

Meeting Minutes of the Arkansas Motor Vehicle Commission

Business Meeting
900 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72201

June 19, 2024

CALL TO ORDER

The regularly scheduled meeting of the Arkansas Motor Vehicle Commission was called to order June 19, 2024, at 9:38 A.M. by Commission Chair Joy Blankenship.

ATTENDEES

The commissioners in attendance included Commission Chair Joy Blankenship, Jerel Saeler, Michael Johnson, Scott Wood, Jimmy Jones, and Clay Maxey. Commissioner Duane Neal was not in attendance and was previously excused due to personal reasons, however, Michael Moix was not previously excused. Staff present included Director Daniel Pace, Licensing Supervisor Alexis Dunlap, and Investigators Margie Sexton and John Aquilino. Also, in attendance was Assistant Attorney General Michael Bynum, Arkansas Department of Labor and Licensing Intern Abbie Asher, and Legislative Auditor Christopher Caldwell. This Commission meeting was broadcasted on AR-CAN Arkansas PBS.

PREVIOUS MEETING MINUTES

The minutes from the Wednesday, May 15, 2024, regularly scheduled meeting were reviewed and unanimously approved by the Commission following a proper motion by Scott Wood and a second by Jimmy Jones.

REPORTS AND INFORMATION

Director Pace presented the Financial Revenue and Expenditure Reports for fiscal year 2024, which reflected a revenue deposit total of \$487,570.66. Director Pace estimates an additional \$1,350 in revenue has been received and deposited since the report was compiled on June 14, 2024. Following a proper motion by Jimmy Jones and a second by Scott Wood, the commission unanimously approved the Financial Revenue and Expenditure Reports.

Director Pace gave the Commission a brief update on the upcoming renewal period for Manufacturers, Distributors, and Manufacturer/Distributor Representatives, which starts in July. Director Pace presented the Monthly License Activity Reports. Director Pace noted the addition of two new franchise dealers, Moke America Heber Springs and Timberland Chrysler Dodge Jeep Ram. Also included was a memorandum for Fun Town RV a franchise license issued in December 2023.

The Investigation Summary Reports compiled by Investigators Margie Sexton and John Aquilino included May 2024 and June 2024. There have been investigations into title, warranty, and advertising complaints. In addition, there have been 54 noted dealer visits conducted during the two-month period;

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investigator John Aquilino has conducted additional dealer visits since the report was compiled. John Aquilino has completed 189 dealer visits since the first of the year. The investigators have completed 9 advertisement reviews for licensed Franchise Auto Dealers since the first of the year. The Commission has seen an increase in complaints in 2024 so far and is on track to surpass the total number of complaints filed and completed during the 2022 and 2023 calendar years. As of June 14, 2024, there have been 13 formal complaints and 38 non-formal complaints filed. The Consumer Assistance Report included information for the entirety of 2024. Commissioner Scott Wood asked investigator Margie Sexton and Director Pace for clarification on the meaning of the complaint investigation category listed as Unlicensed Dealer. The Commission was informed that the Unlicensed Dealer Investigation category covers the following activities: new dealer license facility inspections, license renewal failure, licensed dealers selling unlicensed new motor vehicles, and unlicensed businesses selling new motor vehicles.

Assistant Attorney General Michael Bynum noted an update to the Relevant Market Area Protest Complaint that has been filed with the Commission. An existing cycle dealer Bradford Marine & ATV has filed the complaint against an active Distributor BRP US Inc., as the Distributor has notified the Commission and the existing dealer of their intent to establish a new cycle dealer of the same line-make of products in the existing dealer's relevant market area. The Commission has 180 days from the date of the written protest being filed to conduct a hearing. Both parties listed in the complaint have retained legal counsel and are engaged in active discussions to resolve the dispute before a hearing is conducted. Assistant Attorney General Michael Bynum has remained in regular contact with both parties' legal teams and has informed them of their options going forward and a tentative hearing date has been set. If both parties agree to waive the 180-day hearing requirement, Assistant Attorney General Michael Bynum is prepared to reschedule the hearing for no later than 90 days following the original hearing date unless a resolution is reached between all parties. Commissioner Scott Wood inquired with Assistant Attorney General Michael Bynum about the structure of the hearing as well as the evidence that would be introduced. Assistant Attorney General Michael Bynum explained the hearing structure and process, and what the Commissioners can expect during the hearing. Commission Chair Joy Blankenship inquired as to when the commission should expect to have an answer from both parties on the tentative hearing date and Assistant Attorney General Michael Bynum informed the commission that both parties have until the end of the month to find a solution, accept the tentative hearing date or waive the 180-day hearing date requirement in writing.

