

1 LOUISIANA USED MOTOR VEHICLE COMMISSION

2 STATE OF LOUISIANA

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7 REGULAR MEETING

8 FEBRUARY 18TH, 2019

9 BEGINNING AT 9:27 A.M.

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12 3132 VALLEY CREEK

13 BATON ROUGE, LOUISIANA

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24 REPORTED BY:

25 BRITTANY E. VIDRINE, CCR, RPR

1 APPEARANCES

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3 CHAIRMAN:

4 MR. JOHN POTEET

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6 COMMISSIONERS PRESENT:

7 MR. JEFFEREY BRITT

8 MR. RICKY DONNELL

9 MR. GEORGE FLOYD

10 MR. STEPHEN OLAVE

11 MR. MATTHEW PEDERSEN

12 MR. HENRY "DARTY" SMITH

13 MR. DINO TAYLOR

14 MR. RICHARD WATTS

15

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17 REPRESENTING THE LOUISIANA USED MOTOR VEHICLE

18 COMMISSION:

19

20 ROBERT W. HALLACK, ESQ.
21 HALLACK LAW OFFICE
22 13007 JUSTICE AVENUE
23 BATON ROUGE, LA 70816

24 SHERI MORRIS, ESQ.
25 DAIGLE, FISSE & KESSENICH, PLC
8480 BLUEBONNET BOULEVARD, SUITE F
BATON ROUGE, LA 70810

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APPEARANCES CONTINUED

- ALSO PRESENT:
- MS. KIM BARON
 - MR. DEREK PARNELL
 - MR. MONTIE WISENOR
 - MS. MONA ANDERSON
 - MR. DANNY ALONZO
 - MR. DAVID LeCERTE, ESQ.

1 MR. POTEET: All right. Let's get
2 started. Pledge of Allegiance.
3 (Pledge recited.)
4 MR. POTEET: Kim, roll call.
5 MS. BARON: John Poteet?
6 MR. POTEET: Here.
7 MS. BARON: George Floyd?
8 MR. FLOYD: Here.
9 MS. BARON: Tony Cormier?
10 MR. CORMIER: (No response.)
11 MS. BARON: Matthew Pedersen?
12 MR. PEDERSEN: Here.
13 MS. BARON: Richard Watts?
14 MR. WATTS: Here.
15 MS. BARON: Steve Olave?
16 MR. OLAVE: Here.
17 MS. BARON: Ricky Donnell?
18 MR. DONNELL: Here.
19 MS. BARON: Darty Smith?
20 MR. SMITH: Here.
21 MS. BARON: Dino Taylor?
22 MR. TAYLOR: Here.
23 MS. BARON: And Jefferey Britt?
24 MR. BRITT: Here.
25 MS. BARON: Mr. Chairman, we have a

1 quorum.

2 MR. POTEET: Excellent.

3 Anyone here for public comments
4 today?

5 MS. BARON: Yes, sir. We have Danny
6 Alonzo with Wholesale Auto Group and his
7 attorney, David LeCerte.

8 MR. OLAVE: And could I preface
9 this? I actually had a conversation with
10 Danny and invited him to come today so he
11 could make some comments and we could
12 have a discussion afterwards.

13 MR. POTEET: We'll go ahead and do
14 that now.

15 MR. LeCERTE: Good morning, folks,
16 I'm David. I'm the attorney for
17 Wholesale Auto and Mr. Alonzo over here.

18 We did take some action a couple of
19 weeks back that included both the New Car
20 Commission and the Used Car Commission.
21 We're seeking a declaratory action in the
22 19th JDC here in Baton Rouge to get some
23 clarity as to what the New Car Commission
24 has authority to regulate, what the Used
25 Car Commission has authority to regulate.

1 It's our opinion that the New Car
2 Commission somewhat is circling the
3 authority of the Used Car Commission in
4 some things.

