

LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
MAY 17, 2010
BEGINNING AT 9:34 A.M.

3132 VALLEY CREEK
BATON ROUGE, LOUISIANA

REPORTED BY:
BETTY D. GLISSMAN, CCR

Betty D. Glissman, CCR
(225) 754-8609

1 APPEARANCES:

2
3 CHAIRMAN:

4 MR. GLEN ROBINSON

5
6 VICE CHAIRMAN:

7 MR. JOHN POTEET

8
9 COMMISSIONERS PRESENT:

10
11 MR. GEORGE BREWER

12 MR. TONY CORMIER

13 MR. RON DUPLESSIS

14 MR. GEORGE FLOYD

15 MR. JOHN POTEET

16 MR. KIRBY ROY (ARRIVED LATE)

17 MR. DOUGLAS TURNER

18
19 REPRESENTING THE LOUISIANA USED MOTOR
20 VEHICLE COMMISSION:

21 ROBERT W. HALLACK, ESQUIRE

HALLACK LAW OFFICE

13007 JUSTICE AVENUE

22 BATON ROUGE, LOUISIANA 70816

23 SHERI MORRIS, ESQUIRE

ROEDEL, PARSONS, KOCH, BLACHE, BALHOFF &

24 McCOLLISTER

8440 JEFFERSON HIGHWAY, SUITE 301

25 BATON ROUGE, LOUISIANA 70809

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1 ALSO PRESENT:

2
3 MS. KIM BARON

4 MR. DEREK PARNELL

5 MS. HEATHER ELLIS

6 MR. BUTCH WRIGHT

7 RONNIE WISENOR

8 REPRESENTATIVE ROBERT BILLIOT

9 MARVIN HENDERSON

10 PHYLLIS SIMS, ESQUIRE

11 EDDIE BRIDGES

12 KEITH KIRALY

13 GEOF KATZ

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25
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1 MR. ROBINSON:
2 Mr. Floyd, will you lead us
3 in the pledge?

4 (Pledge of Allegiance)

5 MR. ROBINSON:
6 Kim, if you would call the
7 role, please.

8 MS. BARON:
9 Glen Robinson?

10 MR. ROBINSON:
11 Here.

12 MS. BARON:
13 George Brewer?

14 MR. BREWER:
15 Present.

16 MS. BARON:
17 Rhett Bourgeois?

18 MR. BOURGEOIS:
19 (No response.)

20 MS. BARON:
21 Tony Cormier?

22 MR. CORMIER:
23 Present.

24 MS. BARON:
25 Ron Duplessis?

1 MR. DUPLESSIS:

2 Here.

3 MS. BARON:

4 George Floyd?

5 MR. FLOYD:

6 Here.

7 MS. BARON:

8 John Poteet?

9 MR. POTEET:

10 Here.

11 MS. BARON:

12 Kirby Roy?

13 MR. ROY:

14 (No response.)

15 MS. BARON:

16 Darty Smith?

17 MR. SMITH:

18 (No response.)

19 MS. BARON:

20 Douglas Turner?

21 MR. TURNER:

22 Here.

23 MS. BARON:

24 Mr. Chairman, we have a

25 quorum.

1 MR. ROBINSON:

2 Thank you.

3 Anybody for public comments

4 Ms. Kim?

5 Director Parnell?

6 MS. BARON:

7 No. Chris Arceri sent an

8 e-mail, but he wanted to address it during

9 the commission meeting, but he's not here

10 yet at this time.

11 MR. ROBINSON:

12 Okay. Item 4 on the agenda,

13 items for discussion, approval of the

14 minutes from the previous meeting. Have you

15 reviewed the minutes, which you should have

16 had a week or two?

17 MR. POTEET:

18 I make a motion that we adopt

19 the minutes.

20 MR. BREWER:

21 Second.

22 MR. ROBINSON:

23 I have a second.

24 All in favor?

25 (All "Aye" responses.)

1 MR. ROBINSON:

2 Anyone opposed?

3 (No response.)

4 MR. ROBINSON:

5 The motion passes.

6 Financial matters, the
7 financial report, Ms. Heather, if you would,
8 please.

9 MS. ELLIS:

10 Good morning.

11 MR. ROBINSON:

12 Good morning.

13 MS. ELLIS:

14 We'll start on Page 1, our
15 budget balance sheet. This has our total
16 revenues for the year at \$912,939.67. We
17 have a remaining balance we had expected to
18 collect of 207,000, which we will be
19 amending next month at the meeting on the
20 budget. On Page 2, for the year so far we
21 have total expenditures of \$825,411.08. On
22 Page 3 is our monthly comparison for April
23 of this year compared to April of 2009,
24 which as you can see are drastic
25 differences, but we kind of expected that

1 with all of the losses in revenues that we
2 have had. But our expenditures have also
3 come down so we are trying to keep those in
4 line. That shows on Page 4 as well.

5 We have revenues, other
6 expenditures for the year so far at
7 \$87,528.59, so that should cover May and,
8 hopefully, part of June's expenditures as
9 well. On Page 5 is the last three months as
10 far as our revenues and our expenditures and
11 as you can see our April expenditures are
12 about half of what we had collected in March
13 and the end of February that will tend to
14 decrease for the next two months.

15 On Page 6, our expenditures
16 are also decreasing little by little. So
17 those are being kept in line. And Page 7 is
18 our balance sheet. This shows our cash in
19 the bank, petty cash, CD investments. We
20 are still going through this with Roy to try
21 and clear out any accounts that don't need
22 to be listed. That should show up next
23 month. Hopefully, it will all be taken care
24 of and cleared out. On Page 8, this is the
25 same as far as our -- what we owe and our

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1 liabilities. These are always going to have
2 some small amounts being that this is after
3 the first payroll of the year, because
4 there's money that's going into the tax and
5 life insurance, health insurance, those kind
6 of accounts.

7 On Page 9, this is just a
8 quick overview of our revenues and our
9 expenditures for the month. We had total
10 revenues of \$23,503.48, total expenses
11 \$57,788.95, and again we are in the black
12 \$87,000 for the year so far. On Page 10,
13 this is our CDs. We did move the money from
14 LACAP to Landmark. So there are two
15 separate CDs. They were paying 1.71 APRI,
16 which is a very good rate for right now. So
17 we have moved those. They are in two
18 separate CDs with two separate renewal
19 dates.

20 On Page 11, there will be a
21 correction to -- Washington Auto Sales has
22 been paid as of February of '09, and Paul
23 Roy was paid in May. That's why it's not
24 showing up on this sheet yet. It will show
25 up next month. And then we also have one

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1 that was not added to here, because we
2 didn't have the paperwork on it yet, but
3 it's West Gate, paid \$5,000. So those
4 changes will be showing next month. And on
5 Page 12, we'll go through the highlights
6 real quickly. We had auto maintenance \$406
7 less than last month. We -- dues and
8 subscriptions were up because we did have to
9 upgrade our accounting system for the year.
10 We had \$389 more in telephone phone charges
11 than March charges. We had \$372 less in
12 utility charges than in March, and our
13 miscellaneous account paid for direct
14 deposit fees, bank service charges and
15 criminal record checks, which will continue
16 to decrease. And auto supplies in April
17 were paid for March charges on their log
18 sheets.

19 MR. ROBINSON:

20 Any questions?

21 First of all, let the record
22 reflect that Commissioner Roy is here.

23 Any questions on any of the
24 financials, numbers, any of the report?

25 MR. BREWER:

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1 Masters Motors paid in full?
2 I see you don't have them listed anymore.

3 MS. ELLIS:

4 Yes, sir. Those were covered
5 in the bond money we received in.

6 MR. ROBINSON:

7 That was all part of that
8 \$26,000 that we recovered on the bond and it
9 cleared up a lot of those big balances.

10 MR. BREWER:

11 We still can't do anything
12 with Westside, the third one listed?

13 MS. ELLIS:

14 That one, I'm fairly certain
15 we have a claim against the bond out on.

16 MS. BARON:

17 It's been turned over to
18 Robert Hallack, because they have gone past
19 their first notice. So it's been turned
20 over to Robert for collection.

21 MR. BREWER:

22 I ran into him the other day.
23 He is no longer in business. I was just
24 wondering.

25 MR. ROBINSON:

1 We're trying to collect it
2 like we did those others through the bond
3 process and like we talked about last month,
4 we'll step up the collections through the
5 bonds. We need to be a lot more aggressive
6 than we have been in the past. We are very
7 hopeful we'll collect that through the bond
8 company as we did those others.

9 MR. BREWER:

10 That's come down quite a bit.

11 MR. ROBINSON:

12 Drastically, yes, sir.

13 Anything that -- next month,
14 so everyone will know, is we have to pass an
15 amended budget. So we need to make sure
16 that we've got a full house next month.
17 Anything on that report that we just went
18 over, that Page 11, that we feel is
19 uncollectible, we'll remove it next month.
20 If we feel like we can collect it, it will
21 stay on our books. If not, we'll have to
22 remove it from the report.

23 Any other questions for
24 Director Parnell or Ms. Heather about the
25 financial report?

1 (No response.)

2 MR. ROBINSON:

3 Also, under Item B, we have
4 payment of invoice, which is Ms. Morris'
5 invoice.

6 Ms. Morris, if you would.

7 MS. MORRIS:

8 The invoice submitted is
9 primarily for handling legislation, working
10 with the Legislative Committee and the
11 legislative delegation on the revision
12 package. We have also have a claim for
13 unemployment and the appeal, and we
14 participated in that and it was dismissed,
15 because the claimant failed to show, but we
16 did have to prepare for it and gather
17 documents and prepare witnesses, and then
18 just some other research.

19 MR. ROBINSON:

20 So your invoice total is for
21 how much, Ms. Morris?

22 MS. MORRIS:

23 The total is \$4,812.50.

24 MR. ROBINSON:

25 Does any Commissioner have

1 any particular question about this invoice,
2 any item you see on there you want to ask
3 about?

4 (No response.)

5 MR. ROBINSON:

6 As everyone is aware, Ms.
7 Morris has been handling our legislative
8 packet agenda. So that's where she spends
9 most of her time right now.

10 No questions? Does anybody
11 want to make a motion to accept the
12 financial report and the payment of Ms.
13 Morris' invoice?

14 MR. CORMIER:

15 I make a motion that we pay
16 Ms. Morris.

17 MR. TURNER:

18 Second.

19 MR. ROBINSON:

20 A first and a second.

21 All in favor?

22 (All "Aye" responses.)

23 MR. ROBINSON:

24 Anyone opposed?

25 (No response.)

1 MR. ROBINSON:

2 The motion passes.

3 Item 4C, legal matters and
4 pending litigation. Is that Director
5 Parnell or Mr. Hallack?

6 MR. HALLACK:

7 We had the appeal on
8 Atchafalaya RV and Double Tree RV. Again,
9 that's an old one from the old Commission
10 where a manufacturer -- or where a dealer
11 demanded a re-purchase from the
12 manufacturer. The manufacturer has filed
13 the appeal in the First Circuit. They filed
14 their brief. Our brief is due this week.

15 Sundance Boats, we appealed
16 that, also -- we, the Commission, appealed
17 that to the First Circuit Court of Appeals
18 and we also filed a reply brief. So
19 everything is going as scheduled. We'll
20 probably have argument -- oral argument
21 before the Court of Appeals in about two to
22 three months.

