

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

MINUTES OF MEETING

Date: April 12, 2022

Time: 9:00 a.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
<https://dcca-hawaii-gov.zoom.us/j/97652316249>

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

Guests: Dave Rolf, Hawaii Automobile Dealers Association (“HADA”)
Igal Namer, Mrs. Namer, and their son (Splash Auto Sales, Inc), Applicant

Agenda: The agenda for this meeting was posted on the State electronic calendar and 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 and alone.

Approval of the February 1, 2022 Meeting Minutes: Chairperson De Luz asked the Board members if there were any comments or concerns regarding the February 1, 2022 open session minutes.

EO Yam requested the following amendments to the February 1, 2022 open session minutes (underlined material added, while bracketed material is to be deleted):

On page 2, the second to the last paragraph should read:

The Board noted that the Board’s Final Order was sent by Office of Administrative Hearings on [~~April 6, 2020~~] April 6, 2021 via

certified mail and it was received by Terry A. Martinez and South Maui Motors on ~~[April 8, 2020]~~ April 8, 2021.

On page 15, the first paragraph should read:

It was moved by Mr. Hansen, seconded by Mr. Wong, and carried by the majority with the exception of Vice-Chairperson Chow who was excused from the meeting and Ms. Weite who left the meeting, to delegate Mr. Wong to assist EO Yam in drafting and providing ~~[to provide]~~ testimony during this legislative session.

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 February 1, 2022 open session minutes with amendments.

Adjudicatory
Matters:

Chairperson De Luz called for a recess from the meeting at 9:14 a.m. to discuss and deliberate on the following adjudicatory matters pursuant to Chapter 91, HRS (Note: Board members and staff entered the Microsoft Teams meeting):

- A. In the Matter of the Motor Vehicle Salesperson's License of Xavier A. Francisco, also known as Xavier A. K. Francisco, and In the Matter of the Motor Vehicle Dealer's License of Auto City, LLC; MVI 2019-5-L; MVI 2019-21-L; MVI 2019-43-L Hearings Officer's Findings of Fact; Conclusions of Law and Recommended Order

After discussion, it was moved by Vice-Chairperson Chow, seconded by Mr. Wong, and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Orders as its Final Order.

- B. In the Matter of the Motor Vehicle Dealer License of Wesley F. Tomlinson, individually and doing business as Island Auto Exchange; MVI 2021-13-L; MVI 2021-31-L; MVI 2021-50-L; MVI 2021-55-L; MVI 2021-63-L; [CONSOLIDATED CASES]; Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order

After discussion, it was moved by Vice-Chairperson Chow, seconded by Mr. Wong, and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Orders as its Final Order.

Following the Board's review, deliberation, and decision on these matters pursuant to Chapter 91, HRS, Chairperson De Luz announced that the Board reconvene to its Chapter 92, HRS, meeting at 9:33 a.m. Board members and staff returned to the Zoom meeting.

Licensing:

Chairperson De Luz asked if there were any attendee wishing to provide oral testimony on agenda item 4, Licensing.

Chairperson De Luz recognized Igal Namer to provide his oral testimony.

Mr. Namer stated that he has been in the vehicle sales business for over 35 years as a licensed dealer in Florida. His wife also had a car dealership in Florida. Mr. Namer stated that he moved to Hawaii five years ago with his family and wish to open a motor vehicle dealership in Kona, which his son will primarily run.

It was moved by Vice-Chairperson Chow, seconded by Ms. Weite, and unanimously carried to enter into executive session at 9:37 a.m., pursuant to HRS §92-5(a)(1), to consider and evaluate personal information relating to individuals applying for professional licenses cited in section HRS §26-9, and pursuant to HRS §92-5(a)(4), to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. (Note: Board members and staff entered into Microsoft Teams):

EXECUTIVE SESSION

At 10:37 a.m., it moved by Ms. Weite, seconded by Mr. Wong, and unanimously carried to return to the open session meeting. Board members and staff returned to the Zoom meeting.

A. Motor Vehicle Dealer Application

i. Splash Auto Sales, Inc.

After due consideration of the information received, it was moved by Vice-Chairperson Chow, seconded by Mr. Hansen, and unanimously carried to defer Splash Auto Sales, Inc's motor vehicle dealer application and request additional information: (1) a revised application to correct the answer to question 4; (2) a current Certificate of Good Standing for the entity registration for Splash Auto Sales, Inc.; (3) a current financial statement that shows Splash Auto Sales, Inc. have a capital of \$25,000.00 (equivalent to the value of their motor vehicle dealer bond); and (4) photographs of at least three dedicated display stalls labeled with Splash Auto Sales, Inc.

Chairperson De Luz noted that Splash Auto Sales Inc. indicated that their one room office is by appointment only. He further noted that the Board's policy requires motor vehicle dealers to have a secured office to ensure client confidential information are protected. Chairperson De Luz asked Mr. Namer if they will be providing services to one client at a time.

Mr. Namer answered affirmatively.

Chairperson De Luz stated that the Board will accept their one room office by appointment only arrangement to provide service to one client at a time.

Chairperson De Luz also informed Mr. Namer that Hawaii motor vehicle dealers cannot advertise a vehicle that does not have a Hawaii license plate, and informed him that HRS §437-4(a) provides that:

No new or used motor vehicle dealer shall advertise or offer for sale or exchange in any newspaper, or through any other medium, any motor vehicle not actually for sale at the premises of the dealer or available to the dealer from the manufacturer, or authorized new car distributor of such automobile at the time the advertisement or offer is made.

Mr. Namer asked if his application is required to be brought before the Board for review again at the next meeting.

EO Yam asked whether the board would consider delegating the final approval of the application to the Board's Executive Officer.

