

LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
JANUARY 23, 2017
BEGINNING AT 9:33 A.M.

3132 VALLEY CREEK
BATON ROUGE, LOUISIANA

REPORTED BY:
BETTY D. GLISSMAN, CCR

1 APPEARANCES:

2

3 CHAIRMAN:

MR. JOHN POTEET

4

COMMISSIONERS PRESENT:

5

6 MR. RICKY DONNELL

7 MR. RON DUPLESSIS

8 MR. GEORGE FLOYD

9 MR. STEPHEN OLAVE

10 MR. HENRY "DARTY" SMITH

11 MR. DINO TAYLOR

12 MR. RICHARD WATTS

13

14

REPRESENTING THE LOUISIANA USED MOTOR
VEHICLE COMMISSION:

15

16 ROBERT W. HALLACK, ESQUIRE
HALLACK LAW OFFICE
17 13007 JUSTICE AVENUE
BATON ROUGE, LOUISIANA 70816

18

19 SHERI MORRIS, ESQUIRE
ROEDEL, PARSONS, KOCH, BLACHE,
BALHOFF & McCOLLISTER
20 8440 JEFFERSON HIGHWAY, SUITE 301
BATON ROUGE, LOUISIANA 70809

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1 ALSO PRESENT:

2 MS. KIM BARON

3 MR. DEREK PARNELL

4 MS. TONYA BURKS

5 MR. PERRY ESPONGE

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1 (Pledge of Allegiance)

2 MR. POTEET:

3 Roll call.

4 MS. BARON:

5 John Poteet?

6 MR. POTEET:

7 Here.

8 MS. BARON:

9 Dino Taylor?

10 MR. TAYLOR:

11 Here.

12 MS. BARON:

13 Tony Cormier?

14 MR. CORMIER:

15 (No response.)

16 MS. BARON:

17 Ron Duplessis?

18 MR. DUPLESSIS:

19 Here.

20 MS. BARON:

21 George Floyd?

22 MR. FLOYD:

23 Here.

24 MS. BARON:

25 Jimmy Granger?

1 MR. GRANGER:

2 (No response.)

3 MS. BARON:

4 Darty Smith?

5 MR. SMITH:

6 Here.

7 MS. BARON:

8 Steve Olave?

9 MR. OLAVE:

10 Here.

11 MS. BARON:

12 Ricky Donnell?

13 MR. DONNELL:

14 Here.

15 MS. BARON:

16 And Richard Watts?

17 MR. WATTS:

18 Here.

19 MS. BARON:

20 Mr. Chairman, we have a quorum.

21 MR. POTEET:

22 Excellent. Anyone here today for
23 public comments?

24 MS. BARON:

25 No, sir.

1 MR. POTEET:

2 All right. Has everyone had a
3 chance to read the minutes for the last
4 meeting? I hope you have. If there are no
5 changes, I would entertain a motion to
6 approve.

7 MR. SMITH:

8 I'll make a motion.

9 MR. OLAVE:

10 I second the motion, Mr.
11 Chairman.

12 MR. POTEET:

13 Second by Steve. |

14 All in favor, say, "Aye."

15 (All "Aye" responses.)

16 MR. POTEET:

17 Are there any opposed?

18 (No response.)

19 MR. POTEET:

20 The minutes are approved.

21 Items for discussion and action,
22 as you might note, we don't have a financial
23 report today. So Mona is still recovering.
24 So we're going to cover the -- all the
25 financials next month. Okay. The first

1 thing we have is ratification of imposed
2 penalties.

3 MR. PARNELL:

4 All right. Commissioners, if
5 you'll turn in your packet, you will find a
6 chart that illustrates all of the dealers
7 that were imposed civil penalties against
8 them. I've decided that the public interest
9 can be served without further administrative
10 hearing or proceeding. Of course, I will go
11 through and announce the names for the
12 record.

13 Do we have anyone present from
14 the dealers on the list?

15 MS. BARON:

16 No, we do not.

17 MR. PARNELL:

18 First on the list is Express Auto
19 Sales, LLC from Metairie, Louisiana,
20 violation fine amount was \$300. Bayou Boyz
21 Wholesale from New Orleans, Louisiana, fine
22 amount was \$3,000. Spend Five and Drive,
23 LLC from Morgan City, Louisiana, fine amount
24 was \$750. Express Auto Sales, LLC from
25 Metairie, Louisiana, the fine was \$1,000.

1 Conrad Auto Sales, LLC from Baton Rouge,
2 Louisiana, the fine was \$250. RM Auto Sales
3 and Accessories from Baton Rouge, Louisiana,
4 fine amount was \$250. Next Ride, LLC from
5 Baker, Louisiana, fine amount was \$450. Car
6 Zone USA, LLC from West Monroe, Louisiana,
7 fine amount was \$900. Ralph's Auto Sales
8 from Baton Rouge, Louisiana, fine amount was
9 \$250. Unique Auto Sales, LLC from Bossier
10 City, Louisiana, fine amount was \$250. Kar
11 City, LLC Lake Charles, Louisiana, fine
12 amount was \$400. Commissioners, the total
13 amount for the civil penalties was \$7,800.
14 Commissioners, I ask that you ratify the
15 imposed civil penalties assessed.

16 MR. TAYLOR:

17 I make a motion.

18 MR. OLAVE:

19 I'll second that motion, Mr.
20 Chairman.

21 MR. POTEET:

22 All in favor, say, "Aye."

23 (All "Aye" responses.)

24 MR. POTEET:

25 Any opposed?

1 (No response.)