23 Claims against the surety
24 bond, like Kim said, she turned over, I
25 think, three or four claims to me that have

1 not responded to her letter. So we made a
2 certified demand, waiting on the time to
3 elapse on that and see whether they are
4 going to pay it or we have to file suit
5 against them, but none of the three are New
6 York Marine.

7 Does anybody have any
8 questions?

9 MR. ROBINSON:

10 Do we need a vote from this
11 Commission if they ignore your demand to
12 file suit?

13 MR. HALLACK:

14 Yes, sir. I would think so.

15 MR. ROBINSON:

16 Can we do it today, so we
17 don't have to delay it another month?

18 MR. HALLACK:

19 That's correct. That would
20 be a good idea.

21 MR. ROBINSON:

22 Do you know the names of the
23 companies?

24 MR. HALLACK:

25 No, sir, I sure don't. I

1 didn't bring that with me. Maybe Kim has
2 something.

3 MS. BARON:

4 I know that one is Western
5 Surety, but I'm not sure about the other
6 two.

7 MR. HALLACK:

8 And I know that one involves
9 Westside.

10 MS. BARON:

11 Yes.

12 Do you want me to get those
13 names for you?

14 MR. ROBINSON:

15 Well, you know, as I stated
16 several times, you know, I'm tired of this
17 long drawn out process. I want to do what
18 we can to move it forward. I don't want to
19 have to come back next month and have a
20 whole month go by just so we can take a vote
21 to do what we all want to do, I'm sure. If
22 we have to file suit to collect this
23 revenue, we need to get it done. So I would
24 like to do it today, yes.

25 MR. HALLACK:

1 Well, just a motion to do
2 just what you said. If suit needs to be
3 filed to collect the claims against the
4 bond, then we authorize you do so.

5 MR. ROBINSON:

6 It can be that generic?

7 MR. HALLACK:

8 Yes, sir.

9 MR. POTEET:

10 I make a motion that we go
11 ahead and give Mr. Hallack the right to file
12 against the bond -- file suit to collect
13 against these bonds that we've been working
14 on.

15 MR. ROY:

16 I'll second that.

17 MR. ROBINSON:

18 Any discussion from any
19 Commissioner?

20 MR. BREWER:

21 I'm familiar with Westside.
22 Can you go against his bond, is it still
23 available?

24 MR. HALLACK:

25 Yes, sir.

1 MR. BREWER:

2 Because he's broke.

3 MR. HALLACK:

4 It would be as it occurred at
5 the time when he did have a bond. The bond
6 was effective and he did have a license back
7 then.

8 MR. BREWER:

9 There's no time limit on
10 that?

11 MR. HALLACK:

12 No, sir.

13 MR. TURNER:

14 Do we know if anyone else has
15 applied to get money out of his bond? He
16 probably owed other people when he went out.
17 Will we have any way of knowing that?

18 MS. BARON:

19 Nobody else had.

20 MR. HALLACK:

21 If it had been, it would have
22 been in here.

23 MR. ROBINSON:

24 Individuals and companies and
25 such can't file against the bond. The State

1 can.

2 MR. HALLACK:

3 That's correct. They're not
4 supposed to, but they have been known to do
5 it.

6 MR. TURNER:

7 I know of an instance where a
8 title company had filed against the bond.

9 MS. BARON:

10 No, not unless they go
11 through us. They are not supposed to.

12 MR. TURNER:

13 Okay. Well, he will work on
14 that.

15 MS. BARON:

16 It happens, but they are not
17 supposed to.

18 MR. ROBINSON:

19 Any other questions?

20 (No response.)

21 MR. ROBINSON:

22 I have a first and a second.

23 All in favor?

24 (All "Aye" responses.)

25 MR. ROBINSON:

1 Anyone opposed?

2 (No response.)

3 MR. ROBINSON:

4 The motion passes.

5 Does that conclude your
6 report, Mr. Hallack?

7 MR. HALLACK:

8 Yes, sir.

9 MR. ROBINSON:

10 Item D, policy and
11 procedures, Director Parnell.

12 MR. PARNELL:

13 The Item on this is
14 discussion to amend requirements for
15 auctions. This kind of came in place after
16 our last Commission meeting. We all -- we
17 went down to the Capitol. At that time, we
18 had a meeting, Chairman Robinson,
19 Co-Chairman Poteet, Sheri Morris, myself and
20 some representatives from Henderson, we had
21 a meeting down there in which they voiced
22 their concerns about having to obtain their
23 -- the method that they have to go through
24 and the hoops that they had to jump through
25 in order to get their phone line. They are

1 licensed here in the state. They have been
2 meeting all of the requirements. They met
3 the requirements, but they always run into
4 some huge concerns. And at this meeting, we
5 wanted to look at it and we wanted to talk
6 about how -- what we can do in our role as
7 it relates to amending that, so that their
8 phone line situation can be a little bit
9 easier for them. It's not in law. It's
10 simply the rule for us. So that's what we
11 talked about discussing today as it relates
12 to the Henderson auction.

13 MR. ROBINSON:

14 In specific, it's about
15 having a hard phone line to a secondary
16 location, not for the corporate office, but
17 an example, if your corporate office was in
18 Alexandria and you were going to Covington
19 for a sale, but wouldn't have to have what
20 would, in essence, be a second hard line in
21 Covington when everybody knows it's a
22 temporary sale for an auction. So that's in
23 particular what we had talked about. And,
24 again, as Director Parnell said, it's not in
25 the law, it's kind of -- it's something that

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1 this Commission requires for an extended
2 period of time, I guess. And, particularly,
3 in today's world, it may be a little
4 outdated.

5 MR. BREWER:

6 Is that their only complaint
7 or their major complaint?

8 MR. ROBINSON:

9 Ms. Morris?

10 First, Mr. George, we will
11 get back to you. Let's see what --

12 MS. MORRIS:

13 Mr. Parnell and I made some
14 additional revisions to the proposed
15 language and I think in your packets there's
16 the previous -- at least in my packet --

17 MR. PARNELL:

18 It's 2905.

19 MS. MORRIS:

20 We might need to copy that.

21 MR. ROBINSON:

22 It's in their packet.

23 MS. BARON:

24 That's not the correct one?

25 MS. MORRIS:

1 This is the one we worked on
2 this morning.

3 We have representatives here
4 from Henderson.

5 MR. ROBINSON:

6 So this one in our packet is
7 the final or not the final?

8 MS. MORRIS:

9 It's not.

10 MR. ROBINSON:

11 While we wait for that,
12 either of you Hendersons, would one of you
13 like to speak briefly?

14 MR. HENDERSON:

15 Yes, sir. I'm Marvin
16 Henderson of Henderson Auction. Most of you
17 probably know we have been in business for
18 52 years. We maintain a license -- a
19 dealer's license, wholesale -- I mean, a
20 regular used car dealer's license. And the
21 problem that we've run into -- and for a
22 long time, we didn't -- we really thought
23 the rule was the other way. We go to
24 Farmerville, Louisiana, for instance, and
25 conduct an auction sale and sell used

1 vehicles there and we've still got to
2 maintain our license and our permanent
3 location, but, of course, it was called to
4 our attention and now we have to set up a
5 permanent facility. We have to set up a
6 trailer. It has to be skirted and it has to
7 have a landline telephone. And I understand
8 the point in doing that. As a Commission,
9 you are trying to follow where the vehicle
10 goes, who is responsible for getting the
11 title to whoever buys it and that type
12 stuff, but it doesn't really serve a purpose
13 for us, the way we see it, to the public,
14 because we can go to, say, Farmerville and
15 set up a permanent location, so to speak, a
16 trailer with skirted sides, a landline
17 telephone and a have an auction that
18 Saturday. Monday morning, we can pick up
19 and leave. So you don't have a place to
20 really go back to find that person that sold
21 that car or that vehicle that didn't give
22 him a title or didn't supply the proper
23 paperwork, et cetera.

24 So what we were suggesting --
25 and we certainly appreciate these folks

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1 working with us and Mr. Robinson, also.
2 What we suggested is, we don't mind a
3 permit. We don't mind to have to let you
4 know where we are going to have an auction.
5 We don't mind to pay a fee, if necessary,
6 but the process of having to get a permanent
7 -- I mean, a landline is one of the
8 handicaps, and then, of course, it -- the
9 procedure is just like buying a brand new
10 license in a different location, is the way
11 I understand.

12 And, for instance, we just
13 had an auction at Lamar-Dixon and it's quite
14 an ordeal to try to get a landline set up
15 down there at a public facility, you know.
16 And what we are just trying to suggest and
17 see if there is a rule that could be changed
18 to where a dealer -- I think an auctioneer
19 should have to have a used dealer's license
20 to be able to transfer title, and it's
21 happening on a smaller scale over the state,
22 now. First he goes out and he sells at
23 XYZ's little hardware store and he puts four
24 or five vehicles down there and sells them
25 and transfers them directly from the owner

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1 to the purchaser and most of the time, you
2 don't even know about it.

3 But in our case, I mean, I
4 think it's wise that the auctioneer, if he
5 is going to be selling used vehicles at
6 auction, he ought to have a licensed
7 permanent location in the state, and then
8 what we would like to see is that location
9 be -- have him be able do a satellite
10 location and could get permission from the
11 Commission.

12 I mean, like I said before,
13 you know, I have no objection to paying a
14 fee or notifying the Commission or -- I
15 think we need -- don't need a long period of
16 time. I think sometime maybe within 10 days
17 of the sale or something like that that you
18 could be notified, but that's what we were
19 suggesting and if you have any questions, I
20 will be glad to try to answer them.

21 MR. ROBINSON:

22 Does anyone have questions?

23 Mr. Poteet, you are the
24 auction representative. What is your --

25 MR. HENDERSON:

1 Also -- excuse me just a
2 minute, but also understand, I think there's
3 some kind of law maybe in the Legislature
4 now, Mr. Poteet, or something where -- that
5 they have -- say they are having some kind
6 of sort of function at the Centroplex or
7 some fair or something that dealers are
8 trying to get some kind of permit to where
9 they could sell four or five vehicles or
10 display so many there and I understand that
11 procedure, but that doesn't satisfy our
12 requirement. Do you understand what I'm
13 talking about?

14 MR. POTEET:

15 You know, I read these
16 changes. You know, I met with Mr. Henderson
17 at the Capitol last month, and these
18 changes, to me, seem to make sense. I don't
19 think that we are trying to make something
20 onerous, that you can't operate your
21 business. In fact, I would say that the key
22 here is that you have an established place
23 of business within the state with a license
24 and, you know, fall under our regulatory
25 purview.

1 So, you know, going out and
2 doing other auctions at other places, I
3 think maybe there should be something where
4 you inform us or something like that, but as
5 far as I'm concerned, it makes sense to have
6 a place of business that if something does
7 go wrong or there are issues with titles or
8 issues with collections or anything like
9 that, that we can go to your location. You
10 are absolutely correct, you can shut down a
11 temporary location overnight.

12 MR. HENDERSON:

13 Overnight and be gone.

14 MR. POTEET:

15 Attach a trailer to a truck
16 and leave with it.

17 MR. HENDERSON:

18 Right.

19 MR. WISENOR:

20 I'm Ronnie Wisenor. I've
21 been working with the auction companies,
22 including the Henderson auction and
23 Southeast auction out of Tuscaloosa,
24 Alabama.

