

**AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, JANUARY 10, 2013
9:00 A.M.**

The Board of the Department of Motor Vehicles will hold two meetings on January 10, 2013 at the TxDMV headquarters building located at 4000 Jackson Avenue, Building 1. The first meeting will begin at 9:00 a.m. The second meeting, a board workshop, will begin immediately following the conclusion of the first meeting.

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles. Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

1. CALL TO ORDER

- A. Roll Call and Establishment of Quorum
- B. Public Comment
- C. Comments and Announcements from Chairman and Board Members

2. CONSENT AGENDA - Bill Harbeson (see attached itemized list A)

- A. Consideration of Enforcement Agreed Orders under Occupations Code, Chapter 2301
- B. Consideration of Enforcement Notice of Violation Citation Agreed Orders under Occupations Code, Chapter 2301
- C. Consideration of Enforcement Dismissal Orders under Occupations Code, Chapter 2301
- D. Consideration of Settlement and Dismissal Orders under Occupations Code, Section 2301.204 (Warranty Performance Complaints)
- E. Consideration of Franchise Case Dismissal Orders under Occupations Code, Chapter 2301

3. RESOLUTIONS for INDIVIDUAL CONSIDERATION - CONTESTED CASES

- A. Consideration of Enforcement Motions for Disposition Based on Default under Occupations Code Chapter 2301 - Bill Harbeson**
(see attached itemized list B)

- B. Warranty Performance Proposal for Decision under Occupations Code Chapter 2301 - Mark Gladney**
 - **12-0192 CAF - Elizabeth Oualline v. General Motors LLC**
ALJ recommends dismissal (on remand)

4. BRIEFINGS and ACTION ITEMS

- A. Board Member Committee Appointments and Work Assignments - Victor Vandergriff**

B. TxDMV Automation Projects - Jonathan Taylor

5. REPORTS

A. Financial Reports - Linda Flores

1. Annual Financial Report
2. Monthly Financial Report

B. Executive Director Reports - Whitney Brewster

TxDMV-related activities identified as noteworthy, which may include reports.

- FY 2013 TxDMV and TxDOT Memorandum of Understanding (MOU)

6. EXECUTIVE SESSION

A. Section 551.071 - Consultation with and advice from legal counsel regarding:

1. pending or contemplated litigation, a settlement offer;
2. a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code, Chapter 551;
3. legal issues raised in connection with awarding a contract; or
4. any item on this agenda.

B. Section 551.074 - Personnel matters. Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.

7. ACTION ITEMS FROM EXECUTIVE SESSION

8. ADJOURNMENT

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Texas Government Code Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

Agenda items may be presented by the named presenters or other TxDMV staff.

Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than 2 days in advance, so that appropriate arrangements can be made. Contact Stacy Steenken by telephone at (512) 302-2380.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Margaret A. Wilson, General Counsel, (512) 467-3883.

**Board of the Texas Department of Motor Vehicles
Attached List A
January 10, 2013
Agenda Items 2.A. - E.
Consent Agenda**

2. **A. Consideration of Enforcement Agreed Orders under Occupations Code, Chapter 2301**
 1. **11-1298 ENF - Sturgeon Auto Mart Inc., DBA Sturgeon Auto Mart Inc.**

Misuse of buyer temporary E-tag: Transp Code 503.063, 503.0631 and 503.038(a)(14), 43 TAC 215.151, 215.152, 215.153 and 215.155, Transp Code 503.038(a)(12) and 43 TAC 215.141(a)(10)(11) and Occ Code 2301.651(a)(8)
Failure to remain actively engaged in business as a motor vehicle dealer by failing to sell at least five (5) vehicles in a 12 month period: Transp Code 503.038(a)(9) and Tax Code 23.121
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a) \$1,000.00 and attend a Dealer Training Seminar.
 2. **11-1357 ENF - Giles Motors Inc., DBA Giles Motors Inc.**

Failure to comply with a Final Order: Occ Code 2301.651(a)(3)
Cease and desist
 3. **12-0181 ENF - Champion Autoplex LLC, DBA Champion Autoplex LLC**

Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to timely transfer title and pay sales tax: Transp Code 501.0234 \$500.00
 4. **12-0289 ENF - Jordan Car Wash, Inc., DBA Jordan Auto Sales**

Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to allow purchaser to select county for registration: Transp Code 501.0234(d),(e)
\$500.00 and attend a Dealer Training Seminar.
 5. **12-0328 ENF - Hind Auto Inc., DBA Mundo Auto**

Failure to comply with a Final Order: Occ Code 2301.651(a)(3)
\$250.00 and attend a Dealer Training Seminar.
 6. **12-0608 ENF - Emilio Garcia, DBA Broudes Auto Sales**

Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Filed a false title and tax document: Transp Code 503.038(a)(2)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234 \$750.00 and attend a Dealer Training Seminar.
 7. **12-1043 ENF - Nicholas Lusk, DBA Executive Auto Broker/Dealers**

Sold or offered to sell a motor vehicle at an unlicensed location: Occ Code 2301.362(a), Transp Code 503.021 and 503.027, 43 TAC 215.136
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
Failure to timely transfer title to out of state purchaser: 43 TAC 215.144(f)
Sold a motor vehicle without certificate of title or title receipt: Transp Code 501.152 \$750.00 and attend a Dealer Training Seminar.
 8. **12-1117 ENF - Bruce Heydarian, DBA Jefferson Auto Sales**

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Misuse of buyer temporary E-tag: Transp Code 503.063, 503.0631 and 503.038(a)(14), 43 TAC 215.151, 215.152, 215.153 and 215.155, Transp Code 503.038(a)(12) and 43 TAC 215.141(a)(10)(11) and Occ Code 2301.651(a)(8)
Attend a Dealer Training Seminar.

- 9. 12-1369 ENF - Cuarzo Co Inc., DBA Super Auto Plus**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to observe right of way: 43 TAC 215.140(11)(c)
\$1,000.00 and attend a Dealer Training Seminar.
- 10. 12-1547 ENF - PBR, Inc., DBA Buckner-Chariot Auto Sales**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
Sold a motor vehicle without certificate of title or title receipt: Transp Code 501.152
\$500.00
- 11. 12-1689 ENF - Rollston - Banks LLC, DBA Car Biz**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
Failure to allow purchaser to select county for registration: Transp Code 501.0234(d),(e)
\$1,000.00
- 12. 12-1709 ENF - David Haroun Nichols, DBA Apex Auto Sales**
Misuse of buyer temporary E-tag: Transp Code 503.063, 503.0631 and 503.038(a)(14), 43 TAC 215.151, 215.152, 215.153 and 215.155, Transp Code 503.038(a)(12) and 43 TAC 215.141(a)(10)(11) and Occ Code 2301.651(a)(8)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
Failure to allow purchaser to select county for registration: Transp Code 501.0234(d),(e)
\$500.00
- 13. 13-0006 ENF - I Tow Services, Inc., DBA I Tow Services**
Failed to take assignment of evidence of ownership for all vehicles acquired by dealer: Transp Code 501.152
Defrauded purchaser: Occ Code 2301.651(a)(6)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00 and attend a Dealer Training Seminar.
- 14. 13-0017 ENF - Teus, LLC, DBA Teus**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$250.00 and attend a Dealer Training Seminar.
- 15. 13-0053 ENF - Charlene M. Connolly, DBA Cash Cars**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234

Board of the Texas Department of Motor Vehicles
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Attend a Dealer Training Seminar.