2 MR. POTEET:

3 All right. We're moving at break
4 neck speed now. Legislative Committee, now
5 we're going to slow things down.

6 MR. PARNELL:

7 Commissioners, on January 4th,
8 Commissioner Duplessis, Attorney Morris, Ms.
9 Baron, and I, we met with Representative
10 Carmody, Capital Parties, LKQ, Department of
11 Revenue and Office of Motor Vehicles at the
12 LaSalle building downtown to discuss the --
13 House Resolution 153 that was authored by
14 Committee Chairman, Representative Carmody.
15 If you recall, House Resolution 153 urges
16 and requests that the Office of Motor
17 Vehicles, along with our agency, look at the
18 feasibility of having a database upon which
19 all the information is collected about
20 vehicles that were sold at public auction.
21 Very interesting meeting. So I'll let
22 Commissioner Duplessis kind of talk about
23 it.

24 MR. DUPLESSIS:

25 It was a very interesting

1 meeting, brought up a lot of global type of
2 scenarios that require budget and requiring
3 to work with, you know, agencies like
4 Homeland Security, GOHSEP, the Governor's
5 Office, but it just was an expansive subject
6 that I thought there was no way to bring to
7 a conclusion. They have a point. It's not
8 our point. This is the national Washington,
9 D.C. point and they're talking about
10 shipping stuff out of the country. And the
11 thing that bothered me is it seemed to get
12 to the bottom of limiting competition. And
13 if you convert that argument into
14 documenting competition, then that's a valid
15 argument, but we're not here to limit
16 competition, which was, I think, the crux of
17 what we had.

18 I think what came out is that
19 they want to get documentation on a bidder
20 and we're fine with that and there has to be
21 a fee for that. So I think that we have a
22 registration and a bid card. We get \$5 a
23 transaction money now, if I'm not mistaken,
24 and I think that the conclusion was that we
25 have a bid card. The bid card itself is not

1 inherently -- it's just very simple, like a
2 registration account kind of like you would
3 have on Amazon. I have no problem with
4 that. So I think that is probably the way
5 that we would look at going. It would be
6 additional revenue for us, not a lot, but it
7 would be a first step and we kind of
8 broached that bridge that I think that
9 Carmody is looking for. I don't think he
10 completely understood the subject. So
11 without going into just recapping a two hour
12 meeting that went nowhere, I think we can
13 look at a bid card and we look moving back
14 to that, because we've been there and done
15 that. Everything else is going to be
16 national legislation, in my opinion.

17 Sheri, you can take it from
18 there.

19 MS. MORRIS:

20 Basically, they want a way to
21 determine who is buying vehicles at the
22 auctions and really the bid card could be
23 limited to those people who don't have
24 dealer licenses, because we do have, you
25 know, reports from dealers and that's not

1 really their concern. Their concern is the
2 people that are not licensed as dealers, as
3 I appreciate it.

4 MR. DUPLESSIS:

5 Well --

6 MS. MORRIS:

7 People that are buying salvage
8 vehicles or vehicles that they will
9 dismantle and sell the parts on the Internet
10 is what they're trying to capture. And,
11 now, the Department of Revenue has kind of
12 been out of the mix and Department of
13 Revenue, you know, if that's an end sale, if
14 people are taking salvage vehicles apart and
15 selling those parts on the Internet or
16 whatever, then they should be collecting
17 sales tax. Whereas, previously, we were
18 really only discussing the sales tax with
19 the registration of the vehicle. But I
20 think LKQ's complaint is that some of the
21 vehicles are never re-registered, because
22 they're dismantled. And so to the extent
23 the State could collect sales tax on those
24 parts, you know, if the -- if any part of
25 the transaction is taking place in the State

1 of Louisiana, then they want to do that. I
2 think -- it looks like they want to do that
3 or if the person is -- the buyers are
4 purchasing the vehicles with no intention to
5 register it for road travel, they want to
6 collect sales tax at that point. So I guess
7 even if somebody bought a truck to use on
8 their farm and wasn't going to put it on a
9 public road, wasn't having to register it,
10 that would be a retail sale subject to sales
11 tax. And there's currently no mechanism to
12 collect sales tax other than when you
13 register a vehicle. So they're looking at
14 the gaps in the sales tax collection.

15 MR. DUPLESSIS:

16 Well, let me add to that real
17 quick. The lead lawyer was there and he
18 quickly cited -- he referred to the fact
19 that it's such a miniscule amount of
20 transactions to be able to monitor, check,
21 enforce that, would not even be vaguely
22 reasonable for the amount of money that they
23 would have to spend in order to make that
24 enforceable.

25 MS. MORRIS:

1 They kind of analogized it to
2 garage sales where somebody might --

3 MR. POTEET:

4 Nobody is collecting sales tax
5 for that.

6 MS. MORRIS:

7 Well, you're allowed to have a
8 garage sale, so many a year, without -- if
9 it's just an occasional sale, but if you
10 have a garage sale every week, then you're
11 supposed to register and pay sales tax, but
12 you're allowed an occasional sale.

13 MR. POTEET:

14 Well, you know, one of the things
15 that -- in our business, as the guys on the
16 other side call it, the whole car business,
17 we have already have a database. We have an
18 enormous database that's maintained by Auto
19 Tech. To come into our auction, you have to
20 have a card that's called an auction access
21 card. If you don't have one, you've got to
22 get one. There's no other way for you to do
23 business at our auction or any auction that
24 I know of that's in the National Auto
25 Auction Association. Now, there are

1 auctions that are not in the National Auto
2 Auction Association. I don't know how they
3 do transfers. For example, Henderson,
4 they're not in the NAAA. So the NAAA
5 requires you to sell 50 percent plus one
6 vehicle wholesale. In other words, most
7 NAAA auctions don't sell retail. There are
8 very few that sell anything retail and those
9 that do have to be less than 50 percent
10 retail. So we have a database. So any of
11 you that are registered in my auction,
12 you've got a card that says, auction access.
13 That will allow you to get into virtually
14 any NAAA auction or even to buy online at
15 any NAAA auction. And that database, they
16 work -- Auto Tech works with Homeland
17 Security and all of these different agencies
18 and they have that database already there.
19 So I think, you know, what needs to be -- or
20 what -- some of these things need to be done
21 is there needs to be a database of everybody
22 buying cars. And, to me, you know, what we
23 do is easy, because it's -- you have to be a
24 registered dealer to get in. It makes it
25 easy. You have to be a registered dealer or