25 MR. ROBINSON:

1 Mr. Wisenor is one of our
2 field representatives, in case anyone is not
3 aware.

4 MR. WISENOR:

5 I'm trying to clarify -- Mr.
6 Robinson, you had said something about bills
7 of sales. As long as --

8 MR. ROBINSON:

9 Let's wait on that. Let's
10 finish on this, okay, Mr. Wisenor.

11 MR. WISENOR:

12 Well, I'm trying to locate,
13 you know, what we're talking about as far as
14 second locations. And I understand what Mr.
15 Henderson is saying, if we have an auction
16 company with a permanent location and he
17 goes to another location, say, to Winnfield
18 or wherever, to auction off trailers, cars
19 or whatever, and he is auctioning off
20 another dealer's inventory and as long as
21 the bill of sale does not go through his
22 dealership, then should he be required to
23 have another bond, another insurance?

24 MR. ROBINSON:

25 Well, I think that's a

1 separate issue. I would like to stay on
2 what we have proposed here as a change, and
3 then we can deal with that. That would be
4 fine, but to me it's a separate issue. What
5 we have here is a proposal from the
6 Director. These other issues -- we need to
7 resolve this one first.

8 Director Parnell, do you want
9 to walk through what we were just handed,
10 or, Ms. Morris, either one?

11 MR. PARNELL:

12 I will let Ms. Morris go
13 ahead and walk through that.

14 MS. MORRIS:

15 On the sheet that you have,
16 the language that is not struck through or
17 underlined, that is your current rule. You
18 have rule 2905 and 2907, and that's the
19 current language. What I've struck through
20 is the language that I'm proposing to take
21 out, and then the underlying language, I'm
22 proposing to add. So under 2905 right now,
23 you have to have -- in Paragraph 1, you have
24 to have an installed telephone listed in the
25 business name at the place of business. I

1 have been using the words established place
2 of business to mean your permanent location,
3 and then I'm calling the location where you
4 are conducting the auction as the auction
5 location. So we have distinctive language
6 there. But you would still have to maintain
7 a phone line at your established place of
8 business.

9 And then what we did was, in
10 Section 2907, was to provide a dealer
11 operating from an auction location that you
12 have to include the address and telephone
13 number of your established location on your
14 advertisements and bill of sale and you have
15 to get a license prior to starting
16 advertising that auction. You can use a
17 temporary phone number for the location, a
18 telephone number, or some other contact
19 number that you could use while you are on
20 site.

21 MR. ROBINSON:

22 We'll give the Commissioners
23 a minute to look that over.

24 Director Parnell, anything
25 you want to --

1 MR. PARNELL:

2 I believe that this proposal
3 will solve the situation or solve the
4 concerns of Henderson auction, because they
5 do have a permanent location here in the
6 state, which they do have their land based
7 line at. And what Ms. Morris just stated,
8 that at their secondary locations where they
9 have a lot of their auctions, that
10 particular place would have to have signage
11 that states where their primary business
12 location is, address of that. Also, they
13 have to have a number there for them -- for
14 anyone who needs them at that date at that
15 place of business. So I think that does
16 address their concerns.

17 MR. DUPLESSIS:

18 I'm good with it.

19 MS. SIMS:

20 Mr. Chairman, if I may,
21 Phyllis Sims, from Kean Miller with
22 Henderson auction and this is the first time
23 I've seen this and I don't have any problem
24 with it as far as we can tell, but I was
25 talking with Ms. Morris about this telephone

1 number for the specific auction location.
2 It's not the established place of business.
3 We just want to make it clear for the record
4 that does not in any way mean that somebody
5 has a landline, a permanent phone line, and
6 it could be a temporary telephone they set
7 up.

8 MR. ROBINSON:

9 Ms. Morris, you had said the
10 same thing.

11 MS. MORRIS:

12 Yes. We can clarify the
13 language further if that helps alleviate
14 some --

15 MR. ROBINSON:

16 So they would have their
17 permanent number listed, also?

18 MS. MORRIS:

19 Yes, permanent address and
20 phone number.

21 MS. SIMS:

22 The rules just say here --
23 the proposed rules say together with a
24 telephone number for the auction location.

25 MR. POTEET:

1 I see what your concern is
2 and I just I think we might need to amend
3 that a little bit to make sure it's known
4 that it's not a permanent landline that they
5 have to obtain.

6 MS. MORRIS:

7 We can do that. We can
8 adjust the language on that.

9 MR. POTEET:

10 Other than that, I think it's
11 fine.

12 MR. HENDERSON:

13 The other thing, I mean, I
14 think I understand what was mentioned about
15 if I go Deridder, Louisiana and do an
16 auction for the Ford dealer there on his
17 location, that doesn't apply to us.

18 MR. ROBINSON:

19 I don't want to get into that
20 right now, Mr. Henderson. Again, that's a
21 separate issue for the Commission.

22 MR. HENDERSON:

23 I understand. Thank you,
24 sir.

25 MR. ROBINSON:

1 Do any Commissioners have any
2 questions?

3 (No response.)

4 MR. ROBINSON:

5 Do you want to make a minor
6 adjustment to the telephone now?

7 MS. MORRIS:

8 I would propose that on the
9 third to last line after telephone number,
10 take out the word "for" and replace that
11 with "to be used during", and then follow it
12 with the auction and take out the word
13 "location". So it would be your contact
14 number for that period of time.

15 MR. ROBINSON:

16 Ms. Morris, where are you,
17 2905?

18 MS. MORRIS:

19 2907B, the third to last line
20 on that page.

21 MR. ROY:

22 Take out what?

23 MS. MORRIS:

24 Take out the word "for" that
25 follows telephone number and replace that

1 with "to be used during", and then take out
2 the word "location" after the word
3 "auction".

4 MR. POTEET:

5 That makes sense.

6 MR. ROBINSON:

7 Do any Commissioners have any
8 comments or questions?

9 MR. DUPLESSIS:

10 It looks good.

11 MR. POTEET:

12 It looks good.

13 MR. ROBINSON:

14 Do we vote on this?

15 MR. POTEET:

16 Do we need to make a motion?

17 I make a motion that we

18 accept the changes to Rules 2905 and 2907 as
19 they apply to our licensees.

20 MR. CORMIER:

21 Second.

22 MR. ROBINSON:

23 Who was the second?

24 MR. CORMIER:

25 Second.

1 MR. ROY:

2 On 2905, the corrections are
3 what's crossed out and what's added?

4 MR. ROBINSON:

5 The underline is what's
6 added.

7 MR. ROBINSON:

8 Any other questions or
9 comments from Commissioners?

10 (No response.)

11 MR. ROBINSON:

12 We have a motion and second.

13 All in favor?

14 (All "Aye" responses.)

15 MR. ROBINSON:

16 Anyone opposed?

17 (No response.)

18 MR. ROBINSON:

19 Hearing none, that passes.

20 Thank you two for coming here today. I hope

21 that will solve your problems. We don't

22 want to be an agency that gets in

23 businesses' way. We want to assist all we

24 can.

25 Director Parnell.

1 MR. PARNELL:

2 The next item is discussion
3 of amend Policy and Procedure #78 as it
4 relates to House Bill 589. In our last
5 Commission meeting, a discussion was had
6 about amending the Policy and Procedure #78
7 and at that time, it was decided that the
8 Commission would wait until input was
9 received from the industry, which means our
10 rent-to-own dealers, as to who would be
11 directly affected with House Bill 589. In
12 its original state, it would have altered
13 the way the RTO dealers would do their
14 business. The original bill removed the
15 ability to use master or shared policies
16 that must be an admitted carrier. Also, the
17 bill would remove the if available provision
18 from the law.

19 On May 3, 2010, the author
20 and proponent brought the bill before the
21 Commerce Committee. This Commission was in
22 opposition of this bill and testified as
23 such.

24 During the committee hearing,
25 some of the representatives began to

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1 question the reasoning for the bill and the
2 potential circumstances that it would
3 create. An amendment to the bill was
4 suggested. The amendment states that
5 dealers should keep the ability -- the
6 dealer should have the ability to have a
7 shared and/or master policy from an admitted
8 carrier and to leave the if available
9 provision in the law. The bill in its
10 amended state removed -- it moved through
11 the committee favorably. At that time, it
12 was our understanding that the bill would be
13 put on hold until the May 17 meeting, this
14 meeting right here, but on May 11, the
15 proponents of the bill, they moved the bill
16 on through the House floor and it did pass
17 favorably again.

18 So I really want everyone to
19 understand that House Bill 589 was something
20 that was going to basically lock in a
21 potential monopoly and that was something
22 that this Commission vehemently opposed and
23 we wanted to make sure that we were there to
24 oppose that particular bill.

25 Commissioner, I would like

1 for you to make some statements as it
2 relates to that, if you don't mind.

3 MR. DUPLESSIS:

4 Well, we opposed the bill
5 because we thought it was going to create
6 several situations where rent-to-own dealers
7 may immediately have no coverage and place
8 them out of business, which would then put
9 the consumers in a position of having the
10 cars recalled. We were not for having a
11 monopoly. I'm not sure we wanted to take
12 out if available because we thought that
13 insurance rates should be competitive and
14 should be available to our rent-to-own
15 dealers, but there is a responsibility of
16 rent-to-own dealers to have a quality
17 insurance program.

18 And as I testified in front
19 of the House Committee, we have not had a
20 problem with our insurance. We have had no
21 problems with claims. We have no problems
22 with this at all, and to become a member of
23 an organization that had protected
24 territories and precluded you from having
25 availability of coverage, we are opposed.

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1 Right now, I don't think the
2 Commission sees a large problem. There is a
3 number of lines available through admitted
4 carriers, master policies, and through the
5 white list carriers. So as a Commission, we
6 would like clarification, but I don't see a
7 big problem here. So we opposed it and they
8 pushed it forward anyway.

9 So we wrangled it as best --
10 to the best language we possibly could to
11 prevent the consumers from having problems
12 and the rent-to-own dealers. It was just
13 damage control, but I wanted them to wait
14 until we could talk with the industry, the
15 representatives of the industry, to have
16 their opinion of this type of insurance. So
17 at that point, they passed it through
18 favorably. We now have on the Senate side a
19 chance to amend it in committee on the
20 floor. So at this point, you know, I would
21 like to hear from our rent-to-own dealers
22 and the industry how they feel about it.

23 MR. ROBINSON:

24 The first gentleman that had
25 asked to speak, is he now in attendance?

1 MS. BARON:

2 No, sir. He has not shown up
3 yet. That was Chris Arceri who is -- he is
4 an insurance agent out of New Orleans.

5 MR. ROBINSON:

6 Do we have rent-to-own
7 dealers here?

8 Yes, sir, please. Tell us
9 who you are with and your name, please.

10 MR. KIRALY:

11 How are you doing? My name
12 is Keith Kiraly. The name of my dealership
13 is Rock and Roll Auto Sales. I am located
14 on the westbank, opposite side from New
15 Orleans. The gentleman sitting next to me,
16 Geoffery Katz, is also a rent-to-own dealer.
17 Geof and I were, if not number one and
18 number two, in the top five original
19 licenses in 1999. We have been in this
20 since the inception.