- 16. 13-0068 ENF - HBG Enterprises, Inc., DBA Garcia Motors, Garcia Motors #2**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00
- 17. 13-0082 ENF - Autobahn Imports LP, DBA Autobahn Motorcars**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00
- 18. 13-0116 ENF - Kevin R. Godsey, DBA Godsey Autoplex**
Misuse of buyer temporary E-tag: Transp Code 503.063, 503.0631 and
503.038(a)(14), 43 TAC 215.151, 215.152, 215.153 and 215.155, Transp Code
503.038(a)(12) and 43 TAC 215.141(a)(10)(11) and Occ Code 2301.651(a)(8)
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$4,000.00
- 19. 13-0123 ENF - Live Oak RV Sales, LLC, DBA Live Oak RV Sales, LLC**
Sold a motor vehicle without certificate of title or title receipt: Transp Code 501.152
\$500.00 and attend a Dealer Training Seminar.
- 20. 13-0141 ENF - Randall William Ellis, DBA Car King**
Misuse of buyer temporary E-tag: Transp Code 503.063, 503.0631 and
503.038(a)(14), 43 TAC 215.151, 215.152, 215.153 and 215.155, Transp Code
503.038(a)(12) and 43 TAC 215.141(a)(10)(11) and Occ Code 2301.651(a)(8)
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$1,000.00 and attend a Dealer Training Seminar.
- 21. 13-0142 ENF - Sonterra Auto Group LLC, DBA sonterraauto.com**
Advertised the amount of down payment in connection with a credit transaction without
including the terms of repayment: 43 TAC 215.263
\$500.00 and attend a Dealer Training Seminar.
- 22. 13-0144 ENF - South Credit Motors, Inc., DBA South Credit Motors, Inc.**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
\$500.00 and attend a Dealer Training Seminar.
- 23. 13-0146 ENF - Zachary Neal Grier, DBA A-Affordable Autos**
Misuse of buyer temporary E-tag: Transp Code 503.063, 503.0631 and
503.038(a)(14), 43 TAC 215.151, 215.152, 215.153 and 215.155, Transp Code
503.038(a)(12) and 43 TAC 215.141(a)(10)(11) and Occ Code 2301.651(a)(8)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00 and attend a Dealer Training Seminar.

**Board of the Texas Department of Motor Vehicles
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Consent Agenda**

- 24. 13-0167 ENF - Alma Castilla, DBA Three Brothers Auto Sales**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$250.00 and attend a Dealer Training Seminar.
- 25. 13-0178 ENF - Devon Nicholas Luna, DBA Pioneer Auto Finance**
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Sold or offered to sell motor vehicles without the appropriate license for that type of
motor vehicle: Transp Code 503.038(a)(14)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$750.00 and attend a Dealer Training Seminar.
- 26. 13-0189 ENF - Incite Dealer Services, Inc., DBA The Republic Auto Group**
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00 and attend a Dealer Training Seminar.
- 27. 13-0192 ENF - Tytal USA, Inc., DBA Tytal USA, Inc.**
Sold or offered to sell a motor vehicle at an unlicensed location: Occ Code
2301.362(a), Transp Code 503.021 and 503.027, 43 TAC 215.136
\$1,000.00 and attend a Dealer Training Seminar.
- 28. 13-0193 ENF - Michael Manuel Damm, DBA Damm Cars**
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$750.00 and attend a Dealer Training Seminar.
- 29. 13-0194 ENF - A & A Motors, Inc., DBA A & A Motors, Inc.**
Failure to produce records within (15) days: 43 TAC 215.144(d) and 215.141(a)(3)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00 and attend a Dealer Training Seminar.
- 30. 13-0215 ENF - Framsco, Inc., DBA Wildcat Motors**
Advertised the amount of down payment in connection with a credit transaction without
including the terms of repayment: 43 TAC 215.263
\$500.00 and attend a Dealer Training Seminar.
- 31. 13-0291 ENF - Art Castanon, DBA A & R Motors**
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Failure to timely transfer title and pay sales tax: Transp Code 501.0234
\$500.00 and attend a Dealer Training Seminar.
- B. Consideration of Enforcement Notice of Violation Citation Agreed Orders under
Occupations Code, Chapter 2301**
 - 1. 13-0183 ENF - Dionicio Gomez, DBA D G Motors**
Sold or offered to sell a motor vehicle at an unlicensed location: Occ Code
2301.362(a), Transp Code 503.021 and 503.027, 43 TAC 215.136
\$200.00

