

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

**MINUTES OF MEETING**

Date: October 11, 2022

Time: 9:00 a.m.

In-Person Meeting Location: Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Virtual: Virtual Videoconference Meeting – Zoom Webinar (use link below)  
Participation: <https://dcca-hawaii-gov.zoom.us/j/94420066011>

Present: John Uekawa, Chairperson  
Russell Wong, Industry Member  
Byron Hansen, Public Member  
John Caudell, Public Member  
Marie Weite, Public Member  
Ahlani K. Quiogue, Licensing Administrator  
Candace Ito, Acting Supervising Executive Officer (“SEO Ito”)  
Christopher J. I. Leong, Deputy Attorney General (“DAG”)  
Jaymie Nakama, Secretary  
Johnny Li, Technical Support  
Mia Hoang, Technical Support

Excused: Steven Chow, Vice-Chairperson

Guests: Ivy Y.E. Kim, Esq., Staff Attorney, Regulated Industries Complaints Office (“RICO”)  
Terry Martinez  
Russell Martinez  
Roy Eric Hofer

Agenda: The agenda for this meeting was posted on the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b).

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 Uekawa called the meeting to order 9:11 a.m. at which time quorum was established. All Board members confirmed that they were present and alone.

Approval of the August 16, 2022, Meeting Minutes: It was moved by Mr. Hansen, seconded by Ms. Weite, and unanimously carried to approve the open session and executive session meeting minutes of the August 16, 2022, meeting, as circulated.

Chairperson Uekawa recognized Terry Martinez, Eric Hofer, Russell Martinez, and Ivy Kim who were present to testify on Terry Martinez's application for a motor vehicle salesperson license.

Licensing: At 9:15 a.m., it was moved by Mr. Wong, seconded by Ms. Weite, and unanimously carried to move into executive session pursuant to HRS section 92-5(a)(1) to consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in HRS section 26-9, and pursuant to HRS section 92-5(a)(4), to consult with Christopher Leong, Deputy Attorney General, on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

At 11:06 a.m., it was moved by Ms. Weite, seconded by Mr. Wong, and unanimously carried to move out of executive session.

A. Motor Vehicle Salesperson:

The following applications were taken out of order.

iii. Terry A. Martinez

It was moved by Ms. Weite, seconded by Mr. Hansen, and carried by the majority (with Mr. Caudell opposed), to deny Mr. Martinez's request to reinstate his motor vehicle salesperson license. The Board agreed with Ms. Kim's September 21, 2022, letter that Mr. Martinez failed to satisfy the factors for consideration in HRS sections 437-29(a)(1), (2), and (3) as follows:

As to (1), the Hearings Officer's and Board's findings in the two cases demonstrate a grave degree of moral turpitude and lack of accountability. Respondent made fraudulent representation to one of the victims, Mr. Snyder, who entrusted Respondent with the sale of his car on consignment, that the car was sold earlier in the month while the car was in fact sold to a buyer six month[s] prior. Respondent also made a false representation to Mr. Snyder that he made full payment to the bank to pay off the lien, when in fact no payment was made. Respondent did not respond to the victims' calls and e-mails and the victims had to find Respondent in person. Respondent did not have the paperwork and did

not have the lien on the car paid off before selling as required by the law. Respondent defrauded the consumers at both ends of the transaction, who both trusted Respondent as the middle person, causing financial harm, stress, and waste of time. Respondent was personally served with the Petition for Disciplinary Action and yet did not appear at the hearing and provided no explanation. The Hearing's Officer and the Board had considered all the facts in the cases and found that revocation was the appropriate sanction reflecting the seriousness of the violations.

As to (2), one year is the minimum elapsed time when a revoked license can be considered for a reinstatement or new license under HRS § 437-29. Under HRS § 436B-21, a person with a revoked license can apply for a new license after five years. As of the writing of this letter, it has been approximately a year and half since the revocation. Reinstatement after one and a half years does not properly reflect the graveness of the violations committed. It also should be noted that while Mr. Falk's letter states that Mr. Martinez worked for Mr. Falk beginning September 15, 2017, for the next three and half years, Mr. Martinez made no attempt to contact the victims for an apology and payment of the financial damages. This demonstrates lack of good character and rehabilitation. In fact, the victims had to contact each other to resolve the matter among themselves and with the loan company. One of the victims, Mr. Femenias, returned the car he purchased from Mr. Martinez to the original owner, Mr. Snyder, and lost the \$3,500.00 he paid to Mr. Martinez and South Maui Motors as a down payment.

As to (3), reinstatement of Respondent's license would be against the public interest. Any sanction less than revocation would be sending a message to the public that even an egregious violator like Mr. Martinez can come back to the industry and casts doubt to State of Hawaii's commitment to fraud prevention and consumer protection.

ii. David T. Low

It was moved by Mr. Wong, seconded by Ms. Weite, and unanimously carried to deny David Low's motor vehicle salesperson application in accordance with HRS sections 437-28(a)(5), 436B-19(8), (12), and (14), and 831-3.1(b), which state, in pertinent part:

HRS section 437-28 Suspension; revocation; fine; denial of issuance or renewal of a license. (a) In addition to any other actions authorized by law, the board, after notice and hearing as provided in Chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, may suspend, revoke, fine, or deny the renewal of any license, or prior to notice and hearing deny the issuance of any license for any cause authorized by law, including but not limited to circumstances

where the board finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than ten per cent interest of the applicant or holder:

\* \* \*

(5) Has failed to comply with, observe, or adhere to any law in any other respect so that the board deems the applicant or holder to be an unfit or improper person to hold a license;

HRS section 436B-19 Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses. In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

\* \* \*

(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;

(12) Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the applicant or holder to be an unfit or improper person to hold a license;

(14) Criminal conviction, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the licensed profession or vocation; and

HRS section 831-3.1 Prior convictions; criminal records; noncriminal standards. (b) The State or any of its branches, political subdivisions, or agencies may consider as a justification for the refusal, suspension, or revocation of any employment or of any permit, license, registration, or certificate, any conviction of any crime, except those which have been expunged, occurring within the past ten years, excluding any period of incarceration, when that crime bears a rational relationship to the duties and responsibilities of the job, occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is applied for or held.

- i. Brandon K. Canon
- iv. Samuel A. Whitish

It was moved by Mr. Wong, seconded by Ms. Weite, and unanimously carried to approve the above motor vehicle salesperson applications.

B. Ratification List of August 16, 2022 and October 11, 2022

SEO Ito explained that the August 16, 2022 ratification list was not properly noticed in and attached to the August meeting agenda and that it must be revoted on.

It was moved by Mr. Wong, seconded by Ms. Weite, and unanimously carried to approve the ratification list of August 16, 2022, and October 11, 2022.

Next Meeting: To be determined.

Adjournment: There being no further business to discuss, Chairperson Uekawa adjourned the meeting at 11:20 a.m.

Reviewed and Approved by:

Taken by:

/s/ Candace Ito  
Candace Ito,  
Supervising Executive Officer

/s/ Jaymie Nakama  
Jaymie Nakama,  
Secretary

CI: jn  
10/14/22

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_