5 We think that some of the dealers
6 are experiencing some unfair treatment at
7 the hands of the new car dealers,
8 particularly Mr. Alonzo here who's been
9 in business for decades in wholesale all
10 of a sudden is being heavily fined and
11 penalized by the New Car Commission and
12 told he can't have the name "Wholesale"
13 anymore, that they have exclusive purview
14 over what they can say is an appropriate
15 name and what is not an appropriate name
16 even though he's not a used car dealer.

17 Additionally, he's been double
18 penalized by this body and the New Car
19 Commission for the same exact offenses,
20 which is, you know, unfair in our
21 opinion.

22 So Danny and I think some other --
23 some other used car dealers with these
24 terms in their names, we got "wholesale,"
25 "best," all these similar names which all

1 of a sudden the New Car Commission has a
2 problem operating. I think some of those
3 are going to join us in the coming days
4 or weeks. And I wanted to present this
5 in our argument here today for you to
6 make sure you understood what we were
7 saying and open up for any questions you
8 may have.

9 MR. POTEET: Does anyone have any
10 questions at this time?

11 MR. OLAVE: No questions other than
12 one of the reasons I asked Danny to come
13 today was I feel like this case is
14 incredibly important just to the
15 jurisdictional part of the Used Car
16 Commission and our role in this.

17 Again, I'm not certain as to what
18 the Used Car Commission is capable of
19 doing. You know, we've discussed this in
20 Executive Session, but, you know, I think
21 it's important that we get on the record
22 with it and that, you know, if there's
23 other dealers that are affected by this,
24 I think that could only aid in this case.
25 Again, not so much on behalf of

1 Mr. Alonzo, but for the jurisdictional
2 part of this for the Commission moving
3 forward. I think this is -- you know,
4 could possibly be the first step in
5 overreach by the New Car Commission, and
6 that's really why I wanted to discuss
7 this with the commissioners and make
8 everybody aware. And, again, whatever
9 opinions are available, I'm hoping for
10 anything, it's just, I believe, that this
11 case is so significant to the Used Car
12 Commission moving forward that it needs
13 to be heard by all of the commissioners.

14 MR. POTEET: Okay. Any comment from
15 the attorneys?

16 MS. MORRIS: Just to advise you-all,
17 I'll remind you that we submitted the
18 matter to the Attorney General's office.
19 They had said that it's not within your
20 coverage that they provide counsel for
21 us, so it was sent back to the Commission
22 for defense, and I've met with
23 Mr. Hallack and Mr. Parnell, and I was
24 asked to enroll to defend the case. So I
25 will be doing that.

1 We met with Mr. LeCerte and there
2 was originally a claim for attorneys'
3 fees and costs against this Commission.
4 He has agreed to remove that from the
5 suit, so it remains as a declaratory
6 action, which would just be a
7 determination of the court as to the
8 proper interpretation of certain rules
9 and laws.

10 There was a request for a temporary
11 restraining order, which was really
12 against the Motor Vehicle Commission and
13 not this commission, but I understand
14 that that was denied. And so we would
15 proceed onto the preliminary injunction,
16 which is not against this commission and
17 also the declaratory judgment.

18 A declaratory judgment is an
19 ordinary proceeding, so it's not
20 expedited like a preliminary injunction
21 or a temporary restraining order, so we
22 don't really know the timetable for any
23 hearings at this point, but we will
24 continue to monitor it and we will
25 provide the court with all information.

1 There's a lot of historical
2 information and correspondences going
3 back and forth between the two
4 commissions. We will make sure that the
5 court has all that.

6 MR. OLAVE: So as a commission,
7 we're going to defend our position, our
8 jurisdictional position?

9 MS. MORRIS: We're going to provide
10 the information that we've developed over
11 time which includes our interpretation of
12 the rules and laws that we have provided
13 to the Motor Vehicle Commission.

14 MR. OLAVE: Okay.

15 MR. LeCERTE: So if any of you
16 members want to contact me individually
17 when we're not on the record and have any
18 questions, please feel free.