21 Right now presently there's
22 only three ways to get insurance. We are
23 down to two, okay, two. There are no
24 companies writing for us, none. You cannot
25 -- a rent-to-own dealer cannot go out and

1 buy insurance like we have, independent.
2 They stopped that. There's only about a
3 dozen of us that have it. You have choices
4 going through a company called Rent T Own or
5 through SEADRA.

6 This bill is being pushed by
7 representatives in a very powerful lobby.
8 It's very obvious why they are trying to do
9 it, so that they can create a monopoly.
10 Geof and I are very well aware of one of the
11 companies because we used to be their golden
12 boys. After we figured out they were lying
13 to us and they were not doing what they said
14 and that the policy was not supposed to cost
15 us what it was costing us, we broke away.
16 Okay. Our policy is way in excess of the
17 limits you are asking for. We have an
18 initial policy, and then we have a million
19 dollars of coverage behind it. There's
20 about a dozen of us that have it.

21 There's also a company called
22 Rent T Own and some of the questions that
23 you brought up -- their policy is a master
24 policy. It's shared, but it doesn't have
25 shared limits. Their limits are a million.

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1 Okay. Here comes the verbiage that they are
2 trying to pass. This is where they are
3 going to get us. If something happens and
4 we have an independent company like we have
5 right now, a few select of us that were able
6 to break away and get an independent policy,
7 we have no choice if we had to go -- we
8 would have to go through SEADRA or through
9 Rent T Own.

10 What that would mean to us, I
11 would pay a minimum, a minimum on a bad
12 year, of 1200 percent increase in my
13 insurance rate, okay, my cost, or an average
14 2,500 percent. We are not talking about 25
15 percent. We are talking about a 2,500
16 percent increase in my policy. There are
17 dealers in this state that are paying 2,500
18 percent more than I'm paying for my policy.
19 Is this fair? No. We're talking a lot of
20 money. Okay. There are dealers being
21 forced to do this. There are -- also, these
22 dealers are told to charge \$20 a month and
23 you charge it to the consumer. That's not
24 fair. That's not fair all at.

25 But these dealers are

1 listening to these independents who claim to
2 be in the rent-to-own business, but they're
3 not. They don't sell a car. We are the
4 ones that are the backbone. We are the ones
5 that started this industry. Okay. We are
6 the ones that helped write the rules and
7 regulations through a formal Commission and
8 everything. We have been privy to all of
9 it.

10 We have gone through the good
11 and the bad, but contingent has been
12 something that has been really hurting us.
13 What does the contingent do? In my opinion,
14 nothing, nothing. They are not going to pay
15 out. Two cases that I know of where the
16 people filed against the contingent
17 insurance run by one of these companies and
18 nothing was paid out, nothing. The garage
19 liability for the dealers had to pay out and
20 it didn't pay out the maximum. It almost
21 ruined the dealer. The contingent policy is
22 set up after the consumer's primary. They
23 have the minimum limit and the only way they
24 are going to pay out is if the dealer is at
25 fault.

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1 If we sell somebody a car and
2 they loan it to somebody who gets in a
3 wreck, that's not my contingent insurance
4 company's fault. The consumer was doing
5 something. We have been to court numerous
6 times on this issue. Okay. So the
7 conception of the contingent protecting the
8 consumer is really not prevalent. Okay.
9 What has happened is with the contingent is
10 it's strapping a bunch of dealers. It's
11 stopping a bunch of dealers from a getting a
12 fair -- insurance at a fair price for
13 contingent. We do carry a million. I want
14 to protect my little business. All I have
15 is a little mom-and-pop operation, the same
16 as Geof here. We have a very small
17 operation. We are not the big guy.

18 I've known a few guys that
19 are on the Board, including Mr. Brewer, for
20 quite a many years. I'm just a small
21 dealer. I'm trying really hard, but I am
22 one of the original rent-to-own dealers and
23 I can tell you every step along the way
24 every year everything we've battled. I
25 can't tell you the amount of times we've

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1 been in here and I've been with Mr. Hallack
2 and the actual insurance Commissioner's
3 office, Mr. Ward, all of them, are all on
4 our side trying to protect us. We do not
5 need a monopoly and that's what they are
6 trying to create. The verbiage is what they
7 are looking for.

8 Again, they wouldn't be
9 spending all of this money on a lobbyist
10 that is very powerful if they didn't think
11 it wasn't something for them to gain. It's
12 hard enough to get insurance, okay, and a
13 challenge. If you think it's out there, try
14 to be a new rent-to-own dealer, get a
15 license, call and see who will write your
16 contingent. You're not going to get
17 anybody. Our limits for one million are
18 written just specifically for Louisiana, you
19 know. It's very hard. It's very hard for
20 us to maintain and to get it. So we -- and
21 if it's not broke, why are we trying to fix
22 it? If there's something wrong with the
23 verbiage we have now, why are we trying to
24 fix it? Nothing has been paid out, nothing.
25 So what's wrong with it? That's my question

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1 to you. And if you are going to change it,
2 then the words "master", "shared", they have
3 to have some kind of definition with it. Is
4 it shared limits or is it a shared policy?

5 You know, if the limits on
6 the policy are less than your 50, 100, 300,
7 whatever you've got set up, what is the
8 total limit as in my case, one million?
9 What does that do? That makes a big
10 difference. The proposals by this company,
11 they want their minimal limits. Ours are
12 greater, you know. Should we be trying to
13 pass legislation that they can't be charging
14 dealers 2,500 percent more than my policy?
15 What's wrong with that policy, that -- you
16 know, what's wrong with that? That's
17 something we all have to think about. It's
18 a lot more deeper than any of you know.
19 Thank you.

20 MR. ROBINSON:

21 Thank you for your input.

22 Do we have any other
23 rent-to-own dealers? Your name and your
24 company, please.

25 MR. BRIDGES:

1 Affordable Used Cars in
2 Boutte, Louisiana. I've been in this a long
3 time, too. I've been through SEADRA and
4 everything and that's true, they charge us
5 \$20 every month per car and it adds up, you
6 know. I've had -- I've got the million
7 dollar contingent liability, also never had
8 a claim, never had a garage liability claim.
9 So I don't understand why we are changing it
10 either.

11 MR. ROBINSON:

12 Both of you understand it's
13 not this Commission, that's not our bill.
14 We've actually gone to Committee to oppose
15 that bill.

16 MR. HENDERSON:

17 We need to make -- to
18 reassure you as a Commission, okay, that
19 what you are you are doing is right. And,
20 again, why break it -- I mean, fix it if
21 it's not broke? You know, why they are
22 trying to enact these regulations? It's not
23 something going wrong.

24 MR. ROBINSON:

25 Anyone else here for

1 rent-to-own that wants to -- yes, sir.

2 MR. BILLIOT:

3 I'm State Representative
4 Robert Billiot, District 83. My
5 understanding --

6 MR. ROBINSON:

7 Sir, where --

8 MR. BILLIOT:

9 Jefferson Parish.

10 MR. ROBINSON:

11 Thank you.

12 MR. BILLIOT:

13 My understanding was that it
14 was not supposed to be pulled from the
15 calendar until this meeting and after this
16 meeting was held, then after it would be
17 discussed and if -- at that time, then it
18 was going to have an opportunity to be
19 discussed again, then pulled from the
20 calendar. So when was it pulled from the
21 calendar?

22 MR. DUPLESSIS:

23 Representative, your
24 recollection is correct. Everything you
25 said is correct.

1 MR. BILLIOT:

2 Right, but when was it pulled
3 from the calendar?

4 MR. DUPLESSIS:

5 I believe it was heard last
6 Monday. Is that correct? It was heard in
7 Committee last month and it went to the
8 floor, I believe, on Wednesday or --

9 MS. MORRIS:

10 I think Thursday.

11 MR. DUPLESSIS:

12 It was a three or four day
13 span. What we requested is, we requested --
14 we do a legislative conference every year in
15 January and we asked for these issues to be
16 brought out, and we wanted to bring in the
17 industry and let them air their thoughts and
18 their concerns. And the actual concept of
19 contingent liability is not a real viable
20 concept in the State of Louisiana.

21 I think Mr. Kiraly has a
22 point. It's really not that big a problem
23 and the only way that you can be found
24 liable to actually have that policy pay is
25 if the rent-to-own dealer rents a car to a

1 person of poor character or bad choice, a
2 known drug addict, a drug dealer, drunk or
3 something, but just a normal person trying
4 to get their family to work and take care of
5 their family chores and that sort of thing,
6 then they have done their job for the day
7 and they are obligated to do it.

8 REPRESENTATIVE BILLIOT:

9 Is it the committee's -- is
10 this committee opposed to it or are they
11 just going to -- you know, I mean, what I'm
12 trying to figure out is that -- and I was
13 embarrassed to call Keith, who lives in my
14 area, but when I called him and told him
15 that it was back on for committee and that
16 it wasn't going to be pulled off the
17 calendar, and then now I'm finding out that
18 it was and it probably was something that
19 went so quickly, I'm trying to find out what
20 time of the day it went by. When I met with
21 the author of it, that's exactly what he
22 told me. Again, that probably was on
23 Wednesday. So I need to talk to him today
24 and find out why he didn't get -- he told
25 me, he said, "Before I pull it back off the

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1 calendar, I'll get with you."

2 Now, it's not his fault. I
3 mean, that's the way the game is played.
4 You see it there. You look around and
5 somebody is asking you to pull it off the
6 calendar. You do what you have to do. So
7 now if what we're hearing is where we need
8 to be, then we need to do something to be
9 sure that the Senate Committee and Commerce
10 fully understand the impact of what's going
11 to happen instead of, you know, not doing a
12 big opposition to -- prior to it being voted
13 on the House floor, and that's what --
14 that's why I'm here today because I'm pretty
15 much embarrassed about the situation that,
16 you know, it did go by without some major
17 opposition and if there's not going to be
18 opposition from the Commission, then we need
19 to know, so we need to get the lobbyists and
20 the people together who would support us on
21 it just to start doing what they need to do
22 help us in the Commerce.

23 MR. ROBINSON:

24 Representative, we were there
25 in opposition to the bill and Commissioner

1 Duplessis testified on behalf of the
2 Commission. Also, the --

3 REPRESENTATIVE BILLIOT:

4 So you will be there at the
5 Senate Committee?

6 MR. DUPLESSIS:

7 Yes, sir, if my schedule
8 permits.

9 MR. ROBINSON:

10 Also, the State -- just so
11 you know, the attorney for the State
12 Insurance -- of the State Insurance
13 Department, he was also there in opposition
14 to the bill. He didn't testify, but he was
15 there, also. And there were some positive
16 changes that came out of committee.
17 Representative Roy seemed to pick up very
18 early that this would create a monopoly and
19 he was fairly outspoken and was able to get
20 some changes to the -- what was introduced
21 in committee.

