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LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
MAY 19, 2014
BEGINNING AT 9:30 A.M.

3132 VALLEY CREEK
BATON ROUGE, LOUISIANA

REPORTED BY:
BETTY D. GLISSMAN, CCR

1 APPEARANCES:

2

3 CHAIRMAN:

4 MR. JOHN POTEET

5

6 COMMISSIONERS PRESENT:

7 MR. GEORGE BREWER

8 MR. RON DUPLESSIS

9 MR. KIRBY ROY

10 MR. HENRY "DARTY" SMITH

11 MR. DINO TAYLOR

12

13

14

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16 REPRESENTING THE LOUISIANA USED MOTOR
17 VEHICLE COMMISSION:

18 ROBERT W. HALLACK, ESQUIRE
19 HALLACK LAW OFFICE
13007 JUSTICE AVENUE
BATON ROUGE, LOUISIANA 70816

20 SHERI MORRIS, ESQUIRE
21 ROEDEL, PARSONS, KOCH, BLACHE,
BALHOFF & McCOLLISTER
22 8440 JEFFERSON HIGHWAY, SUITE 301
BATON ROUGE, LOUISIANA 70809

23

24

25

1 ALSO PRESENT:

2
3 MS. KIM BARON

4 MR. DEREK PARNELL

5 MS. MONA ANDERSON
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1 MR. POTEET:
2 Pledge of Allegiance.
3 (Pledge of Allegiance)
4 MR. POTEET:
5 Kim, roll call, please.
6 MS. BARON:
7 John Poteet?
8 MR. POTEET:
9 Here.
10 MS. BARON:
11 George Brewer?
12 MR. BREWER:
13 Here.
14 MS. BARON:
15 Dino Taylor?
16 MR. TAYLOR:
17 Here.
18 MS. BARON:
19 Tony Cormier?
20 MR. CORMIER:
21 (No response.)
22 MS. BARON:
23 Ron Duplessis?
24 MR. DUPLESSIS:
25 Here.

1 MS. BARON:

2 George Floyd?

3 MR. FLOYD:

4 (No response.)

5 MS. BARON:

6 Kirby Roy?

7 MR. ROY:

8 Here.

9 MS. BARON:

10 And Darty Smith?

11 MR. SMITH:

12 Here.

13 MS. BARON:

14 Mr. Chairman, we have a quorum.

15 MR. POTEET:

16 Excellent. Do we have anyone
17 here for public comments?

18 MS. BARON:

19 We do not.

20 MR. POTEET:

21 All right. First thing on our
22 items for discussion is the approval of
23 minutes from the previous meeting.

24 Hopefully, everybody has had a chance to
25 read those.

1 Do I have a motion?

2 MR. SMITH:

3 I'll make a motion.

4 MR. POTEET:

5 Darty.

6 Second?

7 MR. TAYLOR:

8 Second.

9 MR. POTEET:

10 A second from Dino.

11 All those in favor, say, "Aye."

12 (All "Aye" responses.)

13 MR. POTEET:

14 Any opposed?

15 (No response.)

16 MR. POTEET:

17 Okay. That motion passes.

18 Financial matters, Mona.

19 MS. ANDERSON:

20 First, in your binders, you have
21 the financial statements for April 2014. On
22 Page 1, the statement of net position, cash
23 in the bank was -- cash in the bank was
24 \$1,535,488 compared to -- I'm sorry, and the
25 current assets at the end of April were

1 \$2,099,000. Hearings and fines were up to
2 \$65,600. Down at the bottom of the page,
3 your current liabilities were \$30,000.

4 On Page 2, the deferred revenue
5 for 2015 was \$261,750. On Page 3 is your
6 statement of revenues, expenses, and changes
7 in net position. The year-to-date revenue
8 in the middle of the page was \$1,092,935
9 compared to \$1,059,000 last year, an
10 increase of about \$33,000. Under expenses,
11 the salaries were \$414,900, and the related
12 benefits were -- on the next page were
13 \$216,650. The remainder of the expenses
14 were \$176,000 compared to \$184,000 last
15 year. The maintenance -- under maintenance
16 -- other maintenance there, we included
17 payment for the new sign that was -- you saw
18 at the end of the parking lot and we reduced
19 the cost on that. Originally, we had gotten
20 some quotes that were a little higher than
21 that, but we reduced the cost by utilizing
22 the existing posts and just painting them,
23 trying to do a little upgrade.

24 On Page 5, the year-to-date net
25 position was a gain of \$285,000 compared to

1 \$305,000 last year. On Page 6 is -- you can
2 see the month-to-month net position,
3 revenues, expenses, and that's shown
4 graphically on Page 7. The revenues were
5 down at the end of the period and the
6 expenses are level. On Page 8 is the fee
7 revenue. The UD licenses and the auction
8 transaction fees represent -- represented
9 the majority of the fees and we did have
10 some increase in the salesman -- salesperson
11 licenses.