19 MR. OLAVE: All right. Thank you.

20 MR. POTEET: What's your number?

21 MR. LeCERTE: You can call my cell
22 phone, 225-354-9790. My email is
23 david@snw -- that's Sierra, Nevada,
24 whiskey -- .law.

25 MR. POTEET: "Snw.law"?

1 MR. LeCERTE: Yes.

2 MR. POTEET: All right. Does
3 anybody else have any comments about
4 this?

5 I think that this is -- I agree with
6 Mr. Olave. This is a very important
7 issue that has been kicked around for a
8 long, long time. And I don't know if it
9 would be appropriate for me to say
10 publicly some of my opinions about this,
11 but -- especially with the lawsuits
12 involved and everything. But I do think
13 that there are some real flaws in the way
14 that the Motor Vehicle Commission has
15 approached this. And so to whatever
16 level we can support this -- and, you
17 know, the attorneys have to get a little
18 bit involved here -- we will support it.

19 MR. LeCERTE: Thank you.

20 MS. MORRIS: We also advised the
21 Board's and Commission's office of the
22 suit as well.

23 MR. OLAVE: Thank you for your time.

24 MR. POTEET: Anything else?

25 MS. BARON: No, sir.

1 MR. POTEET: I guess, if you have
2 nothing else, then I'll just thank you
3 for coming in and we appreciate the
4 difficultly of all of this. There's been
5 a lot of little nuances and nooks and
6 crannies to go through.

7 MR. LeCERTE: Appreciate it. Thank
8 y'all.

9 MR. POTEET: Thank you, David.

10 MR. OLAVE: Mr. Chairman, I just
11 felt like it was such a significant case
12 that -- not just from the, you know,
13 Wholesale Auto Group aspect of it, but
14 just for the jurisdiction of the
15 Commission, so thank you. Thank you for
16 your time, gentlemen.

17 MR. POTEET: All right. Minutes?
18 How many of you noticed you didn't get
19 your minutes this month? We had a little
20 technical glitch. We'll get those
21 minutes maybe in the next week.

22 MS. BARON: Yeah. She's going to
23 get them to me tomorrow, so I'll get
24 those out.

25 MR. POTEET: So we'll get the

1 minutes from the last meeting and we can
2 adopt and approve them at the next
3 meeting.

4 Items for discussion and action,
5 we've got financial matters. Mona, also
6 known as the technical advisor? Many
7 roles.

8 MS. ANDERSON: All right. If you'll
9 open up your binders to the financial
10 statements for the month ending
11 January 31st. The first statement is the
12 statement of net position. The operating
13 account balance at the end of January was
14 \$2,403,528. Our fines accounts
15 receivable were \$94,138.

16 On down to the bottom of the page,
17 the liabilities, on page -- top of page
18 two, the total of the current liabilities
19 was \$51,878. The long-term liabilities
20 decreased this month because we
21 transferred the deferred revenues into
22 regular revenues on January 1st. The
23 total longterm liabilities and deferred
24 inflows is \$4,119,814.

25 On page three, the statement of

1 revenue and expenses and changes in net
2 position, year-to-date revenues were
3 \$1,039,351.

4 On page four, the salaries and
5 related benefits were higher than the
6 previous year due to civil service put
7 through the 2018 market adjustments to
8 salaries, and we also had additional
9 enrollments on January 1st in our health
10 insurance.

11 The remainder of the expenses were
12 higher than the previous year, and
13 overall there was an increase in expenses
14 on page five of \$7,052.

15 At the bottom of page five, the
16 year-to-date change in net position was
17 \$292,468.

18 On pages six and seven, there's a
19 four-year revenue comparison on this, and
20 seven is the chart of the same. On this
21 report and chart you can see the '18, '19
22 fee revenue is pretty much in line with
23 the '16, '17 fee revenue for the same
24 districts that renewed that year.

25 There were significant increases in

1 the interest on the operating account and
2 the interest on the certificates of
3 deposit due to an increase in interest
4 rates in general.

5 On page eight is a four-year
6 comparison of expenditures, and the two
7 main categories being salary and related
8 benefits and then our other operating
9 expenditures.