22 REPRESENTATIVE BILLIOT:

23 Once again, I have to
24 apologize. I don't remember the author of
25 the bill coming up in front of the House at

1 the time and what he told me is -- what I
2 was living on, was that he was going to give
3 us an opportunity for this committee to
4 meet, and then afterward then pull it from
5 the calendar if there was going to be a
6 problem with what was already in place. So,
7 you know, it's one of those things we've got
8 to work out. So as soon as I get back, I'll
9 try to find him and see what time of day --

10 MR. ROBINSON:

11 I think it's always been the
12 position of this Commission to oppose this
13 legislation that would create a monopoly. I
14 think that's how we've always viewed it. I
15 happened to be on this Commission a few
16 years ago when RTO really came out and this
17 Commission dealt with it, and I think the
18 entire time, this Commission has tried to
19 keep the door open for these RTO dealers. I
20 think these gentlemen would probably say
21 that. I mean, we -- and we're going to
22 continue to do that and be prohibitionists.

23 REPRESENTATIVE BILLIOT:

24 Thank you.

25 MR. ROBINSON:

1 Anyone else here that wants
2 to comment on this legislation, this RTO
3 business?

4 MR. HALLACK:

5 Before we pass off this
6 subject, though, we need some direction from
7 the Commission --

8 MR. ROBINSON:

9 Correct.

10 MR. HALLACK:

11 -- as to whether or not we
12 should oppose the bill as amended. It was
13 amended on the House floor.

14 REPRESENTATIVE BILLIOT:

15 By Mr. Roy?

16 MR. HALLACK:

17 I'm not sure who put the
18 amendments on it, but they are the
19 amendments that Representative Roy wanted to
20 see. There was -- the first set of
21 amendments, they were so convoluted, they
22 didn't make any sense at all, and then
23 somebody put some amendments on it that
24 actually made sense. Representative Roy
25 wanted two things. He wanted to make sure

1 that it was acceptable to use a master
2 policy and he also wanted to make sure that
3 if available remained in the language and
4 those things were returned on the House
5 floor. So that's -- really what we're
6 looking for is direction from the Commission
7 as to whether or not they want us to oppose
8 the bill as amended.

9 MR. PARNELL:

10 What it does right now, if I
11 may, when they did those amendments, we had
12 82 rent-to-own dealers out there and what
13 they were trying to do initially, it would
14 only -- the only people that would actually
15 benefit from that were the dealers that were
16 written through their policies. When the
17 amendments went through, and we have the
18 ability to have a shared policy, master
19 policy, that was an admitted carrier and if
20 available clause stayed in it, out of the 82
21 dealers, that brought it up to 78 dealers
22 that would fit within the definition of
23 what's considered to be legal in the state.
24 So many of our dealers are -- I want to say
25 about 40 percent of our dealers actually are

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1 with an admitted carrier, but with a master
2 policy. So many of the dealers actually
3 just fell right into place. Now, we still
4 have maybe four or five dealers out there
5 that won't stick within those guidelines.
6 Again, like Mr. Hallack said, we need to
7 decide whether or not with the amended piece
8 of legislation, will we support that.

9 REPRESENTATIVE BILLIOT:

10 Well, I guess support is that
11 it falls -- and I guess that's what they are
12 going discuss with me, that -- and then it
13 did fall within the legal guidelines, but
14 once again, does it fall under affordable
15 for the people who are out there trying to
16 do business?

17 MR. HALLACK:

18 I think Mr. Duplessis had in
19 mind a provision that he would like to see
20 tacked on as a safety net.

21 MR. DUPLESSIS:

22 I would like to see one of
23 two things, either admitted taken out or
24 multiple -- make sure there's at least two
25 insurance companies admitted.

1 Representative, we run a fine line as
2 Commissioners under the ethics guidelines.
3 We can't actively go out and politic. We
4 are pretty much for information only and
5 recital. So we can't lobby for this because
6 we are the voice of the experience of the
7 industry and we listen to the industry. So
8 I think it's going to require Mr. Kiraly and
9 his crew to come to the Senate Committee and
10 voice their opinions and make the committee
11 aware of what is going on in the industry.
12 We can't carry that ball to that degree.

13 So, you know, we have several
14 amendments that we could propose or we could
15 promote at the table on the Senate Committee
16 and, to me, it's either take out admitted,
17 which would cure a problem -- one problem,
18 but create a whole new one, and the other
19 one would be to have at least two admitted
20 carriers and leave the master language in
21 because it's -- Mr. Kiraly is right, while
22 it is apparently available on the admitted
23 carriers, they won't write you unless you
24 are a master policy with other insurances is
25 what we have found. So it's a difficult

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1 situation for us to deal with as well.

2 REPRESENTATIVE BILLIOT:

3 Do you know when the Senate
4 Committee is going hear it?

5 MR. DUPLESSIS:

6 No, sir, I don't. But I
7 think the lobbyists are wrangling to
8 schedule it at a time that is beneficial to
9 them.

10 REPRESENTATIVE BILLIOT:

11 Correct. Thank you.

12 MR. KIRALY:

13 I agree with you. We did
14 take out the verbiage of admitted. I feel
15 like we might have more companies more
16 willing to come in to do it if we are lucky
17 enough to get a policy because it's not
18 enough money, they don't make that much
19 money on it. None of the companies that are
20 writing don't make that much money on it.
21 The only ones making money are the dealers
22 and the Rent T Own. They are making the
23 money off the dealers.

24 MR. ROBINSON:

25 Well, we actually had

1 testimony last month at our meeting from the
2 Insurance Commission that non-admitted
3 carriers are virtually in every aspect of
4 insurance in the State of Louisiana. For
5 some reason, this particular rent-to-own is
6 the only area where they don't want to have
7 the non-admitted carrier. We could, you
8 know, pass a motion to where we try to get
9 -- make sure that certain verbiage is in
10 that bill, but that's -- if you think that
11 would be helpful.

12 MR. DUPLESSIS:

13 Ms. Morris, help me here. I
14 don't want to be in front of the Ethics
15 Commission.

16 MS. MORRIS:

17 Well, the Commission could
18 request an amendment. I think Mr. Hallack
19 is more familiar with this particular issue
20 than I am.

21 MR. DUPLESSIS:

22 Well, procedurally versus --

23 MS. MORRIS:

24 I think what Mr. Hallack
25 asked for is for some direction from the

1 Commission as to how you want to proceed
2 with the bill. The Commission can certainly
3 provide -- in its capacity of providing
4 information to the Legislature could
5 certainly propose amendments to the bill as
6 it's written.

7 MR. DUPLESSIS:

8 Robert, what is your take on
9 this?

10 MR. HALLACK:

11 Yes. I mean, there's no
12 problem with us trying to make -- trying to
13 get some amendments placed on the bill.
14 Whether it's supporting or opposing or
15 whatever, the direction needs to be -- or a
16 motion to be that the Commission authorizes
17 certain individuals to oppose the bill as
18 it's written, but to support the bill if it
19 contains either an amendment deleting the
20 admitted -- the word admitted or language to
21 the effect that if there are not at least
22 two admitted carriers selling the policy,
23 then the dealers have the option to select
24 insurance from an approved carrier.

25 MR. DUPLESSIS:

1 Mr. Kiraly, who do you write
2 through now?

3 MR. KIRALY:

4 I'm sorry.

5 MR. DUPLESSIS:

6 Who do you guys write
7 through? I assume all four of you write
8 through a --

9 MR. KIRALY:

10 Well, we are going through --
11 our agent is Dwight Andrus and the company
12 that -- I have notes here. I'm sorry.

13 MR. DUPLESSIS:

14 Okay.

15 MR. KIRALY:

16 National Interstate is the
17 company, which is an A-rated admitted
18 carrier, but that doesn't mean that they
19 will stay admitted. Okay. They do have --
20 we have the million dollar limit. The one
21 that we are going through is -- it's
22 National -- the same company, National
23 Interstate, but it's not quite -- it's a --
24 we have a sub from the company that they
25 write from. I don't know how to explain it.

1 Insurance companies is kind of like --

2 MR. DUPLESSIS:

3 I understand.

4 MR. KIRALY:

5 -- manufacturers. They allow
6 one company to write through a sub and it's
7 all blanketed to a master company, okay, and
8 we've got this company and Rent T Own. You
9 write all through this company, and then our
10 company writes through another sub, okay,
11 and it's shared, but it's through a master
12 policy. Again, the limits are not shared.
13 So -- and, again, you're saying how many --
14 you said if the rent-to-own dealer can get
15 insurance, okay, through an insurance
16 carrier. Well, in this case, there's only
17 12 dealers that I know of, 12 dealers, I'm
18 one of them, Geof, the man over here, that
19 are getting insurance through admitted
20 carriers. The rest of us have to go through
21 SEADRA or go through Rent T Own. They can't
22 go to the insurance company. They are not
23 allowed. You cannot buy -- I cannot buy
24 insurance from the company that SEADRA --
25 their insurance carrier.

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1 MR. DUPLESSIS:

2 That's correct.

3 MR. KIRALY:

4 I can't buy insurance through
5 Rent T Own. So the dealers don't have a
6 choice. There's only a dozen of us and they
7 locked us out because of all the turmoil
8 going on with SEADRA and Rent T Own. That's
9 the problem.

10 MR. ROBINSON:

11 So you would propose that we
12 -- what do you propose, Mr. Hallack?

13 MR. HALLACK:

14 Well, as the bill is written
15 right now with the amendments, it would
16 allow the dealer to at least use a master
17 policy. It still has the language admitted.
18 You still must use an admitted carrier, but
19 it does at least allow the dealer to get
20 insurance from an admitted carrier and it's
21 a master policy. So the master policy
22 language is definitely retained. That would
23 only give our dealers at this moment two
24 options, one, Great American, which is
25 solely, exclusively through SEADRA or GMI,

1 which is sold exclusively Northland or Rent
2 T Own. So in either situation, a
3 rent-to-own dealer must be a member of an
4 organization and pay their organization
5 membership fees in order to sell rent-to-own
6 cars in order to get that contingent
7 liability policy.

8 Whereas, prior to the
9 amendment, you didn't have an option there.
10 There was only one source. So under the
11 amendment -- as House Bill 589 has been
12 amended, there are two options, both of
13 which require you to be a member in an
14 organization. That's not a bad thing. I
15 mean, some people would argue that it's a
16 bad thing, but at least it gives the dealer
17 the opportunity to monitor the car. Both
18 organizations offer a monitoring service,
19 which is supposed to monitor the car to make
20 sure the operator is maintaining insurance
21 on the car.

22 MR. ROBINSON:

23 Well, just for the record,
24 I'm a -- technically, I'm a dealer through
25 Rent T Own, though I have less than five

1 rental units out. It's not something I
2 really do. So I'm pretty familiar with, you
3 know, how that company works. I'm fairly
4 familiar with how SEADRA works and, you
5 know, I think the Commission needs to take
6 the stance that these two items really have
7 to remain in there. We really need to get
8 the admitted carrier thing out. That's my
9 position.

10 MR. HALLACK:

11 You have to -- it is
12 secondary insurance. The operator is
13 supposed to maintain primary insurance.

14 MR. ROBINSON:

15 Yes. And the operator -- as
16 the Insurance Department stated, every --
17 almost every insurance available is through
18 non-admitted state carriers.

19 MR. HALLACK:

20 So it's kind of silly that
21 the operator can have surplus lines
22 insurance, but the dealer has to maintain
23 insurance through an admitted carrier.

24 MR. ROBINSON:

25 Any thoughts from any

1 Commissioners? As that bill was written, we
2 know it would have put at least half our
3 dealers -- immediately would have been
4 without insurance coverage. And the purpose
5 of the bill seems to be some -- benefit a
6 few and, you know, make it very difficult
7 for the rest.

8 MR. HALLACK:

9 And I don't think that the
10 people who are supporting this bill are
11 going to allow us to remove the admitted
12 language. I mean, that would be a line in
13 the sand. That would be a hard fight. But
14 the other proposal that Mr. Duplessis had
15 was as long as there's at least two admitted
16 carriers that's going to be 90, 95 percent
17 of our dealers will have insurance.

18 MR. ROBINSON:

19 Well, unless those two
20 admitted carriers are controlled through a
21 single corporation, then you're in the same
22 boat you're in now. I don't understand why
23 this, you know, can't be like every other
24 type of insurance, basically, that's issued
25 in the State of Louisiana. It can be either

1 an admitted carrier or a non-admitted
2 carrier. It's not like we're asking for
3 something unique. We're asking for the
4 norm.

5 Representative, do you think
6 it would be -- is there any way that you
7 could envision to where we could get that
8 admitted carrier out of the legislation?

9 REPRESENTATIVE BILLIOT:

10 Well, first of all, you know,
11 I'm going try to find out why some people
12 told me -- they didn't necessarily tell me
13 everything they were going to be doing.
14 That's the first thing I want to find out.
15 Then, afterward you have been meeting with
16 the lobbyists that are pushing the bill. I
17 need to talk to them and try to find out why
18 they -- and then see why we can't get the
19 amendment on -- that allows us to be -- I
20 may be totally wrong when I'm saying this,
21 the free market kind. That's what we're
22 looking for, the free market situation. I
23 mean, I think that's going to be kind of
24 hard for somebody to refuse that without
25 throwing up a lot of ethics problems because

1 we will have somebody following it now. I
2 mean, I'm not going to just, you know, take
3 their word that this is what we're going to
4 do and prior to us doing anything because
5 it's so -- I'm not saying how easy it is to
6 do, but anyhow it was done. So now we've
7 got to move over to the Senate side and on
8 -- who is Chair, do you know who the Chair
9 is?

10 MR. DUPLESSIS:

11 I don't know who is Chair of
12 the Senate Commerce Chair.

13 Robert?

14 MR. HALLACK:

15 I just know some of the
16 members. I know Francis --

17 MS. MORRIS:

18 Ann Duplessis.

19 MR. HALLACK:

20 Ann Duplessis.

21 REPRESENTATIVE BILLIOT:

22 We can talk to Ann and at
23 least tell us what went on and I know she
24 has that -- she has that feeling when
25 somebody is telling you something they are

1 going to do and they don't do. So I think
2 that she is going to at least listen to what
3 we have to say, and then she can schedule it
4 when she thinks it's the best time to
5 schedule it. Now, I'm going to make a point
6 to try to see her today and I'm going to
7 push to get with the free market.

8 MR. KIRALY:

9 I totally agree with Mr.
10 Robinson and Mr. Hallack, why would the
11 consumer be allowed to get non-admitted
12 insurance, which is your first line of
13 defense for citizens in Louisiana for them
14 getting a wreck, but as a dealer, we're not
15 allowed to do it. That's not fair. I mean,
16 you know --

17 MR. ROBINSON:

18 I don't know if the
19 Commission needs to take any further action
20 today.

21 Mr. Hallack, do you?

22 MR. HALLACK:

23 Well, like I said, we are
24 here to look for directives on how y'all
25 want to approach it. If everybody

1 understands that our marching orders are to
2 oppose it as it's written, then that's what
3 we'll do. If it's to oppose it with the
4 suggestions that Mr. Duplessis has, you can
5 get his amendments put on there, then I
6 understand that, too.

7 MR. ROBINSON:

8 Commissioners, is everybody
9 fine with that? Anybody in opposition to
10 what we are trying to do?

11 (No response.)

12 MR. ROBINSON:

13 Director Parnell, do you have
14 anything else on that item?

15 MR. PARNELL:

16 No, that's all I had on it.
17 I just wanted to be clear. If you could go
18 over kind of what is the clear direction
19 that we want to stand on this?

20 MR. ROBINSON:

21 Mr. Hallack --

22 MR. HALLACK:

23 Sir?

24 MR. ROBINSON:

25 -- do you understand that?

1 MR. HALLACK:

2 Yes, sir.

3 MR. ROY:

4 Are we going to vote on this?

5 MR. HALLACK:

6 No.

7 REPRESENTATIVE BILLIOT:

8 The message is to get the
9 amendments, if we are for it. If we don't
10 get the amendments on it, then we need to
11 try to at least refer back, so everybody can
12 get a true feeling of what's going on
13 because I -- people don't have a true
14 feeling on what's going on and that's what I
15 think is -- that needs to be straightened
16 out. When I leave from here, I'm going to
17 find the person who was supposed to call me
18 and let me know, but they didn't. So we
19 need to get our business straight there. If
20 I'm going to work with them, they are going
21 to have to understand that you can't do
22 things --

23 MR. ROBINSON:

24 That's what we tried to do in
25 Committee is -- get information how the

1 rubber hits the road and what does it really
2 mean.

3 REPRESENTATIVE BILLIOT:

4 Right. Thank you.

5 MR. ROBINSON:

6 I mean, I would like to thank
7 everybody for being here. I know it's not
8 easy, especially small business, to get away
9 from your business and to come, you know,
10 and spend your time here and we appreciate
11 it.

12 Representative, we really
13 appreciate you coming in today.

14 If anyone hears of anything,
15 if you'll just let our Director know, we'll
16 try to stay on top of it, also.

17 MR. ROBINSON:

18 Before we move on, Mr.
19 Wisenor has this other issue with auctions
20 and -- do you want -- Director Parnell, do
21 you want the Commission to deal with that
22 today or do you guys want to deal with it
23 first, and then --

24 MR. PARNELL:

25 Well, I think that we can

1 maybe sit down with Commissioner Poteet and
2 yourself and maybe hash it out in the
3 office. I don't know that it necessarily
4 needs to be reviewed with the whole body.

5 MR. ROBINSON:

6 See if you guys can work it
7 out and if not, we'll deal with it next
8 month --

9 MR. PARNELL:

10 Right.

11 MR. ROBINSON:

12 -- is that what you want to
13 do?

14 MR. PARNELL:

15 Yes.

16 MR. ROBINSON:

17 That moves us on to Item 5,
18 Executive Director's report.

19 MR. PARNELL:

20 I wanted to do a review of
21 the April complaint totals. April 2010, the
22 total cases were 76, total completed cases
23 were 27, total open cases are 49. That left
24 us with a percent completed of 36 percent.
25 What has been happening is, many of our --

1 our four investigators are, as we know, kind
2 of spread out throughout the entire state.
3 Our northern investigators typically don't
4 have the same case load as our southern
5 investigators have. They typically average
6 around three to five cases per month. So
7 what I've been doing is, since our southern
8 investigators have quite a lot -- quite a
9 large number of cases, whatever has been
10 coming in, I've kind of been directing them
11 to our northern investigators to come in --
12 to come down and actually work cases in this
13 area. That's why Mr. Ronnie Wisenor is here
14 today.

15 Well, he's here for two
16 reasons, but one was, he had to work a case
17 out in this area and he came down -- they
18 come down once a week or so and try to knock
19 out as many cases as they can. So I'm
20 trying to spread those things out with them.
21 So, right now, each one of them has anywhere
22 from 14 to 18 cases. Before one had 40, one
23 had three. It was just spread out all over
24 the place and it really wasn't consistent.
25 So I really had to work hard and try to make

1 sure we can get it to where everybody is
2 actually doing the case load that we're
3 looking for.

4 Does anyone have any
5 questions as it relates to the complaints?

6 MR. ROBINSON:

7 I just want to make another
8 comment. Director Parnell and I -- it's
9 something we really watch. We talked about
10 it on a number of occasions, and we believe
11 that we can make the system work effectively
12 with four investigators and not having to go
13 up to five. And, instead, we might pay some
14 overnight stays, some meals, pick up a
15 little more on the expense side, but not
16 have to increase the staff size. So -- and
17 Director Parnell knows, you know, if we need
18 to send somebody to Lafayette for a couple
19 of days, we'll pick up the expense side, but
20 stay with the four investigators. We
21 believe we can run efficiently based on the
22 current workload doing that. So that's kind
23 of an update on that issue because we talked
24 about it in the past.

25 MR. PARNELL:

1 The next item that's on
2 there, renewal of professional contracts, if
3 I can, I would like to have both my
4 attorneys -- could y'all step out of the
5 room for a moment, please, so we can
6 actually discuss it?

7 (Attorneys leave the room.)

8 MR. PARNELL:

9 What I want to do is give you
10 the contracts that are currently in place.
11 They are scheduled to expire June 30 of
12 2010. This involves both of our attorneys,
13 certified court reporter and our IT person.
14 Each one of our attorneys, from what they
15 are contracted, we've spent about 35 percent
16 of the contracted amount which was \$60,000.

17 MR. ROBINSON:

18 Each.

19 MR. PARNELL:

20 Each. The contracted amount
21 was \$60,000 each and we've spent about
22 \$21,000, which is about 35 percent of the
23 contracted amount. Certified court
24 reporter, we've spent \$7,300 of what she has
25 as it relates to -- \$40,000 is the contract

1 amount. And our IT person, his contracted
2 amount was \$20,000 and we've spent about
3 \$5,200. So totally with our contracted
4 amount, it's about \$180,000 that was
5 contracted out and we've spent about \$55,000
6 on that.

7 So what we want to look at
8 right now is moving forward, if we want to
9 move forward with all entities, having both
10 attorneys. This was something we talked
11 about early on at one of our Commission
12 meetings where we got an AG's report that
13 kind of -- it was an opinion, of course,
14 that stated that if we were going to have
15 cases, it would be beneficial that we have
16 both attorneys because the Executive
17 Director could not act as a prosecutor in
18 those cases because of the conflict. So do
19 I move forward with re-doing the contracts
20 beyond June 30 for all four.

21 MR. ROY:

22 I still disagree with that,
23 the two attorneys. I just -- I mean,
24 before, this agency was a lot bigger and
25 we've down-sized and I just think this is a

1 lot of money, \$120,000.

2 MR. ROBINSON:

3 Do you think we can function
4 with one attorney?

5 MR. ROY:

6 That's my opinion.

7 MR. ROBINSON:

8 Well, you're not the only
9 one. The reason I wanted to have the
10 discussion is because a lot of you have
11 expressed opinions to me over the months
12 about this issue. So we wanted to be in a
13 position where we could have a free exchange
14 of ideas. So I encourage everybody to speak
15 your mind on the issue and then, you know,
16 as a group we'll come to the best decision
17 for this Commission.

18 MR. POTEET:

19 I like the idea of having two
20 attorneys. For one, I think that they bring
21 sort of different expertise to what we are
22 doing here and to me what's more important
23 is not how many attorneys we have, but how
24 much we spend on the attorneys. So we
25 contracted to do \$120,000. We've only done

1 \$40,000 or so.

2 MR. PARNELL:

3 Yes, \$42,000.

4 MR. ROBINSON:

5 I would recommend that we do
6 keep the two attorneys and lower their
7 contract amount to some smaller number,
8 maybe instead of \$60,000 to maybe \$40,000.
9 I think the other point is, what I see in
10 here in the give and take between the
11 attorneys, and with all of us, too, is that
12 they sometimes have different opinions and I
13 think if we eliminate one of the attorneys,
14 we are going to lose that without
15 necessarily saving any money.