12 On Page 9, the certificate of
13 deposit report, the two Landmark Bank CDs
14 matured and the rate was slightly lower. It
15 was point seven. It's now point six-five.

16 On Page 10, the accounts
17 receivable hearings, we had \$5,750 added to
18 the -- assessed during the period and we
19 collected \$5,200. Some of the collections
20 that are shown in that column there are
21 cumulative over a couple of months. The
22 remainder -- what remained in the hearings
23 and hearing fines is \$65,600. We sent the
24 final collection letter on Value Imports and
25 as soon as we get the postal receipt back on

1 that, we'll refer that to the Attorney
2 General in May for collection.

3 And unless there are any
4 questions, that concludes the first part of
5 my report.

6 (No response.)

7 MR. POTEET:

8 I guess there are no questions.
9 It's been quiet now for well over a minute.

10 MS. ANDERSON:

11 Do we want to approve --

12 MR. POTEET:

13 I guess we can approve those. We
14 need a motion to approve the financial
15 statement.

16 MR. SMITH:

17 I make a motion to approve.

18 MR. TAYLOR:

19 Second.

20 MR. POTEET:

21 All in favor, say, "Aye."

22 (All "Aye" responses.)

23 MR. POTEET:

24 Any opposed?

25 (No response.)

1 MR. POTEET:

2 That motion passes.

3 So next we'll move on to proposed
4 budget amendments.

5 MS. ANDERSON:

6 In your packet, there's a
7 proposed budget amendment to adjust the
8 budget for the '13/'14 fiscal year to bring
9 it in line with -- more in line with what
10 actually happened. This budget was prepared
11 at the end of 2012 and, as always, we need
12 to adjust some line items. The first column
13 shows you what the original budget was. The
14 second column is an estimate of our end of
15 year. The third column would be what would
16 be remaining in the budget, and then our
17 proposed budget amendments, and if those are
18 passed, what the revised budget will look
19 like. The revenues were amended to bring
20 them in line with the anticipated
21 end-of-year revenues. We had budgeted a
22 minimal amount of \$40,000 in hearing costs
23 and fines. That's being amended, and so
24 that -- the -- what was remaining in the
25 budget will be \$26,000. So we're amending

1 the revenues to show that. The -- we
2 originally budgeted a five percent increase
3 in fee revenue and there just was not that
4 much growth in that.

5 On the next page, the adjustments
6 to the expenses are among various line
7 items. The total is on the last page.

8 We're proposing to adjust the expenses down
9 by 69 and the net position would be --
10 reflect \$20,787 in lieu of a loss of 22.

11 Some of the items that are being changed,
12 there were no major purchases of assets. We
13 didn't purchase an additional vehicle. We
14 thought we were going to need to purchase
15 that extra vehicle. That didn't happen.
16 And the office purchases were absorbed in
17 the other line items of the budget. The
18 budget originally contained funds to
19 implement a new licensing program. Turned
20 out that we did not need to do that. We
21 didn't find a program that was more adequate
22 than what we currently use. So we're moving
23 that money around within the budget and like
24 I said, the amended budget will show a
25 positive \$20,787.

1 MR. POTEET:

2 A big reduction in legal expense.

3 Good job, guys.

4 MS. ANDERSON:

5 We always budget to the maximum

6 of the contract and, of course, we didn't

7 spend all of that.

8 MR. POTEET:

9 Okay. So I think we need a
10 motion to approve this.

11 MR. SMITH:

12 I'll make a motion.

13 MR. POTEET:

14 Darty.

15 MR. TAYLOR:

16 Second.

17 MR. POTEET:

18 Dino second.

19 All in favor, say, "Aye."

20 (All "Aye" responses.)

21 MR. POTEET:

22 Any opposed?

23 (No response.)

24 MR. POTEET:

25 All right. So motion to approve

1 the proposed amendments.

2 All right. And we've got one
3 more financial matter. We have legal.

4 MR. PARNELL:

5 Commissioners, please find within
6 your packet Commission Counselor Morris'
7 balance sheet, which illustrates the bill of
8 services for the month of April 2014. The
9 amount -- balance due is \$3,456.25. I have
10 reviewed the detailed bill of services and I
11 have had accounting go through and make sure
12 that the hours are accurate and I ask that
13 you would approve payment of Counsel Morris'
14 balance sheet -- I'm sorry, balance due of
15 \$3,456.25.

16 MR. POTEET:

17 A motion?

18 MR. BREWER:

19 I make a motion to approve.

20 MR. SMITH:

21 I'll second.

22 MR. POTEET:

23 Second by Darty.

24 All in favor, say, "Aye."

25 (All "Aye" responses.)

1 MR. POTEET:

2 Any opposed?

3 (No response.)

4 MR. PARNELL:

5 Moving forward -- and I will just
6 put in the balance sheet, I received the
7 detailed listing of it. I do review that,
8 but if that's something that -- I'll go
9 ahead and just put the balance sheet in the
10 packets.