10 On page nine the Certificate of
11 Deposit Summary, we had three CDs that
12 matured in January, two were with
13 Business First and one with Landmark
14 Bank. The Business First went from 1.15
15 percent to 2.37 percent. The Landmark
16 Bank CD was moved. Their rate was .60,
17 and we got a better rate with Chase for
18 1.96 percent.

19 On page ten is the accounts
20 receivable hearings report. \$9,600 in
21 fines was assessed in January and \$11,875
22 was collected leaving the balance at the
23 bottom of the page for the end of January
24 of \$94,138.

25 So unless there are any questions,

1 Mr. Chairman, that concludes my report.

2 MR. POTEET: Does anybody have any
3 questions for Mona? No questions? No
4 comments? Okay.

5 MR. SMITH: I'll make a motion.

6 MR. OLAVE: Second the motion,
7 Mr. Chairman.

8 MR. POTEET: Second from Mr. Olave.
9 All in favor say "Aye."

10 ("Aye in unison.)

11 MR. POTEET: Any opposed?

12 (No response.)

13 MR. POTEET: All right. Those are
14 approved.

15 The next thing we've got is a
16 payment of invoice from Mr. Hallack.

17 MR. PARNELL: Commissioner, you'll
18 find in your packet a summary of Attorney
19 Hallack's billed services for January of
20 2019. I have reviewed the services
21 performed -- that was performed. I have
22 reviewed the time calculations. I did
23 ask Ms. Baron to send over to
24 Commissioner Olave a full detail of bill
25 of services for his review.

1 MR. OLAVE: I have reviewed the bill
2 as well, and I make a motion that we
3 accept the bill and pay Mr. Hallack his
4 bill this month.

5 MR. POTEET: We have a motion.

6 MR. BRITT: Second.

7 MR. POTEET: Second back here. All
8 in favor say "Aye."

9 ("Aye" in unison.)

10 MR. POTEET: That is approved. All
11 right.

12 Proposed revisions for rules and
13 regulations.

14 MS. BARON: You didn't have
15 anything?

16 MR. HALLACK: We were waiting on
17 Sheri.

18 MS. MORRIS: I had some technical
19 revisions, and I did not get that back in
20 time. I think they're mostly technical
21 to clean up before we send it.

22 MR. POTEET: Do we need to get a
23 copy of those sent to us to look at maybe
24 later?

25 MR. HALLACK: Yes.

1 MS. MORRIS: In case you have any
2 other technical --

3 MR. POTEET: Between now and the
4 next meeting.

5 MS. MORRIS: Yeah. We can do that.

6 MR. POTEET: Thank you, Sheri.

7 All right. Next on the agenda, the
8 Ratification of Imposed Penalties.

9 MR. PARNELL: Commissioner, you'll
10 also find in your packet where it
11 illustrates licensees that were in
12 violation of state law. These cases have
13 been investigated and I have determined
14 that the public interest can be served
15 without further administrative
16 proceeding, thus civil penalties were
17 imposed. As usual, I will announce the
18 names of the dealers that have been
19 imposed civil penalties for the record.

20 Do we have any representation here
21 for any of the licensees?

22 MS. BARON: I'll have to check
23 because there's a lot of people out
24 there.

25 MR. POTEET: Is this -- she's

1 checking the parking lot?

2 MR. PARNELL: There's quite a few
3 people in the lobby.

4 MS. BARON: No, sir, there's no one.

5 MR. POTEET: Did you check both
6 parking lots?

7 MS. BARON: I did.

8 MR. POTEET: All right, Mr. Parnell.

9 MR. PARNELL: All right. First on
10 the list, Michael J. Tassin doing
11 business as Mike's Auto Sales from
12 Alexandria, Louisiana, fine amount is
13 \$1,000. J&P Automotive and Collision,
14 LLC, from Pearl River, Louisiana, fine
15 amount is \$1,350. Justin David Meadows
16 doing business as Performance Wholesale
17 from Lake Charles, Louisiana, fine amount
18 is \$1,200. Maximus Motorcars, LLC, from
19 Slidell, Louisiana, fine amount is \$600.
20 Timothy Huggins doing business as Top
21 Dogs Used Cars and Detailing from
22 Baton Rouge, Louisiana, fine amount is
23 \$1,000. Terran Guillory and Joshua
24 Guillory doing business as T&J Auto Sales
25 from Eunice, Louisiana, fine amount is