1 employed by a registered dealer and you have
2 to fill out this paperwork and you get this
3 bit of information. Now, we get lots of
4 information about you. And then all that
5 stuff is kept in Birmingham, Alabama at Auto
6 Tech and it gets, you know, renewed every
7 year with your licenses or if you have a
8 buyer you need to get rid of or, you know,
9 you have a new corporation or whatever. So,
10 you know, that's easy. That's relatively
11 easy if somebody is looking for a database
12 of people buying cars. But on the salvage
13 side, it's not -- you don't have anything
14 like that. So we already have something
15 like a bid card, which is the auction access
16 card, and you've got to fill out a whole
17 bunch of information to get that.

18 MS. MORRIS:

19 But that is not a publicly
20 accessible database.

21 MR. POTEET:

22 No.

23 MR. DUPLESSIS:

24 And it's also, I think --

25 MR. POTEET:

1 But they're also selling
2 wholesale. So nobody has to collect sales
3 tax. So -- I'm sorry, go ahead, Ron.

4 MR. DUPLESSIS:

5 No, I'm agreeing with you and I'm
6 agreeing with both sides. I was aware that
7 clearly we have those cars, but -- and how
8 do you access that through public
9 legislation? It's been done. I think the
10 big problem is that you're going to have
11 Marvin Henderson sitting over at the other
12 table and some people squabbling about that
13 legislation.

14 MR. POTEET:

15 Yes, I would think so.

16 MR. DUPLESSIS:

17 Yes. And that's -- you know, I
18 think that is their clientele. Whether it's
19 legal or not, they're flying under the radar
20 and they made some good points about, you
21 know, the FEMA trailers and a lot of these
22 licensed groups that are coming in that we
23 just can't keep control of in the midst of
24 catastrophe type situations. I think the
25 one thing that we can do is we can bring

1 back the bid card. We can sit at the table,
2 pass legislation that would demonstrate some
3 other things later. Do I think this
4 legislation is necessary? Well, I'm going
5 to follow the income. I think it's
6 completely necessary. But it's really kind
7 of much to do about nothing when you look at
8 the big part of it, but if we were looking
9 to extend the olive branch, it would be the
10 bid card coming back, because we have that
11 technology. That's the only way we could
12 get it.

13 MS. MORRIS:

14 They're not really concerned
15 about one car. They're worried about people
16 that are buying two or three at this auction
17 and three at that auction and three at this
18 auction and saying, we are dealing in parts
19 or dealing in salvage or whatever, but
20 there's no way to track even though --

21 MR. POTEET:

22 It's kind of like virtual
23 curbstoners.

24 MS. MORRIS:

25 Right. If we say that there is

1 pressure on it if you become a dealer,
2 there's no way for anybody to determine.
3 It's kind of on an honor system.

4 MR. SMITH:

5 Well, I'd say after six. I mean,
6 the law is you can't sell six, right, you
7 know, buy six or sell six.

8 MS. MORRIS:

9 It's presumed. You have to trust
10 them that if they bought two in one place
11 and two in another place and two in another
12 place --

13 MR. SMITH:

14 They would need to have a dealer
15 license.

16 MS. MORRIS:

17 A dealer license, but there's no
18 way --

19 MR. SMITH:

20 But there's no way to track it,
21 right?

22 MS. MORRIS:

23 Correct, and that's the --

24 MR. SMITH:

25 With the bid card, you could

1 probably track it.

2 MS. MORRIS:

3 That's what they're saying, if
4 there is a mechanism to track it, then it
5 might result in more people being licensed
6 by this Commission as well, because they're
7 not volunteering to hold licenses.

8 MS. BARON:

9 But the only thing the bid card
10 would do would be to know who's buying, not
11 really tracking how many. They're buying.

12 MR. DUPLESSIS:

13 You would have to have a database
14 that also has a software program.

15 MS. BARON:

16 That has transactions for that
17 bid card --

18 MR. DUPLESSIS:

19 Right.

20 MS. MORRIS:

21 Like bid card 101 or two
22 purchases here, two --

23 MS. BARON:

24 Who is going to tell us that,
25 because Copart won't release any information

1 and the auctions won't release any
2 information. That was -- the problem was
3 because we couldn't get the information from
4 them or LKQ couldn't, you know. They said
5 they wouldn't.

6 MS. MORRIS:

7 Well, if there is legislation
8 that comes out, it would require --

9 MS. BARON:

10 We would have to put that in
11 there --

12 MR. PARNELL:

13 Every transaction that comes
14 through the auctions.

15 MS. MORRIS:

16 -- and the auctions to report the
17 number of transactions annually or during
18 some time period for each bid card at their
19 facility, and then somebody would have to
20 aggregate that data. And then if you have
21 -- if you meet the presumption threshold,
22 then you could be contacted.

23 MR. DUPLESSIS:

24 Any question --

25 MS. MORRIS:

1 But a lot of these people may be
2 out of town.

3 MS. BARON:

4 Yes. That's what I'm thinking.
5 A lot of these people are Texas and Alabama,
6 you know, nearby.

7 MR. POTEET:

8 Albania, they're not even in the
9 U.S.

10 MR. DUPLESSIS:

11 That's a legitimate concern and
12 that's what they brought up.

13 MR. POTEET:

14 I don't know what the percentage
15 is, but Copart sells a pretty large number
16 to outside the country.

17 MR. SMITH:

18 70 percent.

19 MR. POTEET:

20 70 percent?

