

MOTOR VEHICLE INDUSTRY LICENSING BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: October 12, 2021

Time: 9:00 a.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
<https://dcca-hawaii-gov.zoom.us/j/95645936035>

Present: Wayne K. De Luz, Industry Member, Chairperson
Steven J.T. Chow, Esq., Public Member, Vice-Chairperson
Byron A. Hansen, Public Member
John Uekawa, Industry Member
Marie H. Weite, Public Member
Russell M. K. Wong, Industry Member
Jenny M. Yam, Executive Officer (“EO”)
Kedin C. Kleinhans, EO
Christopher J. I. Leong, Deputy Attorney General (“DAG”)
LaJoy A. Lindsey, Secretary
Lori Beth Van Cantfort, Technical Support
Alan Taniguchi, Technical Support

Excused: Randall N. Ball, D.D.S., M.S., Public Member

Guests: Dave Rolf, Hawaii Automobile Dealers Association

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by §92-7(b), Hawaii Revised Statutes (“HRS”).

A short video was played to explain the meeting procedures and how members of the public could participate in the virtual meeting.

Call to Order: Chairperson De Luz called the meeting to order at 9:10 a.m., at which time quorum was established. All Board members confirmed that they were present, with the exception of Mr. Ball who was excused from the meeting due to internet connectivity issues.

Approval of the August 10, 2021 Minutes: It was moved by Mr. Wong, seconded by Mr. Uekawa, and carried by the majority, with the exception of Vice-Chairperson Chow who abstained from voting on this matter, to approve the minutes of the August 10, 2021 meeting as circulated.

Chapter 91, HRS. Adjudicatory Matters: a. In the Matter of Motor Vehicle Dealer License of WINDWARD WHEELS, LLC, and in the Matter of the

Motor Vehicle Salesperson License of DENISE
SAUNDERS; MVI 2015-16-L [CONSOLIDATED CASES]

EO Yam stated that this item was inadvertently added to the agenda. The Board by consensus removed this item from the agenda.

Licensing:

a. Ratifications:

Motor Vehicle Salesperson Licenses and Transfers
Motor Vehicle Dealer Licenses, Branch Licenses, and Relocations
Motor Vehicle Distributor Licenses
Motor Vehicle Manufacturer Licenses

It was moved by Vice-Chairperson Chow, seconded by Mr. Uekawa, and unanimously carried to ratify the above lists.

Request to Access
A Government
Record:

EO Yam stated that the Board received the following public records request to access a motor vehicle dealer license record:

Any and all license, registration, application or other documents relating to Island Auto Exchange, Wesley F. Tomlinson, License ID: MVD-315, including any and all insurance policy, surety bond, line of credit as required by HRS §§437-18 and 437-27.5, HAR §16-86-12 or any other similar requirements.

The requestor also provided a statement of explanation, which indicated that an individual purchased a vehicle from Island Auto Exchange on August 20, 2020, but Island Auto Exchange has since closed their business and failed to transfer ownership of the vehicle in a timely manner.

At its February 18, 2004 meeting, the Board authorized the Executive Officer and appropriate staff to release licensing information to federal, state, and county law enforcement agencies subject to the provisions and requirement of Chapter 92F, HRS. With respect to records requests from persons other than law enforcement agencies these requests must be reviewed by the Board as provided in HRS §437-40.

EO Yam stated that this matter is brought to the Board to determine whether the motor vehicle dealer record is exempt from disclosure pursuant to HRS §437-40, which states that:

The applications for license and contracts required by section 437-7 shall not be deemed a part of the public records but shall be confidential information for use of the treasurer and the motor vehicle industry licensing board. Whoever, except in a

report to the treasurer or the board or when called on to testify in any court or proceeding, divulges any information contained in the applications and acquired by the official or employee in the official's or employee's capacity as an official or employee of the county treasurer's office or of the board shall be fined not less than \$50 nor more than \$100.

Provided that the treasurer or the board may permit the inspection of any such applications by any other person upon being satisfied that the inspection is desired for some lawful and proper purpose.