1 \$500. Auto Guarantee, LLC, from Eunice,
2 Louisiana, fine amount is \$1,000.
3 Coastal Sales, Incorporated, from
4 Abbeville, Louisiana, fine amount is
5 \$1,000. Paul Hartman and Larry LaVigne,
6 Lake Charles, Louisiana -- I'm sorry,
7 doing business as L&H Enterprises from
8 Lake Charles, Louisiana, fine amount is
9 \$500. Ayman Issa doing business as A&A
10 Auto Sales from Minden, Louisiana, fine
11 amount is \$250. Elite Used Car Center,
12 LLC, from Slidell, Louisiana, fine amount
13 is \$1,200.

14 Commissioners, I ask that you ratify
15 the imposed civil penalty assessed. The
16 total amount of penalties assessed in
17 January is \$9,600.

18 MR. POTEET: Any discussion there?
19 Need a motion.

20 MR. BRITT: I'll make a motion.

21 MR. SMITH: I'll second.

22 MR. POTEET: Second from Darty. All
23 in favor say "Aye."

24 ("Aye" in unison.)

25 MR. POTEET: Any opposed?

1 (No response.)

2 MR. POTEET: Let's move on to the
3 Executive Director's Report.

4 MR. PARNELL: Commissioners, you'll
5 find the attachment in your chart, one of
6 the alleged issue counts. There in the
7 month of January of 2019, there are 132
8 alleged issues that were filed.

9 The second document is the case
10 report. In January there were 75
11 assigned cases, 13 of those cases have
12 been completed, 62 cases still remain
13 open.

14 The last document is the total
15 number of cases that were closed for the
16 entire month.

17 Commissioners, it's been fairly
18 quiet this past month. This month we're
19 ready to start finishing up our renewal
20 period. February 1 is when we had to
21 remove the dealers who had their licenses
22 at active and renewal status. We moved
23 them to lapsed status. And if they bring
24 any submitting information to us after
25 this point, they have to start over as a

1 brand-new dealer. But other than that,
2 we've been moving fairly smooth. We did
3 have a compliance meeting with all of the
4 compliance investigators and enforcement
5 staff on the 24th. We were able to
6 discuss quite a few things that are out
7 there. We were trying to make sure that
8 we are all on the same page. We always
9 bring Robert Hallack in so he can kind of
10 help us differentiate between some of the
11 statutes that we're reading and to make
12 sure we interpret them all the same. So
13 if you have questions, comments or
14 concerns...

15 MR. POTEET: Quiet.

16 MR. PARNELL: Quiet. Pretty quiet.

17 MR. POTEET: That's good.

18 MR. PARNELL: That is good.

19 MR. POTEET: All right. I think the
20 next thing are the hearings, so we need
21 to --

22 MR. OLAVE: Before we get to the
23 hearings, Mr. Chairman, I'd like to make
24 a motion we move into Executive Session
25 to discuss some cases that are sensitive

1 in nature.

2 MS. MORRIS: I don't have that on
3 the agenda.

4 MR. OLAVE: Does it have to be?

5 MS. MORRIS: Yes. Are you
6 discussing things relative to the
7 hearings?

8 MR. OLAVE: No, nothing relative to
9 the hearings. It was on the agenda last
10 time. I thought we had a precedent that
11 we had moved into Executive Session and
12 discuss Danny's case and a couple of
13 cases I'd like to discuss in Executive
14 Session. If I can't do it this meeting,
15 I'll put it on the agenda next meeting.
16 But I thought I could make a motion and
17 if we voted on it we could move into
18 Executive Session.

19 MS. MORRIS: In order to go into
20 Executive Session to discuss a pending
21 legal proceeding, it has to be noticed on
22 the agenda with the court, the title of
23 the parties, and so that there's public
24 notice that we're going to do that in
25 advance.

1 So we don't have any of them on
2 here, so whatever you need on the agenda,
3 if you could submit it to Derek in
4 advance --

5 MR. OLAVE: Okay.

6 MS. MORRIS: -- we can make sure it
7 complies with the notice requirements
8 prior to posting the agenda.

9 MR. HALLACK: I don't think it's a
10 requirement that it has to be on the
11 agenda to go into Executive Session if a
12 member of the Commission wants to go into
13 Executive Session. We go into Executive
14 Session all the time when it comes to
15 hearings. I mean, so...

16 MS. MORRIS: The hearings are on the
17 agenda, and it states that --

18 MR. HALLACK: But it doesn't state
19 whether or not it's going to go into
20 Executive Session.

21 MS. MORRIS: The notice to the
22 licensees includes a statement that it
23 could be heard.

24 MR. HALLACK: Not the notice that we
25 prepare.

1 MS. MORRIS: I believe it does.

2 MR. HALLACK: Look, here's one right
3 here (indicating).

4 MR. OLAVE: If it makes everybody
5 more comfortable, I'll -- we'll do it
6 next meeting. I mean...

7 MR. POTEET: Well, once again, I
8 have my two attorneys arguing in public,
9 so --

10 MS. MORRIS: I'll read the statute.

11 MR. HALLACK: I think he says he's
12 going to withdraw it, though, so that
13 makes life easier.

14 MR. POTEET: It does. We don't have
15 to discuss it.

16 MR. OLAVE: Well, I'd rather address
17 it, but if there's no consensus on it,
18 then I don't want to do anything...

19 MR. POTEET: Well, she's looking up
20 the statute.

21 MR. WATTS: Is this something
22 pressing? It can't wait until next
23 meeting?

24 MR. OLAVE: It can wait until next
25 meeting.

1 MR. POTEET: Make sure when we have
2 something like that, you get it on the
3 agenda, so we can discuss it.

4 MR. OLAVE: It just came up.

5 MR. POTEET: It just came up like in
6 the last few minutes?

7 MR. OLAVE: No.

8 MR. POTEET: Okay. Well, we're not
9 going to play 20 questions.

10 MR. OLAVE: It's okay.

11 MR. POTEET: If it's not pressing,
12 we can...

13 MR. OLAVE: I'll file a protocol.

14 MR. POTEET: All right. We need to
15 adjourn. So I need a motion to adjourn.

16 MR. SMITH: I'll make a motion.

17 MR. TAYLOR: Second.

18 MR. POTEET: Second over here. All
19 in favor say "Aye."

20 ("Aye" in unison.)

21 MR. POTEET: Let's take about a
22 five-minute break and we'll come back in
23 and start the hearings.

24

25 (CONCLUDED AT 9:50 A.M.)

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REPORTER'S CERTIFICATE

I, Brittany E. Vidrine, Certified Court Reporter and Registered Professional Reporter in and for the State of Louisiana, and as the officer before whom this meeting was taken, do hereby certify that the foregoing proceedings of the Louisiana Used Motor Vehicle Commission transpired as hereinabove set forth in the foregoing 26 pages.

I further certify that said proceeding was reported by me in the Stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding.

I further certify that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, that I have acted in compliance with the prohibition on contractual relationships as defined by Louisiana Code of Civil Procedure, Article 1434, and in rules and advisory opinions of the board.

I further certify that I am not an attorney or counsel for any of the parties, that I am neither related to nor employed by any attorney or counsel connected with this action and that I have no financial interest in the outcome of this matter.

This certificate is valid only for this transcript accompanied by my original signature and original required seal on this page.

Baton Rouge, Louisiana, this 15th day of March, 2019.

BRITTANY E. VIDRINE, CCR, RPR
LA CCR No. 2014025