21 MS. BARON:

22 70 percent?

23 MR. POTEET:

24 I was thinking like 30.

25 MR. SMITH:

1 No, it's a lot of them.

2 MR. DUPLESSIS:

3 These flood cars --

4 MR. SMITH:

5 All the flood cars, all the --

6 MR. POTEET:

7 Because a lot of cars when they
8 come through don't have strict laws that we
9 do about how cars -- get the parts out --

10 MR. SMITH:

11 They don't have any. Year, make
12 and model.

13 MR. DUPLESSIS:

14 That's correct.

15 MR. SMITH:

16 And the water, specific
17 instruction, that doesn't mean nothing to
18 them.

19 MR. POTEET:

20 No. So, you know --

21 MR. DUPLESSIS:

22 Practical application, there's --
23 it's -- there's not a lot of other states
24 and that was the first thing we started kind
25 of compiling, how we could look at

1 legislation to benefit with the argument on
2 the table would be, no one else is really
3 doing this, and that was the problem I had
4 with it. And the only piece of legislation
5 I think we could pass and we could hear
6 stuff, but if we saw -- and, you know, the
7 catastrophic losses concern, how do you
8 manage that? We could pass the bid card
9 again without too much trouble. I really
10 think that they're going to be lined up in
11 the halls to testify against this. We do
12 not have time and money. We don't have --
13 we have no infrastructure to be able to
14 stand on this to pass.

15 MS. MORRIS:

16 Well, what we're being asked to
17 do is just to participate in the writing of
18 the report to the Chairman, which we got an
19 extension, because it's already been due
20 this week, to be able to turn it in this
21 week.

22 MR. POTEET:

23 Does anybody else have any
24 comments on that?

25 (No response.)

1 MR. POTEET:

2 I think -- when you start getting
3 into, you know, showing us your records of
4 your customers, I think there's going to be
5 a screeching halt.

6 MR. DUPLESSIS:

7 It's the neighborhood you do not
8 want to go into.

9 MR. POTEET:

10 I mean, I -- we get -- you can
11 imagine we get requests from the FBI on a
12 fairly regular basis. We don't do anything
13 without in writing what you want, what
14 you're going to use it for. This is the
15 FBI. I mean -- and they cooperate. They
16 say -- the first thing, they always call and
17 say, can we get some information on this
18 dealer? We're like, no, not over the phone
19 you can't, not just on your word, you come
20 in here with your FBI credentials and we
21 check you out and you give us a written to
22 get information on one customer. Just to
23 expose that to somebody else and big piles
24 of data, I think you're going to get a lot
25 of push back and for good reason. Now, how

1 they track -- you know, if they're concerned
2 about security -- well, Homeland Security, I
3 guess, then maybe you have something for the
4 people buying from foreign countries, but I
5 don't know.

6 MR. TAYLOR:

7 What is the concern with people
8 in foreign countries? What I'm asking is,
9 buying their cars and taking these salvage
10 cars, these water cars out of here?

11 MR. POTEET:

12 I'm glad they're doing that.

13 MR. SMITH:

14 It boils down to competition.

15 MR. DUPLESSIS:

16 That's the business.

17 MR. SMITH:

18 When they got rid of the bid
19 card, the cars doubled.

20 MR. POTEET:

21 The price goes up.

22 MR. SMITH:

23 Like, he didn't have no license.

24 He didn't have to have no license at a
25 public auction. Well, the guy off the

1 street is going to come buy the car from
2 you. So, now, instead of a car worth -- a
3 wrecked car worth \$1,500 with all these
4 people from other nations, they're bringing
5 2,500. So small companies like me, it's
6 hard to buy a salvage.

7 MR. POTEET:

8 And in those other countries,
9 they do not have the restrictions, but they
10 don't have the supply. We have the supply.
11 We have a big supply.

12 MR. SMITH:

13 And LKQ is just doing it, because
14 they want to get it to where the salvage can
15 buy it cheaper, because it's costing so much
16 to buy them.

17 MR. DUPLESSIS:

18 And they're a national company.

19 MR. SMITH:

20 Oh, they're worldwide.

21 MR. DUPLESSIS:

22 This Copart in Louisiana that's
23 just trying to put it on them and they don't
24 like the local guys being that large to be
25 able to stand up to them.

1 MR. POTEET:

2 Well, Copart is huge.

3 MR. DUPLESSIS:

4 Yes, but they're not LKQ when you
5 look at the network.

6 MR. SMITH:

7 It's two big brothers.

8 MR. DUPLESSIS:

9 They're squared off.

10 MR. SMITH:

11 LKQ don't like them and -- or --
12 well, I don't like Copart either. I mean,
13 it's not nothing against them, it's just
14 when it opened it up, it's hard to buy cars.

15 MR. POTEET:

16 Well, it's just like at the
17 auction, any time -- if somebody that's a
18 dealer is there and he sees somebody that he
19 doesn't recognize or doesn't see a bid
20 badge, he wants to know, you know, are we
21 letting retail customers in, and we say, of
22 course, not. Sometimes, there's people
23 there that are our guests or, you know,
24 something else and we don't let anybody in
25 -- like, if you bring your -- you come to

1 our auction and you bring a mechanic with
2 you, you know, which makes sense or you
3 bring -- you know, you might even bring a
4 driver, but we don't -- we've kind of
5 eliminated drivers, but a mechanic, we make
6 them wear a big orange badge that says,
7 mechanic. It's not a bid badge. And then
8 we don't allow them in the lanes. They
9 drift in there. They wander in, but when we
10 see them, we say, you have to be out, and
11 the auctioneers know not to take a bid from
12 them. That makes it a closed society of car
13 dealers and that's what you want. As a
14 buyer, you don't want to be competing
15 against people who, number one, are retail
16 customers and, number two, don't understand
17 the auction process. I mean, people that
18 don't understand the process always bid too
19 high. So we want to try to eliminate that.
20 I don't know where it's going to go, but I
21 guess we'll do the study and see what
22 happens with it.