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ACTIONS & DISCUSSION

Director Pace presented two (2) Voluntary License Surrender Agreements from License holders no longer conducting business in the state of Arkansas (listed under Section 7A on the agenda). The first Voluntary License Surrender Agreement for Distributor Maserati North America, Inc., was submitted because they no longer distribute any products to dealers in the state of Arkansas and do not intend to do so for the foreseeable future. The second Voluntary License Surrender Agreement for Franchise Auto Dealer Red River of Malvern was submitted due to the completion of the sale of their franchise dealership to new owners. The listed license holders requested that the license presented be terminated and they all acknowledged that if they wish to engage in business in the state of Arkansas after the license has been terminated, they must apply for a new license through the Arkansas Motor Vehicle Commission. After a proper motion to approve both of the Voluntary License Surrender Agreements listed under Section 7A on the Agenda by Scott Wood and a second by Michael Johnson, the Commission unanimously approved the motion.

Director Pace presented a Non-formal Complaint (NF#24-035) against Thamlev owned by Mr. Kevin Tham, in regard to the company's Manufacturer License, License number 10364M. Licensing Supervisor Alexis Dunlap and Investigator Margie Sexton have engaged in regular contact with Mr. Tham with respect to the status of the manufacturer license, and the license fees and penalties owed due to his failure to renew. Commission staff have sent numerous email messages and mail correspondence to Mr. Tham, and numerous phone calls have also been made to Mr. Tham to address the issue. Mr. Tham has agreed previously by email and verbally to renew his license, yet as of June 14, 2024, nearly one year after the company's manufacturer license expired, the license has not been renewed. Commission staff have also been in contact with Thamlev dealer Car Company of Russellville, owned by Nate Saul, and Thamlev's potential Distributor Ricky Powersports, in an effort to encourage Mr. Tham to properly renew the license. After Director Pace's presentation, the Commission was asked for suggestions on how to proceed with Thamlev's failure to renew the manufacturer license. Commission Chair Joy Blankenship and Commissioner Scott Wood inquired as to the legal process for the Commission to properly terminate the Manufacturer's license in compliance with Commission statutes. Director Pace explained that the Commission would be required to hold a hearing to provide due process and properly terminate the license. Commissioner Scott Wood suggested that the investigators open a formal complaint against the manufacturer to gather any additional information that is required for the investigation into Thamlev and then the Commission will set a hearing date as necessary. Commission Chair Joy Blankenship suggested a site visit be completed by the investigators to both the Manufacturer and Dealer locations in Russellville. Commissioner Michael Johnson suggested utilizing the Dealer's available MSOs for products to determine

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if the manufacturer has sold any product to the Dealer in the 2023 and 2024 licensing periods. After discussion, Director Pace confirmed to the Commission that a formal investigation would be completed, and Ad-Hoc Findings of the Investigation would be presented to the Commission at the next business meeting for review. At that time, the Commission will be asked to consider a motion for a hearing date to be set, unless the matter is resolved with Mr. Tham prior to the next meeting.

Director Pace presented the six-remaining past-due invoices that have been issued out to license holders as of June 14, 2024. The Commission staff continues to work on collecting the remaining late fees from the listed licensees. The listed manufacturer representative, Bryan Thompson, still has an outstanding late fee invoice due, and the Commission staff will continue to contact Yanmar (his employer) and Mr. Thompson to attempt to recover the amount due. To this point, we have not been able to engage with Mr. Thompson to encourage him to pay the late fees, and we are hopeful that Yanmar will assist the Commission in ensuring that the past-due invoice is paid in full.

Director Pace provided an update and explanation to the Commission with respect to the Automotive Technologist Education Grant Program (ATEGP). At the previous regularly scheduled meeting on May 15, 2024, the Commission approved full funding for all 11 Grant applicant requests, and the total amount awarded was \$234,050.43 for 2024. The Commission staff has sent all relevant information to the Arkansas Department of Labor and Licensing Finance Department for processing and the Grant Warrants should be issued before the end of Fiscal Year 2024. The Commission staff will send out notice letters via certified U.S. mail to all 11 applicants with the approved grant warrant enclosed with each packet.

ADJOURNMENT

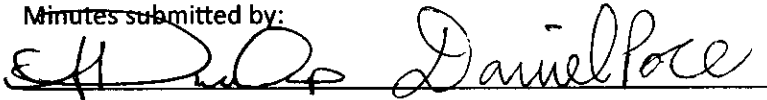
Following a proper motion by Scott Wood and second by Michael Johnson, Chair Joy Blankenship thanked everyone for their attendance and adjourned the meeting at 10:39 A.M. on June 19, 2024, by unanimous approval of the Commission.

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Minutes submitted by:

Handwritten signatures of Alexis Dunlap and Daniel Pace.

Alexis Dunlap and Daniel Pace

21 August 2024

Date:

Minutes Approved by:

Handwritten signature of Joy Blankenship.

Commission Chair Joy Blankenship

21 August 2024

Date: