

**AGENDA  
BOARD MEETING  
TEXAS DEPARTMENT OF MOTOR VEHICLES  
200 EAST RIVERSIDE, BUILDING 150, ROOM 1.B1  
AUSTIN, TEXAS 78704  
THURSDAY, JANUARY 13, 2011  
10:00 A.M.**

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

**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, §2301.204 (Warranty Performance Complaints)
- E. Consideration of Franchise Case Dismissal Orders under Occupations Code Chapter 2301

**3. RESOLUTIONS for INDIVIDUAL CONSIDERATION – RULES and CONTESTED CASES**

**A. Adoption of Rules under Title 43, Texas Administrative Code**

**1. Chapter 207 – Public Information – Randy Elliston**

Subchapter A. Access to Official Records – Amendments  
§207.3, Public Access

**2. Chapter 215 – Motor Vehicle Distribution – Molly Cost**

Subchapter D. Franchised Dealers, Manufacturers, Distributors  
and Converters - Amendments  
§215.109, Replacement Dealership

**B. Proposed Rule Amendment under Title 43, Texas Administrative Code**

Chapter 218 – Motor Carriers – Aline Aucoin  
Subchapter B. Motor Carrier Registration  
§218.11, Motor Carrier Registration

**C. Consideration of Franchise Proposal for Decision under Occupations Code Chapter 2301 – Molly Cost**

- 1. 10-0042 LIC - Houston Mack Sales & Service, Inc., d/b/a Houston Isuzu Truck, Inc., Applicant v. Hayes Leasing Company, Inc., d/b/a Hayes UD Trucks – Houston, Protestant**

ALJ recommends protest be dismissed

**D. Consideration of Warranty Performance Proposals For Decision Under Occupations Code Chapter 2301 – Bill Harbeson**

- 1. 10-0073 CAF - Juan E. Luna v PACCAR, Inc.**

ALJ recommends the complaint be dismissed

- 2. 10-0258 CAF - Kristina Torosyan v BMW of North America, LLC**

ALJ recommends the complaint be dismissed

**E. Consideration of Enforcement Motions for Disposition Based on Default under Occupations Code Chapter 2301 – Bill Harbeson**

(see attached itemized list B)

**4. BRIEFINGS, DISCUSSION and POSSIBLE ACTION**

**A. ADMINISTRATIVE UPDATES**

- 1. Chair Reports - Victor Vandergriff**

Report on TxDMV-related activities involving the Chairman or identified by him as noteworthy, which may include activities involving:

- Attorney General Opinion regarding Board delegation authority
- stakeholders
- advisory committees
- industry
- media
- Governor's office
- legislative
- intergovernmental relations
- strategic planning
- budget
- audit

- 2. Executive Director Reports – Ed Serna (Including designated staff)**

Report on TxDMV-related activities identified by the Executive Director as noteworthy, which may include reports on:

- contracts – authorities and limits
- monthly financial statement
- agency operations
- facilities
- equipment
- personnel
- intergovernmental relations

- annual report of non-financial data
- Vision 21 update
- results of survey of employee engagement

## 5. EXECUTIVE SESSION

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

- a. pending or contemplated litigation, a settlement offer, or
- b. any item on this agenda.

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

## 6. ACTION ITEMS FROM EXECUTIVE SESSION

## 7. 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 DMV staff.

Pursuant to Section 30.06, Penal Code (the trespass 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 Gail Anderson by telephone at (512) 416-4899.

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

CERTIFYING OFFICIAL: Brett Bray, General Counsel, (512) 467-3853.

**Board of the Texas Department of Motor Vehicles  
Attached List A  
January 13, 2011  
Agenda Item 2  
Consent Orders**

**2. CONSENT AGENDA**

**A. CONSIDERATION OF ENFORCEMENT AGREED ORDERS UNDER  
OCCUPATIONS CODE, CHAPTER 2301**

**1. 10-0322 ENF - Elisio R. Rodriguez Jr., DBA E R Auto Sales**

Sold a motor vehicle without certificate of title or title receipt: Transp Code 501.152  
Failure to timely transfer title and pay sales tax: Transp Code 501.0234  
\$250.00 and attend a Dealer Training Seminar.

**2. 10-0527 ENF - Bossier Country LP, DBA Bossier Country**

Sold a motor vehicle without certificate of title or title receipt: Transp Code 501.152  
Failure to timely transfer title and pay sales tax: Transp Code 501.0234  
Misuse of buyers supplemental temporary E-tag: Transp Code 503.063(g), 43 TAC  
215.151, 215.152, 215.155, Transp Code 503.038(a)(12) and 43 TAC  
215.141(a)(10),(11)  
Failure to maintain complete records: 43 TAC 215.144(a)  
Failure to produce records with (15) days: 43 TAC 215.144(d) and 215.141(a)(3)  
Failure to timely pay lien on a motor vehicle traded in: Finance Code 348.408(c), Occ  
Code 2301.651(a)(4)  
Failure to fulfill written agreement with retail purchaser: Occ Code 2301.651(a)(7)  
License is revoked. Oppose new or renewal license for 5 years.

**3. 10-0675 ENF - Mike Mitchell & Steve Mitchell, DBA Playtime RV**

Failure to maintain complete records: 43 TAC 215.144(a)  
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 and attend a Dealer Training Seminar.

**4. 10-0749 ENF - Eduardo Rivas, DBA R & D Auto Sales**

Misuse of buyer temporary E-tag: Transp Code 503.063 and 503.0631, 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: 43 TAC 215.144(a)  
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  
\$1,500.00

**5. 10-0927 ENF - Buttross Group II Inc., Buttross Motors**

Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14  
Misuse of temporary dealer tag or failed to comply with recordkeeping requirements:  
Transp Code 503.062, 503.0626 and 503.068 and 43 TAC 215.151, 215.152, 215.153  
and 215.154  
Failure to meet premises requirement(s): Transp Code 503.032 and 503.038(a)(14); 43  
TAC 215.140(1)(B)

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\$500.00 and attend a Dealer Training Seminar.

- 6. 10-1198 ENF - Mehrzad Tavakol, DBA Best Car Lot**  
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 display license: 43 TAC 215.140(14)  
Failure to maintain complete records: 43 TAC 215.144(a)  
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  
\$1,500.00 and attend a Dealer Training Seminar.
- 7. 10-1305 ENF - Bill Miller, DBA Bill Miller Used Cars**  
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: 43 TAC 215.144(a)  
Failure to observe right of way: 43 TAC 215.140(11)(c)  
Failure to allow purchaser to select county for registration: Transp Code 501.0234(d),(e)  
\$2,000.00 and attend a Dealer Training Seminar.
- 8. 10-1379 ENF - Hua Xin Company, DBA Complete Auto Center**  
Failure to produce records with (15) days: 43 TAC 215.144(d) and 215.141(a)(3)  
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)  
\$500.00 and attend a Dealer Training Seminar.
- 9. 10-1394 ENF - Cecil Atkission Ford Inc., DBA Cecil Atkission Ford Inc.**  
Failure to allow purchaser to select county for registration: Transp Code 501.0234(d),(e)  
\$750.00
- 10. 10-1396 ENF - Cesar H. Torres, DBA Lofi Motors**  
Failure to timely transfer title and pay sales tax: Transp Code 501.0234  
\$1,000.00
- 11. 10-1667 ENF - Bert Ogden McAllen Motors Inc., DBA Bert Ogden McAllen Motors Inc.**  
Misuse of buyers supplemental temporary E-tag: Transp Code 503.063(g), 43 TAC 215.151, 215.152, 215.155, Transp Code 503.038(a)(12) and 43 TAC 215.141(a)(10),(11)  
Sold a motor vehicle without certificate of title or title receipt: Transp Code 501.152  
\$500.00

**Board of the Texas Department of Motor Vehicles  
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- 12. 10-1699 ENF - Edgar Zertuche, DBA Illusion 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  
Failure to allow purchaser to select county for registration: Transp Code 501.0234(d),(e)  
\$1,000.00 and attend a Dealer Training Seminar.
- 13. 10-1702 ENF - Mario Ramirez Trujillo, DBA Trujillo 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  
Failure to maintain complete records: 43 TAC 215.144(a)  
\$750.00 and attend a Dealer Training Seminar.
- 14. 10-1727 ENF - Metro Golf Cars Inc., DBA Metro Golf Cars Inc.**  
Sold or offered to sell new motor vehicles without the appropriate license: Occ Code 2301.251 and 2301.252 and 43 TAC 215.141(a)(21)  
\$5,250.00
- 15. 10-1772 ENF - Eloy Abrego Benavides, DBA Auto Centro 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 meet premises requirement(s): Transp Code 503.032 and 503.038(a)(14); 43 TAC 215.140(1)(B)  
Failure to maintain complete records: 43 TAC 215.144(a)  
\$1,500.00 and attend a Dealer Training Seminar.
- 16. 10-1783 ENF - Trucking Around, Inc., DBA Houstx Auto Sales**  
Failure to take assignment of title or MCO: Transp Code 503.038(a)(3) and 43 TAC 215.141(a)(13)  
Failure to timely transfer title and pay sales tax: Transp Code 501.0234  
\$1,000.00 and attend a Dealer Training Seminar.
- 17. 10-1785 ENF - Carmax Auto Superstores Inc., DBA Carmax Auto Superstores Inc.**  
Failure to maintain complete records: 43 TAC 215.144(a)  
Failure to timely transfer title and pay sales tax: Transp Code 501.0234  
\$2,000.00
- 18. 11-0036 ENF - Alberto Chavez, DBA Beto's Auto Motors**  
Sold or offered to sell motor vehicles on consecutive Saturday and Sunday: Transp Code 728.002 (4 counts)  
\$1,000.00

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**19. 11-0088 ENF - Reid Anderson Auto Connection, LLC., DBA Reids Auto Connection**

Aided and abetted the unlicensed sale of a motor vehicle: Occ Code 2301.351  
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)  
\$500.00 and attend a Dealer Training Seminar.

**20. 11-0089 ENF - Felix Rivas, DBA J E B Auto Sales**

Sold or offered to sell motor vehicles on consecutive Saturday and Sunday: Transp  
Code 728.002  
\$250.00

**21. 11-0116 ENF - Duran Motors, Inc., DBA Auto Direct**

Failure to maintain complete records: 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.

**22. 11-0157 ENF - Marvin McDonald, DBA McDonald Mobile Homes**

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)  
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  
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  
\$5,250.00

**23. 11-0161 ENF - Jiries Khoury & Elias Khoury, DBA Bridgestone Automotive**

Failure to allow purchaser to select county for registration: Transp Code  
501.0234(d),(e)  
\$250.00 and attend a Dealer Training Seminar.

**24. 11-0169 ENF - Expo Holdings LP, DBA Expo Motorcars, Expo Motorcars Spyker of Houston**

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  
\$1,000.00

**B. CONSIDERATION OF ENFORCEMENT NOTICE OF VIOLATION  
CITATION AGREED ORDERS UNDER OCCUPATIONS CODE, CHAPTER 2301**

**1. 11-0201 ENF - Depot Auto Leasing, DBA Depot Auto Leasing**

Failure to remove Texas plates: Transp Code 502.451, 43 TAC 17.14

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\$50.00

- C. CONSIDERATION OF ENFORCEMENT DISMISSAL ORDERS UNDER OCCUPATIONS CODE, CHAPTER 2301**
- 1. 10-1097 ENF - AB Motors Inc., DBA AB Motors Inc.**
  - 2. 11-0092 ENF - Gets Automotive Inc., DBA Gets Automotive Inc.**
  - 3. 11-0288 ENF - Rio Grande Valley Motors Inc., DBA Land Rover Rio Grande Valley**
- D. CONSIDERATION OF SETTLEMENT AND DISMISSAL ORDERS UNDER OCCUPATIONS CODE, §2301.204 (Warranty Performance Complaints)**
- 1. 10-0108 CAF - Lori and Joseph Schigut v. Saturn Corporation**  
Settlement Order  
Respondent provided a cash settlement to Complainant
  - 2. 10-0190 CAF - Tommy and Tina Pierce v. Mercedes-Benz USA, LLC**  
Order of Dismissal  
Complainant no longer owns the vehicle
  - 3. 10-0272 CAF - Eric Mendis v. Mitsubishi Motor North America, Inc**  
Order of Dismissal  
Complainant withdrew the complaint
  - 4. 10-0310 CAF - Tina White v. Kia Motors America, Inc**  
Settlement Order  
Respondent provided a cash settlement to Complainant
  - 5. 10-0319 CAF - Hector A. Zuniga v. General Motors LLC**  
Settlement Order  
Respondent provided a cash settlement to Complainant
  - 6. 11-0002 CAF - Paul Greenamyre v. Ford Motor Company**  
Settlement Order  
Respondent repaired Complainant's vehicle
  - 7. 11-0013 CAF - Jacquelyn A. Hammel v. Chrysler Group LLC**  
Settlement Order  
Respondent provided a cash settlement to Complainant
- E. CONSIDERATION OF FRANCHISE CASE DISMISSAL ORDERS UNDER OCCUPATIONS CODE CHAPTER 2301**



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- 1. 10-0049 LIC - Moto Austin, L.P., d/b/a Moto Guzzi Austin, Mototek-Ducati**  
Austin, Protestant v. Piaggio Group Americas, Inc., d/b/a Aprilia USA, Moto  
Guzzi USA, Piaggio USA, Respondent  
Parties settled

**Board of the Texas Department of Motor Vehicles  
Attached List B  
January 13, 2011  
Agenda Item 3.E.  
Motions for Disposition Based on Default**

- 3. RESOLUTIONS for INDIVIDUAL CONSIDERATION – RULES and CONTESTED CASES**
- E. CONSIDERATION OF ENFORCEMENT MOTIONS FOR DISPOSITION  
BASED ON DEFAULT UNDER OCCUPATIONS CODE CHAPTER 2301**
- 1. 10-0798 ENF - Michael Shannon, DBA Lake Country Auto Sales**  
Allegations: 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  
Proposed Sanction: \$1,000.00 civil penalty and oppose any new or renewal applications until this penalty is paid.
- 2. 10-1074 ENF - Scott McGlauchlen, DBA Five Point Autos**  
Allegations: 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: 43 TAC 215.144(a)  
Proposed Sanction: \$1,000.00 civil penalty and oppose any new or renewal applications until this penalty is paid.
- 3. 10-1132 ENF - Michael Pizzelanti, DBA Michael Pizzelanti Auto Sales**  
Allegations: Failure to meet premises requirement(s): Transp Code 503.032 and 503.038(a)(14); 43 TAC 215.140(1)(B)  
Failure to maintain complete records: 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)  
Failure to timely transfer title and pay sales tax: Transp Code 501.0234  
Proposed Sanction: \$3,000.00 civil penalty and oppose any new or renewal applications until this penalty is paid.
- 4. 10-1627 ENF - Showcase Auto Pre Owned Super Stores, Inc., DBA Showcase Auto Pre Owned Super Stores**  
Allegations: 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 have business hours posted at the dealer's location: Transp Code 503.032 and 503.038(a)(14); 43 TAC 215.140(1)(B)  
Failure to have dealer or a bona fide employee present during posted business hours: Transp Code 503.032, 503.038(a)(14) and 43 TAC 215.140(1)(B)  
Failure to answer the telephone, have it answered by a bona fide employee or to have an answering machine or service in operation during posted business hours: Transp Code 503.032, 503.038(a)(14) and 43 TAC 215.140(1)(B)  
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  
Made a material misrepresentation on information provided to the Board: Transp Code 503.038(a)(6) and Occ Code 2301.651(a)(2)  
Proposed Sanction: \$3,500.00 civil penalty and oppose any new or renewal applications until this penalty is paid.