23 MR. DUPLESSIS:

24 Mr. Chair, I think need to
25 probably look at maybe some legislation for

1 the upcoming session. I think that would be
2 under the Legislative Committee --

3 MR. POTEET:

4 Yes.

5 MR. DUPLESSIS:

6 -- and maybe you want to set a
7 date. We passed other one. There's been
8 some interest expressed with certain issues
9 that I believe the dealers want to take up.
10 So it would bear holding a meeting.

11 MR. POTEET:

12 Do you have a date in mind?

13 MR. DUPLESSIS:

14 No, I do not.

15 MS. BARON:

16 January is almost over.

17 MS. MORRIS:

18 I think in April, pre-filing
19 deadlines are going to be somewhere in
20 there.

21 MR. HALLACK:

22 Well, if you don't have that
23 much, just set it for the next meeting date.

24 MR. PARNELL:

25 It's not a lot so far, but we're

1 trying to add more to it.

2 MR. POTEET:

3 What is our next meeting date, is
4 that the 20th?

5 MS. BARON:

6 The 20th -- February 20th.

7 MR. POTEET:

8 How long do you think the meeting
9 will be, an hour, two?

10 MS. BARON:

11 At the most.

12 MR. POTEET:

13 I agree that we should maybe just
14 do it on the agenda.

15 MS. MORRIS:

16 The session starts April 10th.

17 MR. POTEET:

18 Does that sound good to you guys,
19 the 20th? We can just do it after this
20 meeting.

21 MS. MORRIS:

22 Yes. We have time to pre-file.

23 MS. BARON:

24 So we'll just set it up for the
25 next meeting, which is the 20th of February.

1 MR. POTEET:

2 Also, along the lines of
3 legislation, we had -- at the last meeting
4 -- I think it was the last meeting, we
5 talked about the floor planners. I can't --
6 to my knowledge, they're not regulated by
7 anyone anywhere except in some cases they're
8 regulated by the same thing as banks in the
9 state, finance, that sort of thing. No --
10 none of them get licenses from any dealer
11 commission or any dealer licensing agency.
12 They do have -- in California, they have
13 some additional things that they have to do.
14 I was talking to the people at AFC and they
15 said in California they have some more
16 things that they have to do, but they don't
17 have to buy a license. They're regulated by
18 some -- and you can imagine, California has
19 more regulation anybody, but they have like
20 a whole section in their laws concerning
21 lending money that applies to floor
22 planners. So my research showed that
23 they're not regulated by any commission.

24 MR. HALLACK:

25 What about Texas? Texas is

1 generally pretty dealer friendly, nothing in
2 Texas either?

3 MR. POTEET:

4 No.

5 MR. DUPLESSIS:

6 Well, they're probably regulated
7 here by OFI.

8 MR. HALLACK:

9 No.

10 MS. MORRIS:

11 They're not a consumer lender.

12 MS. BARON:

13 They're considered commercial.

14 MR. POTEET:

15 You know, we have AFC. They
16 actually rent space in our auction in our
17 office. I went into the manager's office.
18 They rent from us. I was looking around the
19 walls. He said, what do you think about
20 painting my office? I said, oh, I'm looking
21 for your license. And he was like, what
22 kind of license, my driver's license? I
23 said, no, your license to do business. He
24 said, I don't know anything about that,
25 you'd have to call the corporate

1 headquarters in Indianapolis and ask them.

2 MR. WATTS:

3 They have no license in
4 Louisiana, just set up shop?

5 MR. POTEET:

6 Yes, I guess so. I'm sure that
7 they have some kind of requirement, but, you
8 know, I was just looking to see if they --
9 you know, any state was doing that sort of
10 thing.

11 MR. DUPLESSIS:

12 Probably, it falls under the
13 federal requirements.

14 MR. POTEET:

15 That's probably what they're
16 following.

17 MR. HALLACK:

18 There are no federal
19 requirements.

20 MR. DUPLESSIS:

21 They're following banking.

22 MS. MORRIS:

23 They're not requiring -- instead
24 of consumer loans --

25 MR. POTEET:

1 No, they're not doing consumer
2 loans.

3 MS. MORRIS:

4 They're not loaning to consumers?

5 MR. HALLACK:

6 No.

7 MR. POTEET:

8 I mean, everything that I know of
9 with the CFPB is that it's always a
10 consumer. In fact, it's called the consumer
11 --

12 MR. TAYLOR:

13 Federal Protection Bureau.

14 MR. POTEET:

15 Yes.

16 MR. DUPLESSIS:

17 Well, the New Car Commission
18 licenses all the captives that are not only
19 doing wholesale, but doing consumer loans,
20 too. So there may be a way to take that
21 legislation and morph it, and then we can
22 issue retail finance licenses in the same
23 package. So if we have a -- if we're
24 looking to have a finance license for only
25 used car members, licensees, we could wrap

1 that legislation into a package that would
2 be explainable.

3 MR. POTEET:

4 Well, I think what would happen
5 is, they would just stop doing business here
6 as floor planners, and they would do their
7 business from either Texas or Mississippi
8 and be just like dealers.

9 MR. DUPLESSIS:

10 They would still be doing
11 business in the state. So they would be
12 subject to our license.

13 MR. POTEET:

14 I don't get a license from
15 somebody from Texas to buy at the auction.
16 No state does.

17 MR. DUPLESSIS:

18 Right. But if they're doing
19 retail -- if they're doing business in the
20 state and they're here, we probably would
21 have to license them.

22 MR. HALLACK:

23 I agree with that.

24 MR. OLAVE:

25 How would you regulate that,

1 though, because I think is the Chairman's
2 concern. Is that what you're --

3 MR. POTEET:

4 I'm just saying that I don't
5 think they're going to accept licensing.

6 MR. TAYLOR:

7 You can require a dealer to deal
8 with a licensed floor plan company, put that
9 on the dealer.

10 MR. WATTS:

11 Why do you want to do this?
12 There's pros and cons, you know.

13 MR. POTEET:

14 I'm not particularly for it. We
15 have one floor planner here that's a
16 problem.

17 MR. WATTS:

18 Nobody tells them what to do.

19 MR. POTEET:

20 They're the biggest one. For
21 example, AFC, which is the floor planner
22 that offices out our place is -- we never
23 had problems with them or any floor planner
24 that I know of, except for NextGear. So, I
25 mean, I'm personally not for it. I mean, it

1 would be difficult. I think you're going to
2 get a lot of fight. I think you're going to
3 make it difficult on dealers if you start
4 delving into that. I think what we need to
5 try to figure out how to do is get NextGear
6 to be more cooperative. How we do that, I'm
7 not sure.

8 MR. HALLACK:

9 Well, we passed some very
10 important legislation last session. So that
11 helps a lot. And they were well aware of it
12 and they didn't object to it or take a
13 position on it at all, so.

14 MR. DUPLESSIS:

15 I think there may be a way to get
16 there without licensing. Sitting at that
17 table is not going to be pleasant with those
18 guys coming in. They -- I agree with
19 everything you're saying, both the abuse and
20 the difficulty of the legislation. So there
21 may be some other ways to write that
22 legislation very craftily that requires
23 certain credentials.

24 MR. POTEET:

25 I mean, what I think is that

1 we're not really interested in licensing
2 them. We're not going to get any revenue.
3 I mean, there might be 8 or 10 in the state.
4 What we need to do is, we need to have
5 something that will make them follow the
6 rules and I think that's what we're looking
7 for.

8 MR. HALLACK:

9 I spoke to Al Lynch and Al Lynch
10 runs Northland, which is a rent-to-own
11 thing, but he just started getting into
12 floor plan financing. He got a big line of
13 credit and now he's offering floor plan
14 financing to a lot of dealers. So I called
15 him and he said, I'm not aware of anything,
16 not aware of anything that regulates or
17 licenses what I do, and the reason why I got
18 into it is because of NextGear, all my
19 dealers have a problem with NextGear and
20 that's why I got into floor plan financing.

21 MR. POTEET:

22 That's why AFC does so well. I
23 mean, they don't have to try, they just take
24 the dissatisfied NextGear customers and
25 they've a whole gigantic business.

1 MR. HALLACK:

2 He's right.

3 MR. POTEET:

4 I mean, there are a lot of them.
5 Well, that's what I would like, is if we
6 could talk about that at the meeting that
7 day, but could come up with something that
8 would -- as opposed to licensing them, I
9 think it would be a lot easier to try to
10 find some legislation or some way to make
11 them follow the rules or make them follow
12 the guidelines that we need.

13 MR. HALLACK:

14 Well, like I said, we passed
15 legislation last session that makes them
16 comply with certain things. So maybe we can
17 add onto that or something like that.

18 MR. POTEET:

19 Okay.

20 MR. HALLACK:

21 Another thing we need to talk
22 about, too, is motor vehicle sales finance.
23 Is that a dead issue, do you want to --

24 MR. POTEET:

25 Well, I don't know that it's a

1 dead issue. I know that, you know, the
2 issues that are going on over there, the
3 wholesale thing, that's still going on. I
4 mean, they're still battling on that, but,
5 you know, the last thing I heard was that
6 Danny Alonzo was told that he had to change
7 his name to get a license -- to get a
8 finance license. And he called me and said,
9 can't you stop them from doing that, and I
10 said, no, no, that's their rule. I mean, I
11 can -- all I can do is tell you that we
12 don't require you to have a certain kind of
13 a name, but if you're going to do business
14 -- I mean, you're going to do -- now, you're
15 going to get into something that we don't
16 regulate.

17 It's just like me having a
18 license with the auctioner licensing board,
19 you guys have nothing to do with that. So
20 if they tell me I got to do something, I
21 can't come over here and say, well, you
22 know, Derek, can you go talk to them and
23 tell them that you don't make me do that,
24 but they're going to make me do it, and he's
25 to say, I can talk to them, but I can't make

1 them do anything. So I think that's where
2 we are on this.

3 MR. DUPLESSIS:

4 When was the last time you spoke
5 to Danny?

6 MR. POTEET:

7 Well, it was the end of -- two
8 weeks ago.

9 MR. DUPLESSIS:

10 I saw Danny last week at the
11 Motor Vehicle Commission and he was
12 represented by a new legal counsel and they
13 were moving to a petition hearing, which I
14 left before, and there may be an update.
15 They had kicked the thing down the road,
16 down the road, down the road. I do think
17 there's an opportunity, a window, here for
18 us to introduce legislation to regulate our
19 own guys, but that's the most recent update.
20 And I think they were threatening him was
21 what I was recited and I'm not sure what's
22 taken place, but it's on the docket. It's
23 not being handled, but it's being
24 threatened.

25 MR. POTEET:

1 Well, I think everybody in this
2 room agrees that we should be licensing our
3 own dealers.

4 MR. DUPLESSIS:

5 Is that something you would like
6 to put on the agenda, Mr. Chairman?

7 MR. POTEET:

8 Item for discussion.

9 MR. HALLACK:

10 I think we're going to have to
11 get LIADA to do something with it. We're
12 not going to be able to do it. We can
13 support it. We can run facts in support of
14 it, but we can't propose legislation.