Vice-Chairperson Chow asked whether confidential information such as social security number or date of birth will be redacted if the Board approves the records request. Vice-Chairperson Chow also asked who will review the license records to ensure the confidential information is redacted and expressed his concern that financial statements should not be disclosed to the public.

EO Yam stated that confidential information will be redacted in accordance with HRS Chapter 92F and OIP guidelines, and she will be reviewing and redacting any confidential information in the license records if the Board approves the records request. EO Yam stated that the requestor is asking for all records associated with Island Auto Exchange. She explained that HRS §437-40 provides the Board discretion to permit inspection of the record in its entirety or only disclose partial record; however, an explanation and justification will need to be provided to the requestor if the Board decides to withhold information. Since HRS §437-40 only permits inspection, no copies will be provided to the requestor and the requestor will come to our office to review the redacted license records.

DAG Leong concurred that the requestor may review the records, but cannot retain a copy.

Vice-Chairperson Chow asked if the requestor will be monitored while inspecting the records.

EO Yam stated that she will be present while the requestor inspects the records.

Mr. Uekawa asked if this request is unusual or common.

EO Yam replied that the Board has received a few records request in the past, but majority were personal records request.

EO Yam stated that based on the information provided by the requestor, the Board may also refer this matter to the Regulated Industries Complaints Office ("RICO") for investigation.

Chairperson De Luz stated that Wesley Tomlinson has been a dealer for a long time and his business suddenly closed. He is of the opinion that the requestor is mainly trying to obtain any bond information to process a claim.

Vice-Chairperson Chow asked what happens if the Board was served a subpoena for records.

DAG Leong stated that he will work with the Executive Officer if the Board was served a subpoena.

Vice-Chairperson Chow suggested that the Board may consider establishing a board policy regarding this matter.

EO Yam stated that a motor vehicle dealer license record may include but not limited to the application form, self-inspection report, photographs of the dealer premise, rental or lease agreement, line of credit or bond, financial statement, franchise agreement, and business registration. She asked the Board to clarify what information from a dealer's license record should remain confidential or must be reviewed by the Board if a records request is received prior to disclosure pursuant to HRS §437-40.

Mr. Hansen is of the opinion that a records request for the financial statement should be reviewed by the Board pursuant to HRS §437-40 to determine if the request for inspection is desired for some lawful and proper purpose.

Mr. Wong is of the opinion that a records request for the franchise agreements should be reviewed by the Board pursuant to HRS §437-40 to determine if the request for inspection is desired for some lawful and proper purpose.

Mr. Hansen and Vice-Chairperson Chow concurred with Mr. Wong's comment.

It was moved by Mr. Wong, seconded by Vice-Chairperson Chow, and unanimously carried to authorize the Executive Officer and appropriate staff to release a motor vehicle dealer's licensing information for public records inspection subject to the provisions and requirements of Chapter 92F, HRS, with the exception that financial statements and franchise agreements shall not be deemed a part of the public records but shall be confidential information. Any public records request for financial statements or franchise agreements must be reviewed by the Board as provided in HRS §437-40.

EO Yam stated that the public may look up information about individuals or businesses licensed by the Professional and Vocation Licensing Division ("PVL") on our public license search website. EO Yam explained that if the public looks up a motor vehicle dealer that is designated to sell

new vehicles via their license number or business name, it currently does not provide information on the manufacturer or distributor that it represents or the associated repair dealer that it must maintain pursuant to HRS §437-28(a)(18). She asked if the Board wants this information to be searchable on the public license search website.

Chairperson De Luz is of the opinion that it should be searchable to protect public interest and welfare.

Vice-Chairperson Chow and Mr. Wong concurred with Chairperson De Luz's comment.

EO Yam stated that the information of the manufacturer or distributor that a dealer represents is already stored within the internal system; however, the associated repair dealer information is only kept as part of the application/license record on file. She will inquire with the Division's Program Specialist to see if this information can be displayed in the PVL public license search website.

