$10,000.00 and a rebate of \$1,000.00, add striping, now it's \$900.00. How are additional features such as striping, etc. disclosed?

Mr. Ignas questioned how would he know exactly what's included in the sales price? Chair DeLuz stated that if the vehicle has a \$10,000.00 mark up and a \$10,000.00 discount is offered, it's a wash. He continued that RICO doesn't like grey areas. One issue was concerning licensing fees. What was the amount charged in comparison to the actual cost. Mr. Uekawa mentioned that often there are negative comments brought forward regarding this matter.

Regarding document retention, Mr. Wong shared that the retention period is usually five (5) years, but dealers use digital records. EO Kleinhans suggested adding digital records be included in the rules.

Mr. Chow advised that the definition of "motor vehicle" be tightened up, based on the horse power of the vehicle. We must ensure that our definitions to not conflict. EO Kleinhans advised that one definition is in HRS §249. Mr, Chow asked if motorcycles fall under motor vehicles. He thinks they should be defined or included.

Regarding charity auctions. Charities hold an auction and hire a third party and the non-profit (charity) receives a percentage of the proceeds. EO Kleinhans mentioned that there's still a walk around the proposed language. EO Kleinhans continued that there could be transparency issues other than lending a name to the cause?

Returning to the definition of motor vehicle, the insurance industry is specific in classifying motor vehicles. Chair DeLuz asked Mr. Uekawa if HADA could discuss the matter at its executive meeting and include Mr. Dave Roth. Mr. Uekawa agreed to bring this matter up at the next HADA executive meeting.

EO Kleinhans will provide the board members with a clean copy of rules draft with appropriate draft number reflected.

Public Comment: None.

Next Meeting: Tuesday, December 17, 2019  
9:00 a.m.  
King Kalakaua Building  
Queen Liliuokalani Conference Room  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, HI 96813

Adjournment: There being no further business to discuss, the meeting adjourned at 9:59 a.m.

Taken and recorded by:

/s/ LaJoy Lindsey

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LaJoy Lindsey, Secretary

Reviewed and approved by:

/s/ Kedin C. Kleinhans

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Kedin C. Kleinhans  
Executive Officer

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Minutes approved as is.

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