15 MR. POTEET:

16 Well, I -- usually, Dwayne, who
17 is the head -- is the Director of LIADA is
18 at my auction and I thought he was going to
19 be there today. I hope he's not sick. But
20 if I see him tomorrow, I'll tell him that he
21 needs to try to be here for that meeting and
22 that somebody has got to carry the ball if
23 they want it done. Now, when I've talked to
24 him about it, there are a lot of people that
25 are interested in it, here's one, but it's

1 -- not too many people are having a lot of
2 problems with it. That's kind of the word I
3 get.

4 MR. TAYLOR:

5 Well, everybody is worried about
6 what could potentially happen in the future.

7 MR. POTEET:

8 It's more the fear of the
9 unknown.

10 MR. TAYLOR:

11 Right. Right now, what they're
12 doing is a money grab. They don't mess with
13 us at all. They're really not doing
14 anything.

15 MR. POTEET:

16 Yes. They don't have any people
17 to do it.

18 MR. TAYLOR:

19 They just -- they license and
20 that can be -- for every contract that you
21 bid outside of them, they're going to fine
22 you per contract. In terms -- in reference
23 to LIADA, they're pointing the finger back
24 towards us saying that this is our fight,
25 that we should fight it, and I think that

1 we've been pointing the finger back to them
2 saying, it's your fight for your dealers,
3 you should be fighting it. And I think that
4 he got some advice from LIADA's legal
5 counsel, that said they don't need to take
6 this fight on. And so now, of course,
7 they're looking back towards us.

8 MR. HALLACK:

9 We just need to find a
10 representative or senator and talk to him
11 and say, this is what I'd like to do,
12 because the rumor is that they're going to
13 push legislation to make sure that they can
14 remove wholesale from our dealer's name.
15 That's their move. That's what they're
16 going to do. If they don't think they have
17 it now and they keep pushing off Danny
18 Alonzo, the reason is because they want to
19 pass legislation to make sure our dealers
20 have a name that is acceptable to the New
21 Car Commission.

22 MR. POTEET:

23 And, you know, the issue Derek
24 and I were talking about earlier is, you've
25 got 73 of our licensed dealers out of 3,800

1 that have wholesale in their name and you've
2 got -- you know, I asked Danny -- one day,
3 we were talking about it. I said, can you
4 name 10 dealers that feel the same way as
5 you do? Don's Wholesale already told me
6 they don't care. They said, if they tell us
7 to change it, we'll change it, we don't
8 care. So, I mean, you've got to have
9 somebody that's willing to fight it. I
10 think that that issue is separate. I think
11 we should be licensing --

12 MR. HALLACK:

13 Sure.

14 MR. POTEET:

15 -- the used motor vehicles
16 dealers. So the fight over the name is just
17 a -- to me, it's a distraction from the real
18 issue.

19 MR. TAYLOR:

20 I agree. I agree.

21 MR. HALLACK:

22 And for some of the new
23 Commissioners, the biggest problem is, the
24 motor vehicle sales finance act excludes new
25 car dealers.

1 MR. POTEET:

2 That's right.

3 MR. HALLACK:

4 So they don't have to get a
5 license for motor vehicle sales finance. So
6 they license only used motor vehicle
7 dealers.

8 MR. DUPLESSIS:

9 Well, that's what -- I don't
10 think the written legislation as stated by
11 the Civil Code actually agrees with that.

12 MR. HALLACK:

13 But there's an exclusion for new
14 car dealers.

15 MR. DUPLESSIS:

16 That part is correct, but the
17 question is, and I think we all agree, that
18 there's no specific licensing for used car
19 dealers. There is a vague assumption in the
20 law, but it's not specific.

21 MR. HALLACK:

22 Right. It says all motor vehicle
23 dealers excluding new car dealers.

24 MR. POTEET:

25 It's just worded different.

1 MR. OLAVE:

2 Plus there's no representation on
3 the Board whatsoever.

4 MR. POTEET:

5 That's the thing I always said.
6 You have a commission -- a board there that
7 has -- as I understand the State law, that
8 that's not even a valid --

9 MR. OLAVE:

10 It's unconstitutional, I believe,
11 isn't it?

12 MS. MORRIS:

13 Well, the definition of motor
14 vehicle is kind of the question, because
15 they're in a different section of the law.
16 And so whether or not motor vehicle covers
17 used -- new or just used.

18 MR. POTEET:

19 Yes. I think there are a lot of
20 issues with it and I think it's definitely
21 worth discussing some more. We do have to
22 find somebody to carry the ball.

23 MR. DUPLESSIS:

24 Well, it's not going to be in New
25 Orleans, because that's where the Commission

1 is and that's the problem with Danny Alonzo
2 finding a representative. It's a hometown
3 deal that I don't think is going to go
4 anywhere. So it's going to have to be
5 someone out of the area that has some
6 passion about it or you can find a
7 legislator that is willing to take this
8 fight on. I think this is not a good
9 session for that being a fiscal session,
10 although, it's the session in front of us.
11 And I think you're going to have to fight it
12 as best you can if we can find a sponsor for
13 it.

14 MR. POTEET:

15 Yes, I agree.

16 MR. TAYLOR:

17 I'll submit it to everybody I can
18 and see if I can get anyone to do it, you
19 know, after we get it put together, but
20 we've always discussed somebody to sponsor
21 it, but we never actually put it together.

22 MR. POTEET:

23 Right.

24 MR. TAYLOR:

25 So --

1 MR. DUPLESSIS:

2 I think it's going to be an
3 internal fight that's probably going to take
4 place at the Boards and Commissions and the
5 Governor's Office.

6 MR. TAYLOR:

7 Sure.

8 MR. OLAVE:

9 Eventually.

10 MR. DUPLESSIS:

11 Well, I mean, we've sat through
12 those and that's -- it's not -- this is not
13 properly going to the floor. If it does,
14 it's going with the Governor's name on it as
15 well and it goes through, but it's going to
16 -- the battle ground is going to be Boards
17 and Commissions and the Governor's Office.