It was moved by Vice-Chairperson Chow, seconded by Mr. Uekawa, and unanimously carried to delegate the final approval of Splash Auto Sales Inc's motor vehicle dealer application to the Board's Executive Officer, provided that Splash Auto Sales, Inc. submit the requested additional information and their application satisfactorily complies with all licensure requirements.

Igal Namer, Mrs. Namer, and their son left the meeting at 10:51 a.m.

B. Ratifications:

It was moved by Mr. Wong, seconded by Vice-Chairperson Chow, and unanimously carried to ratify the licenses attached (see, attached list).

2022 Legislation:

A. Bills Relating to HRS Chapter 437 – Motor Vehicle Industry Licensing Act

i. HB 804 RELATING TO ENVIRONMENTAL PROTECTION

The Board discussed the above bill.

The purpose of this bill is to prohibit the sale by motor vehicle dealers and salespersons of new motor vehicles that are solely powered by fossil fuels and designed for personal use beginning 1/1/2035.

EO Yam stated that the bill was last heard by the House Committee on Energy and Environmental Protection committee on February 8, 2022 and it was deferred. The bill is effectively dead for this legislative session.

ii. HB 2090 RELATING TO ZERO EMISSION TRANSPORTATION

The Board discussed the above bill.

The purpose of this bill is to establish a zero-emission vehicle rebate program within the public utilities commission to enable low- and moderate-income families greater access to zero-emission vehicles by providing a rebate on the point-of-sale purchase price of zero-emission vehicles.

EO Yam thanked the Board's previous EO Mr. Kleinhans and Mr. Dave Rolf from HADA for bringing this bill to her attention. She worked with the board's legislative delegate, Mr. Wong, to draft the board's testimony. The bill was last heard on March 19, 2022 by the Senate Committee on Energy, Economic Development, and Tourism, and the Senate Committee on Transportation.

This bill was deferred by both committees and it is effectively dead for this legislative session.

B. Other Bills Related to Motor Vehicles

i. HB 1411 RELATING TO REGISTRATION OF VEHICLES

The Board discussed the above bill.

The purposes of this bill are to: (1) require that both the transferee's and transferor's address be provided on the certificate of ownership when the title to a motor vehicle is transferred; (2) clarify that the signature of the transferee and the signature of the transferor each serve as an attestation by that respective party as to the validity of the information on the certificate of ownership; and (3) specify that providing false or fraudulent information subjects a party to penalties.

The Board will continue to track this measure.

Public Comment:

Chairperson De Luz reminded Board members to file the financial disclosure statement for State officials directly with the Hawaii State Ethics Commission no later than May 31, 2022.

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Next Meeting: June 7, 2022
9:00 a.m.

Virtual Videoconference Meeting – Zoom Webinar

In-person Location: Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street,
Honolulu, Hawaii 96813

Adjournment: The meeting adjourned at 10:55 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

5/4/2022

[x] 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

April 12, 2022

MOTOR VEHICLE SALESPERSON TRANSFERS

CITY AND COUNTY OF HONOLULU

BITAR, JAWDAT I	EBIKES HAWAII CORP DBA ZERO MOTORCYCLES OF OAHU
FELIX, IVAN A	LITHIA OF HONOLULU-F LLC DBA HONOLULU FORD
KIM, MICHAEL	SERVCO PACIFIC INC DBA SERVCO TOYOTA HONOLULU
LEE, VICTOR H	LITHIA OF HONOLULU-F LLC DBA HONOLULU FORD
MULE, DAVID	KD AUTO SALES LLC
NISSSEL, JUSTIN-THOMAS T	STOEBNER HOLDINGS INC DBA HONDA WINDWARD
ORR, CHRISTOPHER R	SERVCO PACIFIC INC DBA SERVCO TOYOTA HONOLULU
PAGBA, COLIN A	CUTTER CJD INC DBA CUTTER CHRYSLER DODGE JEEP RAM OF PEARL CITY
PEROS, SEAN KARL S	ALOHA AUTO GROUP LTD DBA ALOHA KIA LEEWARD ALOHA HYUNDAI
PUNZALAN, KEVIN CHARLES	HAWAII NISSAN INC DBA NEW CITY NISSAN
SANTANA, JUAN MANUEL	STOEBNER HOLDINGS INC DBA HONDA WINDWARD
SASAKI, DARREN T	JR MOTORS 818 KAPIOLANI LLC DBA MERCEDES BENZ OF HONOLULU
SHERLOCK, MARK	LITHIA OF HONOLULU-F LLC DBA HONOLULU FORD
SUGUITAN, MILES	PACIFIC NISSAN INC DBA TONY NISSAN

MAUI COUNTY

LONG, ANDREW J	JIM FALK MOTORS OF MAUI LLC
SHIMABUKURU, GUYSON	JIM FALK MOTORS OF MAUI LLC

MOTOR VEHICLE SALESPERSON LICENSES

CITY AND COUNTY OF HONOLULU

CS-20717-0	KEVIN M KITAGAWA	BACON-UNIVERSAL COMPANY INC
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CS-20719-0	TODD HIRAYASU	TCC AUTO LLC
CS-20720-0	JONATHAN THOMAS NICHOLS	TESLA INC

COUNTY OF MAUI

CS-20718-0	VICTOR POBUJANSCHI	MVIC AUTO LLC
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MOTOR VEHICLE DEALER LICENSES

MVD-1124-0	CARLOT HAWAII LLC
MVD-1125-0	MVIC AUTO LLC
MVD-1126-0	TCC AUTO LLC
MVD-1127-0	AUTO Z LLC

DISTRIBUTOR LICENSES

DIS-162-0	KUBOTA TRACTOR CORPORATION
DIS-163-0	ENERGICA MOTOR COMPANY, INC