Board of the Texas Department of Motor Vehicles
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- 2. 13-0229 ENF - Auto Plex Auto Sales & Financing Inc., DBA Auto Plex USA**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
\$250.00
- 3. 13-0230 ENF - Business 83 Auto Sales LLC, DBA Business 83 Auto Sales LLC**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
\$100.00
- 4. 13-0237 ENF - Lithia DMID, DBA All American Chrysler Jeep Dodge**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
\$50.00
- 5. 13-0238 ENF - Abdolhamid Vatankhah, DBA Unlimited Auto Sales**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
\$150.00
- 6. 13-0263 ENF - Armando Padron / Erika Padron, DBA A & V Motors**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Failure to meet premises requirement(s): Transp Code 503.032 and 503.038(a)(14); 43
TAC 215.140(1)(B)
\$200.00
- 7. 13-0264 ENF - Oscar Rios, DBA E - Z Motors**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to meet premises requirement(s): Transp Code 503.032 and 503.038(a)(14); 43
TAC 215.140(1)(B)
\$150.00
- 8. 13-0265 ENF - Cesar Cepeda, DBA C & I Auto Sales**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to observe right of way: 43 TAC 215.140(11)(c)
\$150.00
- 9. 13-0266 ENF - R. Garza Motors II Inc., DBA R. Garza Motors II Inc.**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to observe right of way: 43 TAC 215.140(11)(c)
No metal dealer plate record. 43 TAC 215.138(d)
\$250.00
- 10. 13-0297 ENF - Massey Automotive LP, DBA Mack Massey Chrysler Jeep Dodge**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
\$150.00

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Consent Agenda**

- 11. 13-0299 ENF - Luciano Tamayo, DBA El Mexicano Auto Sales**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
No metal dealer plate record. 43 TAC 215.138(d)
\$150.00
 - 12. 13-0300 ENF - Retama Enterprises Inc., DBA Auto Credit**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
\$50.00
 - 13. 13-0303 ENF - Virgilio Lozada, DBA Francia Motors**
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
\$50.00
 - 14. 13-0327 ENF - Maria Perea Rivera, DBA Isaac's Motors**
Failure to display buyer's guide: 16 C.F.R. 455.2, Occ Code 2301.651(a)(4)
Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14
\$150.00
- C. Consideration of Enforcement Dismissal Orders under Occupations Code,
Chapter 2301**
- 1. 10-1760 ENF - Pep Boys Manny Moe & Jack of Delaware, Inc., DBA Pep Boys**
 - 2. 12-0217 ENF - Rolando R. Torres, Agustina Gallegos, DBA Autos USADOS Ivan**
 - 3. 12-0404 ENF - Carl Shipley, DBA Stanton Auto Sales**
 - 4. 12-0450 ENF - Grand Auto Plaza Inc., DBA I-40 Trading Center**
 - 5. 12-1446 ENF - Hector Garcia & Martha Garcia, DBA Spectrum Motors**
 - 6. 13-0190 ENF - New World Car Imports San Antonio, Inc., DBA World Car Kia**
- D. Consideration of Settlement and Dismissal Orders under Occupations Code,
Section 2301.204 (Warranty Performance Complaints)**
- 1. 13-0027 CAF - Sunny and Donnye Winship v. Chrysler Group LLC**
Settlement Order
Resolved by cash settlement
- E. Consideration of Franchise Case Dismissal orders under Occupations Code,
Chapter 2301**
- 1. 12-0017 LIC - Extreme Riders. Inc., Applicant v. Julio Navarro D/B/A Funscooterz
Powersports, Protestant**

**Board of the Texas Department of Motor Vehicles
Attached List B
January 10, 2013
Agenda Item 3.A.
Motions for Disposition Based on Default**

- 3. A. Consideration of Enforcement Motions for Disposition Based on Default under Occupations Code, Chapter 2301**
 - 1. 11-0496 ENF - Pacific Coachworks, Inc., DBA Pacific Coachworks, Inc.**
Breach of contract, Manufacturer: Occ Code 2301.465
Proposed Sanction: \$110,125.00 civil penalty
 - 2. 12-1579 ENF - CAF Financial Limited Liability Company, DBA Vista Auto Sales**
Failure to maintain complete records by licensed dealer or auction: 43 TAC 215.144(a)
Delivered title directly to retail buyer: Transp Code 501.0234, 503.038(a)(14), Tax Code 152.0411 and 43 TAC 215.141(a)(23)
Proposed Sanction: \$2,000.00 civil penalty
 - 3. 12-1585 ENF - Coy Q. Merritt, DBA Coy's Car's**
Failed to attend a Dealer Training Seminar in compliance with a Final Order: Occ Code 2301.651(a)(3)
Proposed Sanction: \$750.00 civil penalty