18 MR. HALLACK:

19 Somebody has to approach them
20 before we discuss it.

21 MR. DUPLESSIS:

22 I totally agree, yes. We're
23 under a doctrine to share legislation, but
24 we also should sit down with Motor Vehicle
25 -- Department of Motor Vehicle and some

1 other agencies with the catastrophes we've
2 had this year to see what their needs are to
3 get on the same page, because let's face it
4 as soon as that is titled, everything in the
5 catastrophic situations fall on us, not on
6 New Car. But if they were in support of
7 that, then, you know, there's going to be
8 some give and take. Those documents, I
9 think, are going to be drawn behind closed
10 doors with the Governor's Office and Boards
11 and Commissions, back to the Governor's
12 Office.

13 MR. POTEET:

14 Anything else regarding
15 legislation?

16 (No response.)

17 MR. POTEET:

18 All right. Let's move on to the
19 Executive Director's report.

20 MR. PARNELL:

21 Commissioners, you will find in
22 your packet some charts that illustrate the
23 amount of alleged issues and counts from
24 November and also December is in here. The
25 first one is for November, alleged issue

1 counts. There were 62 alleged issues in the
2 month of November.

3 The next report is the case
4 report. The case report illustrates that
5 there were 39 cases assigned in the month of
6 November and 15 of those cases were
7 completed. The next report shows that
8 there's a total of 39 cases that were
9 closed.

10 Keep going. The next is the
11 alleged issue counts for December. There
12 were 82 alleged issues for the month of
13 December. The next report is the case
14 report that illustrates that 51 of those
15 cases were assigned. 16 have been
16 completed. The total number of cases for
17 the month of December is 44.

18 Commissioners, we're getting
19 toward the end of our renewal period and as
20 always at this time is when I usually start
21 getting a lot of phone calls from a lot of
22 State legislators and a lot of their
23 constituents just submitted their
24 applications two or three weeks ago or two
25 days ago. And maybe I'll see what I can do

1 to help them out. So I'm getting a lot of
2 those kind of calls. So I'm pretty sure you
3 guys are starting to get some conversations
4 as well. But they're doing a good job
5 moving through this process. They're
6 meeting their goal of not having anything in
7 the office for more than 14 days if it's
8 completely complete. The problem is we'll
9 have a dealer send just money or just the
10 application and two or three months later,
11 we'll still continue to try to get him to
12 submit the proper documents. If he hasn't
13 done that, then we call the State Legislator
14 and it turns into a big back and forth type
15 of thing. So -- but we're working through
16 the process pretty good and, hopefully,
17 we'll be closing up, you know, the renewal
18 process towards the middle part of February.

19 The next thing, we've started
20 working with GL Solutions, the software
21 company that we have gone and decided to go
22 with. We want to be up and running by
23 August. So we're starting our process of
24 meeting with them, conversing with them,
25 laying down the structure of how we want to

1 see our software constructed. Of course, it
2 is a canned program there are some nuisances
3 that we can kind of cultivate to what we
4 need specifically moving forward.

5 So -- and I did re-post for
6 compliance investigators in the area. If
7 you remember two meetings ago -- well, the
8 last meeting we had, I posted for some
9 compliance investigators out there. I got a
10 lot of applications, but not very many
11 really that could fit the description of
12 what we're looking for to move forward. So
13 I posted it again to see if I get some
14 different applications. And a lot of
15 attorneys applied for compliance
16 investigator, which is weird. But, you
17 know, I didn't see the compliance.

18 MR. POTEET:

19 There's a lot of unemployed
20 attorneys.

21 MS. MORRIS:

22 I think the work force is larger
23 than the number of jobs right now.

24 MR. PARNELL:

25 And a lot of issues I see is, I

1 do like individuals that have had some
2 investigative experience, even if they had
3 law enforcement experience, but what I'm
4 running into is, is that some of the
5 persons, they may be like a corporal or
6 whatever level they're at. The position
7 that we have is a Compliance Investigator 3.
8 And so the way State Civil Service is, is
9 that they don't consider certain titles in
10 law enforcement as being the level of what
11 we're looking for, which is very strange. I
12 tried to fight with it with them, but I was
13 in a losing battle. So I -- what I had to
14 do was just -- I had to hire people at a
15 lower score, at a lower grade, per se. And
16 then after I think a year, I can move them
17 back up to where they should be. So -- but
18 it's a process. Civil Service kind of ties
19 your hands quite a bit. So I just have to
20 fight with them as much as I can, so we can
21 try to get accomplished what we're trying to
22 do. But other than that, everything has
23 been kind of going pretty smooth. I haven't
24 had a lot of problems or issues at all.

25 MR. POTEET:

1 All right. I think we're at the
2 end of our regular agenda. We've got two
3 hearings. I know that one person is here
4 for MDG. What about the other one?

5 MS. BARON:

6 I don't expect him to show up.

7 MR. POTEET:

8 Okay. All right.

9 MS. BARON:

10 That meeting will be very short
11 and sweet.

12 MR. POTEET:

13 So we've got to adjourn, right,
14 and then we'll reconvene for the hearings.

15 MS. BARON:

16 Yes.

17 MR. POTEET:

18 All right. Let's go ahead and
19 adjourn, take a few minutes break, and then
20 we'll start up with the hearing.

21

22

23 (Meeting adjourned at 10:16 a.m.)

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REPORTER'S CERTIFICATE

I, BETTY D. GLISSMAN, Certified Court Reporter, Certificate No. 86150, in and for the State of Louisiana, do hereby certify that the Louisiana Used Motor Vehicle Commission January 23, 2017, meeting 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.

This January 30, 2017, Baton Rouge, Louisiana.

BETTY D. GLISSMAN, CCR
CERTIFIED COURT REPORTER