16 MR. ROY:

17 John, you could get five
18 attorneys in here and they can all have
19 different opinions. I agree with what
20 you're saying, but that's why they have
21 judges, to put them together.

22 MR. POTEET:

23 Well, if we spend a lot of
24 time before a judge, we may end up spending
25 more for the attorneys. If we had five

1 attorneys -- we can't afford five attorneys,
2 but we can afford two at a lower rate.

3 MR. ROY:

4 I like the concept of a lower
5 rate.

6 MR. POTEET:

7 I would recommend that we
8 lower their rates to \$40,000 each.

9 MR. DUPLESSIS:

10 Well, I'm going to say that
11 when I was appointed to this Commission, we
12 did have five attorneys.

13 MR. ROY:

14 Are you serious?

15 MR. DUPLESSIS:

16 We have Richard Ieyoub. We
17 had Herschel Adcock. We had --

18 MR. ROBINSON:

19 They just kept coming in and
20 I was on the board. There would be a line
21 of them.

22 MR. POTEET:

23 I just threw that figure out.
24 I didn't know that.

25 MR. DUPLESSIS:

1 Your analysis was correct and
2 the attorney bill that year, I think, was
3 \$240,000, but we had the Bourget's case and
4 we had some conflicts. I do think that
5 you're going to have to have two because
6 you're going to have to have a prosecutor
7 that's up to speed on your law, which is
8 going to be Robert Hallack. Your procedural
9 person, and I rely on them to keep me out of
10 trouble with the ethics rules, is Sheri
11 Morris. I think that she helped us when we
12 were down-sizing people with the Civil
13 Service side, and if you were to see how she
14 operated and navigated through that -- you
15 know, this Commission -- you know, the last
16 -- before a lot of you guys were appointed,
17 we had an FBI investigation. We had the AG
18 in here. We had seven indictments, and it
19 was a mess. And it was a real joy at least
20 to have two people that you thought were
21 normal.

22 MR. ROY:

23 What do other Commissions --
24 do they use two?

25 MR. DUPLESSIS:

1 Well, the New Car Commission
2 has -- they have three and they occasionally
3 bring in an outside attorney to do some
4 work, but -- and this is a day when they
5 were about our size or maybe actually
6 smaller. So they have a series of
7 attorneys, but their contracts are small.
8 They have a lot of internal, if you will,
9 which would be like Robert Hallack, a
10 procedural attorney, which would be Sheri
11 Morris. Then, they have an on staff
12 investigative attorney who kind of digs into
13 the facts and kind of a plow horse, if you
14 will, he sets the case up and does a lot of
15 research and that sort of thing. I think
16 you are going to run into trouble if you
17 take it to an ALJ and you have inconsistency
18 with your decisions, and that's what we have
19 here. If you turn it over to an
20 administrative law judge, you never kind of
21 know your decision making process. The
22 process is here, rely on us. If you don't
23 have two attorneys, you can't ask this man
24 to be the prosecutor because he is the
25 Executive Director. He is prosecuting his

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1 licensees. That puts him in an awkward
2 position in the industry, in my opinion.
3 So, you know, what you would have to go say
4 and approve about a particular licensee
5 would be possibly damaging to the licensees.
6 I don't know if that would be well received.

7 MR. ROBINSON:

8 A couple of the other things
9 that we do that you're not aware of is, of
10 course, we've taken the writing of the
11 agenda away from the attorneys. So the
12 attorney no longer sets our agenda. Derek
13 and I do that. After we agree on the agenda
14 -- in the past, it was set by the attorneys
15 and you dealt with what they had on the
16 agenda. Now, he and I do it without -- he
17 may call one of the attorneys here if
18 there's something they want on the agenda.
19 The other thing is that after we finalize
20 it, he and I have a discussion, do we need
21 one attorney, do we need two, do we need
22 any? And in the past, I think -- you know,
23 you've noticed a lot of meetings, we don't
24 have two attorneys here anymore. We have
25 two today because we felt like we needed,

1 for example, Mr. Hallack here because he is
2 verse and chapter on all of this RTO stuff.
3 This RTO stuff has been going on for at
4 least six or seven years with the
5 Commission. We needed Ms. Morris because of
6 the current legislative session and bills
7 that are out there. Next month, we'll do
8 the same thing. We'll write the agenda.
9 We'll say, do we need one or do we need two?
10 And I think you'll find that most of the
11 time, it will probable be one.

12 I kind of like John's
13 suggestion that we back down possibly on
14 everybody's contract, the value of the
15 contract, which is a built in savings to the
16 Commission, but the fact of the matter is, I
17 mean, we have dwindled these legal bills
18 down to almost nothing compared to where
19 they used to be and you have my -- I can
20 assure you I will continue -- and I think
21 that Derek will tell you the same thing,
22 it's not our intentions to have attorneys to
23 do any more work for the Commission than is
24 mandatory.

25 MR. ROY:

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1 Have they maxed out on their
2 cap in the past?

3 MR. ROBINSON:

4 We've had to go over in the
5 past, oh, yes.

6 MR. POTEET:

7 And that's really the issue.
8 The issue is not how many attorneys we have,
9 but how much we spend and I think that, you
10 know, if we take control of what they are
11 doing, we can keep it certainly at \$40,000
12 apiece, maybe less. I mean, you can see
13 we're at 35 percent of their contract now
14 and we are, what, three-quarters of the way
15 through the year.

16 MR. ROY:

17 I like the way they present
18 themselves because you can go to meetings
19 and a lot of attorneys will interrupt. You
20 can't do that. I really like these two.
21 They don't say anything until they are asked
22 to.

23 MR. TURNER:

24 When is the contract up?

25 MR. PARNELL:

1 So the contract is up on June
2 30, 2010. And, again, what Mr. Poteet said,
3 the contracted amount was \$60,000 and we
4 spent about \$21,000 on each of them. So
5 that's a drastic decrease.

6 MR. POTEET:

7 Do we need a motion or do
8 them all at one time?

9 MR. ROBINSON:

10 You can do the two attorneys.

11 MR. ROY:

12 What's the last one, what's
13 number four?

14 MR. PARNELL:

15 Keith Horton, the IT person.

16 MR. ROY:

17 What's that?

18 MR. PARNELL:

19 Your computer guy.

20 MR. DUPLESSIS:

21 Derek, are you happy with Mr.
22 Horton's performance?

23 MR. PARNELL:

24 I am so far. I really
25 haven't gotten a chance to really put him to

1 work as of yet.

2 MR. ROBINSON:

3 Let's finish the attorneys.

4 MR. POTEET:

5 I make a motion that we
6 retain Mr. Hallack and Ms. Morris at a
7 contract rate of -- not to exceed \$40,000
8 each for the upcoming fiscal year.

9 MR. ROBINSON:

10 Motion.

11 Do we have a second?

12 MR. CORMIER:

13 Second.

14 MR. ROBINSON:

15 Any other discussion,
16 comments?

17 MR. TURNER:

18 I have a question. I'm
19 unclear. If we the contract amount is
20 \$40,000, we don't have to spend that
21 \$40,000?

22 MR. PARNELL:

23 No, sir.

24 MR. TURNER:

25 That's the only question I

1 had.

2 MR. ROBINSON:

3 Well, the other thing it
4 does, you know, we've tried so hard to
5 control our expenses, this is just another
6 statement to the legislators and to our
7 dealers that, you know, here is another
8 example that we have cut legal, too. So I
9 think it's just a continual message to
10 everyone out there what it is that this
11 Commission is trying to accomplish.

12 MR. POTEET:

13 Cut by 33 percent.

14 MR. FLOYD:

15 Do we have a cap as far as --
16 we can go over the contract, but how far
17 over can we --

18 MR. ROBINSON:

19 You can't over. What we do
20 here is, we actually just -- we will agree
21 to this, and then it goes off to the state
22 agency that has -- that deals with it. We
23 are not the final voice. Do you the
24 remember the state agency --

25 MR. PARNELL:

1 Office of Contractual Review.

2 MS. ELLIS:

3 The attorneys go to the
4 Attorney General, and then to Contract
5 Review.

6 MR. ROBINSON:

7 So we are the first stop.
8 Then there are 17 other stops, and then they
9 say we can do it. So to go over, we would
10 have to pass a resolution authorizing, and
11 then it goes back through that process and
12 the AG's Office has to approve it, and then
13 the state agency has to approve it.

14 MR. BREWER:

15 If y'all are on top of it,
16 why even change it? I mean, you --

17 MR. POTEET:

18 It sends a message. It sends
19 a message as we are cutting our expenses. I
20 just think it's better to have that in
21 public that we are trying to reduce it, and
22 then -- and we've got a track record. I
23 mean, if we had been at a \$40,000 rate this
24 year, we probably would not have exceeded it
25 most likely.

1 MR. ROY:

2 And they only come to a
3 meeting upon your request?

4 MR. ROBINSON:

5 Now.

6 MR. ROY:

7 One or two?

8 MR. ROBINSON:

9 That's correct. Well, you
10 know, in discussions with the Director, I
11 mean, he and I agree when we do the budget.
12 And you look at what's on there. You know
13 who has expertise in what area. For
14 example, when the legislative session is
15 over, the agenda will change drastically and
16 where we need legal representative may, too.
17 And then if there's meetings where we feel
18 we don't need one, we won't have one.

19 MR. ROY:

20 It's \$125 an hour?

21 MR. ROBINSON:

22 It is about \$700 for a
23 meeting for two attorneys.

24 Any other discussion?

25 MR. BREWER:

1 You're happy with the two
2 that we have?

3 MR. PARNELL:

4 Yes. I am -- mainly, the
5 reason -- the main reason what Commissioner
6 Poteet said is because there are varying
7 views sometimes and having both that input
8 is really helpful to us in making good
9 decisions. They are both really good to
10 work with. If I call one of them, they will
11 be here. They respond. I find that very
12 helpful.

13 MR. ROBINSON:

14 We've got a motion and
15 second.

16 All in favor of renewing both
17 at \$40,000 annual for each, all in favor,
18 say "Aye."

19 (All "Aye" responses.)

20 MR. ROBINSON:

21 Anyone opposed?

22 (No response.)

23 MR. ROBINSON:

24 Hearing none, that motion
25 passes.

1 And let's quickly -- I think
2 we can do the court reporter.

3 MR. PARNELL:

4 The contract is amount is
5 \$40,000. The amount billed to date is
6 \$7,390.

7 MR. ROBINSON:

8 So what dollar amount would
9 you want for that contract? \$40,000, you
10 want less?

11 MR. PARNELL:

12 I think we can go to \$20,000.
13 It depends on how many cases we have.

14 MR. ROBINSON:

15 We need a recommendation. We
16 can leave it or we can reduce it.

17 MR. PARNELL:

18 I recommend that we leave it
19 as is. You never know with hearings.

20 MR. ROBINSON:

21 What is your recommendation
22 for the IT contract?

23 MR. PARNELL:

24 The IT contract term is
25 \$20,000. Billed to date is \$5,280. I

1 recommend we just leave it at \$20,000 at
2 this point.