Hawaii Administrative
Rules Chapter 86
Amendments:

EO Yam reported the following proposed amendments were discussed at its August 10, 2021 meeting:

The definition for "Consumer consultant" was added to HAR §16-86-3 per the Board's request:

"Consumer consultant" means an individual who, for a fee that is paid for by a consumer who wishes to purchase or lease motor vehicles, represents the consumer in any negotiations with a motor vehicle dealer, and advises the consumer about different types of vehicles and vehicle features to meet the needs of the consumer.

EO Yam noted that it was mentioned in the August 10, 2021 meeting minutes that Board members did not have any proposed amendments to subchapters 7-10. She clarified that there are amendments to the language in these subchapters for clarification purposes.

EO Yam reported that a new definition for "Display of motor vehicle at unlicensed premises" or "off-premise display" was proposed to be added to HAR §16-86-3:

"Display of motor vehicle at unlicensed premises" or "off-premise display" means a motor vehicle exhibited for advertising purposes at or on any other place within the same county of the dealer's premise for a period of time approved by the Board; provided test driving and sales of motor vehicles are prohibited at or on the approved location. The term excludes an event sponsored by a

third party that is open to participation by multiple dealers, manufacturers, or distributors; provided that a participating dealer shall not be identifiable in or on:

- (1) The display area of the event;*
- (2) Any motor vehicles that are being displayed or used for test-drive;*
- (3) Any salespersons or staff who are present at the event;
and*
- (4) Any literature that is displayed or handed out at the event.*

EO Yam stated that Hawaii Automobile Dealers Association (“HADA”) discussed this matter at their executive committee meeting.

Mr. Uekawa stated that he is the President of HADA and he works closely with Dave Rolf, Executive Director of HADA. He stated further that the feedback from the HADA executive committee meeting was really positive and HADA supports adding the definition for “Display of motor vehicle at unlicensed premises” or “off-premise display”.

EO Yam stated that if there are no further discussion or proposed changes, the Board may vote on the rule revision draft at this meeting.

Chairperson De Luz asked what the procedure is after the Board approves the rule revision draft.

EO Kleinhans mentioned that the rule revision draft will be reviewed by multiple agencies and subsequently the Board will hold a public hearing. If there are substantive changes proposed at the public hearing, then the rule revision draft may need to be reviewed by the various agencies again. If there are no substantive changes, then the rule revision draft will be submitted to the Governor for review and approval. EO Kleinhans stated that the rule revision review process may take one year at a minimum.

Vice-Chairperson Chow asked whether the rule revision draft will be returned to the Board if there are substantive changes proposed or recommended by other agencies during the review process.

DAG Leong answered affirmatively.

It was moved by Vice-Chairperson Chow, seconded by Mr. Hansen, and unanimously carried to defer the discussion and vote on the rule revision draft until the next meeting.

Public Comment: None.

Next Meeting: December 7, 2021
9:00 a.m.
Virtual Videoconference Meeting

Zoom Webinar

Adjournment: There being no further business to discuss, the meeting adjourned at 10:48 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Jenny M. Yam

/s/ LaJoy Lindsey

Jenny M. Yam
Executive Officer

LaJoy Lindsey
Secretary

11/1/21

[] Minutes approved as is.

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

MOTOR VEHICLE INDUSTRY LICENSING BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

RATIFICATION LIST

October 12, 2021

MOTOR VEHICLE SALESPERSON TRANSFERS

CITY AND COUNTY OF HONOLULU

Delmonico, Mathew	Windward Auto Group LLC dba Windward Dodge Chrysler Jeep Ram
Diethrich, Allen	Pacific Nissan, Inc dba Tony Nissan
Fischer, Donald A	Stoebner Holdings Inc dba Honda Windward
Gully, Giraud	Windward Auto Group LLC dba Windward Dodge Chrysler Jeep Ram
Halum, Muhammar	Pacific Nissan, Inc dba Tony Nissan
Kobayashi, Kerry T	Tony Hawaii Corporation dba Tony Honda
Lee, Jay	Windward Auto Group LLC dba Windward Dodge Chrysler Jeep Ram
Nakano, Stanford T	SERVCO Pacific Inc dba Servco Toyota Honolulu
Patenaude, Christopher	Windward Auto Group LLC dba Windward Dodge Chrysler Jeep Ram
Ponciano, Eric	Windward Auto Group LLC dba Windward Dodge Chrysler Jeep Ram
Romano Jr, Jerome	Windward Auto Group LLC dba Windward Dodge Chrysler Jeep Ram