3 MR. ROBINSON:

4 Okay.

5 MR. PARNELL:

6 That's a lot more volatile.

7 You don't know what's going to come up.

8 MR. ROBINSON:

9 Right, and we do want to get
10 the online renewals.

11 So we need a motion to renew
12 those two contracts at the current level.

13 MR. ROY:

14 I make it.

15 MR. TURNER:

16 I'll second.

17 MR. ROBINSON:

18 Okay. Motion and a second to
19 review the court reporter and IT contract at
20 the current level for next year.

21 All in favor?

22 (All "Aye" responses.)

23 MR. ROBINSON:

24 Anyone opposed?

25 (No response.)

1 MR. ROBINSON:

2 The motion passes.

3 Committee reports, item six,
4 Commissioner Duplessis.

5 MR. DUPLESSIS:

6 Well, it's been a very
7 interesting session and I think y'all have
8 been made aware of it. The ambush that we
9 went through on the rent-to-own bill was a
10 little surprising, but I think we're in a
11 posture to work that out. Currently, we
12 don't see the status of the fee bill being
13 viable at this session. It's an anti-fee
14 increase session. In fact, Representative
15 Smiley has got a bill out to take all of the
16 surplus from the Commission and put it back
17 in the state coffers and reduce your fees,
18 which I think is going to be a mess. I
19 don't think that will garner much weight,
20 but I do think it is the poster child of not
21 raising the fees.

22 Ms. Morris might be able to
23 tell us about the fees in the past, but
24 there may be one, but basically there's not
25 a stomach right now in the Legislature to

1 raise any kind of fees. And we are not in
2 an immediate fiscal problem. So what we
3 elected to do was take all of the entities
4 of the fee bill and place them on our other
5 bills so they can carry, but essentially we
6 gutted our fee bill and we left it
7 independent. If there is momentum and we do
8 need one, then we can pull it off the shelf
9 later and dust it off and try to get it
10 back. I don't foresee that happening.

11 Basically, our auction
12 legislation, I believe, is going through.
13 We are negotiating that. LKT, Lifetime
14 Quality Parts has offered a few amendments,
15 quality amendments, we have taken that into
16 consideration. I think we've worked just
17 about everything out but, Ms. Morris, why
18 don't you bring us up to speed on what
19 you're working on and, Mr. Hallack, why you
20 don't you bring us up to speed.

21 MS. MORRIS:

22 House Bill 1189, and it's
23 like Mr. Duplessis said, we did take
24 everything that was in the fee bill and
25 incorporate it into 1189 in case the fee

1 bill doesn't pass, and the only two
2 significant changes were removing the
3 deadline for renewal of licenses and posting
4 bonds from December 31, so that we would
5 flexibility to adjust licensing dates, if
6 necessary, and to adjust the workload for
7 the office. And, also, we had off premises
8 permits. This is kind of a major change. I
9 talked to Derek about it. We felt like the
10 dealers wanted the off premises permit, but
11 it was tied to a fee. We can probably get
12 the off premise permits, but we probably
13 can't get the fee unless the fee bill goes
14 forward, but what you could do is, do it for
15 a year and see how many requests you have and
16 see what the actual cost of issuing it is
17 and it is not too much of a burden to the
18 agency. For right now, that is in 1189, the
19 issuance of off premise permits, but it
20 would be without a fee. And if you don't
21 think that that's a viable option, we can
22 certainly pull that out.

23 MR. ROBINSON:

24 Comments?

25 MR. TURNER:

1 I think the dealers would
2 love that.

3 MR. POTEET:

4 Well, it sounds like a good
5 idea to try it to see -- that way, at the
6 next go around, we can say, "Well, look,
7 this is how much it costs to do all of
8 this", and get some facts down. Right now
9 you are just guessing.

10 MS. MORRIS:

11 I also changed the language
12 to make it permissive because in the fee
13 bill it was we would issue that fee. We
14 would issue that permit for the fee and we
15 made it permissive, so the Commission would
16 not have to do it if it were too burdensome
17 on the Commission, but it was a way to
18 salvage that provision that was tied to a
19 fee, but if you don't think that's viable --

20 MR. ROBINSON:

21 Well, once you do it, you
22 have to do it. You can't selectively do it.
23 If you do it once, you've got to do it for
24 everybody. You are a discriminatory agency.

25 MS. MORRIS:

1 Right. Well, you wouldn't
2 have to initiate it at the effective date of
3 the bill. You could do it in January for
4 six months starting with January or a later
5 date. It would be up to you when you would
6 implement it. But I agree, once you start
7 doing it, then I don't think you can decide
8 not to do it.

9 MR. DUPLESSIS:

10 Well, if there were
11 violations, we could have some fine income,
12 but that's really not a way to run the
13 agency.

14 MR. TURNER:

15 The way the bill is written,
16 is there a limit on how many permits they
17 could get a year?

18 MS. MORRIS:

19 I don't believe there was a
20 limit. We could do that. We could add a
21 limit to it as well, the number of days, the
22 number of cars.

23 MR. ROBINSON:

24 Well, we talked about a
25 limit. We didn't put that in the bill? We

1 specifically said we don't want to allow a
2 dealer to have a permanent off-site display
3 across from Wal-Mart every week.

4 MS. MORRIS:

5 It was a three to five day
6 permit.

7 MR. ROBINSON:

8 So that's in the bill. Well,
9 you said you didn't think it was in there.

10 MR. DUPLESSIS:

11 I don't think there's a
12 number of times that they are restricted
13 from doing that and we may want to amend
14 that bill and make sure that the Wal-Mart
15 parking lot is not a public event.

16 MR. POTEET:

17 Have a time limit, but you
18 don't have a number.

19 MR. DUPLESSIS:

20 That's correct. We may --

21 MR. ROBINSON:

22 Especially, if it's free,
23 either that or we just need to remove it and
24 come out with a better version of it next
25 year.

1 MS. MORRIS:

2 The bill is scheduled for
3 debate this afternoon. So I would have to
4 submit any amendments that we want on the
5 floor.

6 MR. DUPLESSIS:

7 Well, why don't we limit it
8 to -- what's reasonable, four times a year
9 under these circumstances, would that be --

10 MR. TURNER:

11 Once a quarter?

12 MR. DUPLESSIS:

13 Once a quarter would be fair.
14 Then, that would be overly burdensome to the
15 staff and the Commission.

16 MR. ROBINSON:

17 Mr. Hallack, do you have
18 something?

19 MR. HALLACK:

20 I think we're beating a dead
21 horse.

22 MR. ROBINSON:

23 Commissioners, any questions,
24 anything else?

25 MR. DUPLESSIS:

1 That's a wrap for us. I will
2 note that in our legislative sessions, the
3 Legislature has been unusually kind and
4 complimentary how this Commission has
5 cleaned up and they made a point along with
6 the lobbyists that they commended us on what
7 a good job this Commission has done, along
8 with the Chairman and the Director.

9 MR. POTEET:

10 Ron, I have a question. The
11 bill that Representative Smiley is pushing,
12 does that thing have any chance of being
13 passed at all?

14 MR. DUPLESSIS:

15 It got through committee.

16 MR. POTEET:

17 I mean, I know it got through
18 committee. I was kind of surprised that it
19 got through the committee.

20 MR. DUPLESSIS:

21 I had not gotten an update
22 and I'm surprised that it got through
23 committee.

24 MS. MORRIS:

25 It was reported that the fee

1 bill it's now House Bill 1482. It was 1227
2 before, and the reason it was able to get
3 through, I think, is because it allows you
4 to retain some funding. So it satisfied
5 some of the agencies and he said at the
6 committee hearing that there were only 18
7 agencies that would be affected the first
8 year it became enacted and this Commission
9 was not one of them because I think you are
10 allowed to keep up to your operating budget,
11 but it still is something that you would
12 want to track and be very mindful of and it
13 could -- depending upon -- I mean, you can't
14 really control what your revenue is in a
15 particular year and you might have estimated
16 your revenues to be a certain level, and
17 then your expenses were lower than you
18 thought. So you would have to do a lot of
19 accounting to make sure that you wouldn't be
20 in a position where you would have to go in
21 and amend your fee by rule to reduce your
22 fee for the following year. You wouldn't
23 really know that until the fall for your
24 next coming licensing year. No one really
25 addressed the issue that, you know, there is

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1 cost to adjust because you would have to
2 change your forms and program computer
3 systems and all those sorts of thing. No
4 agency really addressed that.

5 MR. POTEET:

6 It's an invitation to be
7 inefficient.

8 MS. MORRIS:

9 It is.

10 MR. DUPLESSIS:

11 Cumbersome.

12 MR. POTEET:

13 Yes. I mean, you are going
14 to -- if you're sitting here at the end of
15 the year and you're way ahead, you've got to
16 spend the money. I mean, you're asking the
17 commissions and the agencies that would be
18 covered under to spend more money.

19 MR. ROBINSON:

20 Does anybody actually know
21 what the magic number is to where that bill
22 would kick in for an agency?

23 MS. ELLIS:

24 You keep one year's worth of
25 assets, which for us is different than most

1 agencies because --

2 MR. ROBINSON:

3 But, see, our building kills
4 us on that.

5 MS. MORRIS:

6 In the original bill, the
7 building was not included in the fund
8 balance.

9 MR. ROBINSON:

10 It doesn't say assets?

11 MS. MORRIS:

12 It defines assets and it did
13 not include your property.

14 MR. ROBINSON:

15 Because that's the first
16 hurdle we ran into with the fee increase was
17 they look at our assets but, you know, our
18 asset is our real estate here that we --

19 MS. MORRIS:

20 Well, most of the agencies do
21 not include their assets in their
22 statements. They report a fund balance,
23 which does not include a movable property or
24 office equipment and those sorts of things,
25 but yours is done a little bit differently.

1 I'm not really sure why.

2 MR. ROBINSON:

3 Does anyone else have
4 anything under legislative?

5 (No response.)

6 MR. ROBINSON:

7 We have no hearings this
8 month.

9 Any items any Commissioner
10 wants to see on next month's agenda? Like I
11 said, we do have to amend the budget. That
12 will be a big item next month. Any
13 individual items any Commissioner would like
14 to have?

15 MR. POTEET:

16 Is the next meeting the 21st?

17 MR. ROBINSON:

18 Well, I guess we are
19 finished.

20 MS. SIMS:

21 On the auction established
22 place of business, when does that go into
23 effect, does that have to go through the APA
24 procedure?

25 MS. MORRIS:

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Yes.

MR. POTEET:

I make motion to adjourn.

MR. CORMIER:

Second.

MR. ROBINSON:

All in favor?

(All "Aye" responses.)

(Meeting adjourned at 11:11 a.m.)

1 REPORTER'S CERTIFICATE
2

3 I, BETTY D. GLISSMAN, Certified
4 Court Reporter, Certificate No. 86150, in
5 and for the State of Louisiana, do hereby
6 certify that the Louisiana Used Motor
7 Vehicle Commission May 17, 2010 meeting was
8 reported by me in the stenotype reporting
9 method, was prepared and transcribed by me
10 or under my personal direction and
11 supervision, and is a true and correct
12 transcript to the best of my ability and
13 understanding.

14 This May 36, 2010, Baton Rouge,
15 Louisiana.
16
17
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19
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21

22 _____
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24 CERTIFIED COURT REPORTER
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