COUNTY OF MAUI

Ruiz, Rohel M	Jim Falk Motors of Maui Inc
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MOTOR VEHICLE SALESPERSON LICENSES

CITY AND COUNTY OF HONOLULU

CS-20634	Zakar T. Thomas	Cutter Honolulu Inc.
CS-20635	Sanad A. Alhawamdeh	Shelly Eurocars LLC
CS-20637	Kenji R. Au	Shelly Eurocars LLC
CS-20638	Bernardino A. Manzano Jr.	Aloha Auto Group
CS-20646	Alonzo-Jorrez Garcia Sancho	Tesla Inc.
CS-20647	Tony M. Rath	Tesla Inc.
CS-20648	Abigail T. Pratt	Tesla Inc.
CS-20653	Zhi H. Yan	Servco Subaru Inc.
CS-20654	Lazar Joseph	JN Group Inc.

CS-20655	Liben Peng	JN Group Inc.
CS-20657	Spencer Watson	Shelly Eurocars LLC
CS-20659	Christopher R. Orr	Autosource LLC
CS-20660	Robert Joseph Lyon	Shelly Eurocars LLC
CS-20662	Catarina F. Peko	JN Group Inc.
CS-20632	Edwin P. Auld	Stoebner Holdings Inc.
CS-20644	Daniel Rueda	Windward Auto Sales Inc.
CS-20656	Carah L. Johnson	King Windward Nissan LLC
CS-20661	Christopher D. Naffziger	Windward Auto Group LLC
CS-20664	Kyleigh Ana-Gale Holy	King Windward Nissan LLC
CS-20636	Nicole Kinoshita	Voyager Corporation
CS-20643	Colton Martin	Tony Hawaii Corporation
CS-20645	William N. Latimer	Tony Hawaii Corporation
CS-20649	William Talbot R. Chugg	Tony Hawaii Corporation
CS-20650	Ian S. Hutchins	Tony Hawaii Corporation
CS-20651	Samuel C. Nance	Tony Hawaii Corporation
CS-20652	Michael S. Lee	Tony Hawaii Automotive Group Ltd.
CS-20663	Darrin M. Yagi	Tony Hawaii Automotive Group Ltd.

COUNTY OF HAWAII

CS-20642	Jayar C. Dagupion	Big Island Motors Inc.
CS-20631	Jon S. Burke	Tony Hawaii Kona LLC

COUNTY OF MAUI

CS-20641	Rae Anne Duran	Jim Falk Motors of Maui Inc.
CS-20633	Christopher D. Gniffke	Ohana Automotive Group Inc.
CS-20639	Dereck A. Kalaiwaa	Ohana Automotive Group Inc.
CS-20658	Madeline Deal	Ohana Automotive Group Inc.
CS-20655	Etan Krupnick	Ohana Automotive Group Inc.

COUNTY OF KAUAI

CS-20640	Jeffrey Mira	Aloha Auto Group Ltd.
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MOTOR VEHICLE DEALER LICENSES

MVD-1117	Windward Auto Group LLC
MVD-1118	Kauai Motorsports LLC

MOTOR VEHICLE DEALER RELOCATION

MVD-903	Wolfe's Works LLC
MVD-924	Aloha Auto Group Ltd. dba Aloha Kia Kauai

MOTOR VEHICLE BRANCH LICENSES

MVB-1117-1	Windward Auto Group LLC
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MVB-1117-2 Windward Auto Group LLC
MVB-861-2 Yi Sun Chiu Company Inc
MVB-861-3 Yi Sun Chiu Company Inc

MOTOR VEHICLE DISTRIBUTOR LICENSES

NONE

MOTOR VEHICLE MANUFACTURER LICENSES

F-196 UBCO Bikes US, LLC