11 MR. POTEET:

12 That's okay with me.

13 Anybody have any questions?

14 That's always available to review. Okay.

15 Let's move on to the Executive
16 Director's report.

17 MR. PARNELL:

18 Commissioners, if you would turn
19 with me to your books -- your binders, under
20 complaint totals, you'll find that we have
21 reports -- we have alleged issue counts.
22 There were 141 alleged issues for the month
23 of April 2014. The next document that you
24 see is the case report, which illustrates
25 the amount of cases that were assigned to

1 those investigators. There were a total of
2 102 cases that were assigned. Forty-two of
3 those cases were completed, which means 60
4 of those cases remain open. The detailed
5 summary report illustrates that for the
6 month of April, there were 83 cases that
7 were closed for the month. Investigators
8 have been working really hard in trying to
9 satisfy consumer complaints and assuring
10 that the licensees are in compliance. Other
11 actions were three audits were conducted, 83
12 work audits and site visits were conducted,
13 39 physical inspections, titles getting
14 assisted, being delivered to consumer were
15 23. Total number of refunds for the month
16 was \$6,353.17.

17 And the next item will be general
18 information. I just wanted to let you know
19 we did do some interviewing for the
20 investigator position in Area 3. We did
21 find someone that we really liked and has
22 some background in -- he has a little bit of
23 military background, but he also has some, I
24 guess you would say, law enforcement
25 background. Right now, I'm working with

1 Civil Service, because what they're telling
2 me now is that the law enforcement
3 background that he has doesn't classify him
4 into the position that we're requesting. So
5 I'm trying to work with them, so I can get
6 them to allow me to have a provision where I
7 can -- they will allow him to move into that
8 position. There's been a lot of
9 investigative background, a lot of -- but, I
10 mean, Civil Service, sometimes it's kind of
11 difficult to get things done the way I want
12 to. So I'm just working with them on that.
13 And that pretty much concludes the Executive
14 Director's report.

15 MR. POTEET:

16 Where is 3, is that Lafayette?

17 MR. PARNELL:

18 Yes. The Lafayette area, yes.

19 MR. POTEET:

20 If we get that position filled,
21 are we all caught up with investigators now?

22 MR. PARNELL:

23 Yes.

24 MR. POTEET:

25 Will we still have an open

1 position?

2 MR. PARNELL:

3 No. We won't have an open
4 position, but I would, you know, in the
5 future still like to bring on two additional
6 -- of course, we could have two in the New
7 Orleans area in District 5 and two in the
8 Baton Rouge area in District 4. Ideally, I
9 think if we had seven right now, two in
10 those areas, we would be able to be a little
11 bit more productive on what we're doing.

12 MR. POTEET:

13 Proactive.

14 MR. PARNELL:

15 Yes.

16 MR. POTEET:

17 Or productive, too. We will be.

18 MR. PARNELL:

19 Yes. So -- and that's reactive
20 to what's going on out there.

21 MR. POTEET:

22 All right.

23 MR. TAYLOR:

24 Does that put Montie in
25 Shreveport -- staying in Shreveport?

1 MS. BARON:

2 Shreveport and Monroe.

3 MR. PARNELL:

4 Yes. He won't have to come down
5 to work Area 3 like he's doing now. He and
6 Ronnie have spent a lot of time on the road
7 working these other areas, helping out.

8 Well, they all do that, but it's a lot more
9 -- many more dealers in the New Orleans and
10 Baton Rouge area. So they get inundated
11 down here quite easily.

12 MR. POTEET:

13 You know, this is not for -- you
14 know, I'm not going to call you on this
15 later, but two questions about this. One,
16 do you think that you're going to be able
17 convince Civil Service?

18 MR. PARNELL:

19 I do, because they've allowed me
20 to change something before and get -- I do,
21 but I just have to talk to the right person.

22 MR. POTEET:

23 And then what do you think the
24 time line is, a few weeks, months?

25 MR. PARNELL:

1 I hope so. So discussions have
2 kind of started and I think within the next
3 few weeks or so -- they did -- the last
4 time, they gave me a pretty good timeline
5 and it only took about a week or so. It
6 only took about two weeks. So I should be
7 able to have somebody out.

8 MR. POTEET:

9 Good, excellent.

10 MR. PARNELL:

11 If not -- if they don't allow me
12 to do that, I'm -- we're going to have to
13 try to go out and post, again. What was
14 sent to me as far as applications really
15 wasn't that great, to be honest with you,
16 and this gentleman I found, he has done a
17 lot of work investigating. It's just that
18 the way they classify positions, his law
19 enforcement just doesn't meet exactly the
20 level that they want him to have. So he's
21 been a private eye in the past, but -- and
22 he's also got drug enforcement and he's also
23 done some stuff as a detective, you know,
24 but --

25 MR. POTEET:

1 Well, we have confidence in you.

2 MR. PARNELL:

3 It's Civil Service's job
4 description for the Compliance Investigator
5 3. It's their requirements for -- the
6 minimum requirements for the position, it
7 requires them to have X amount of law
8 enforcement, and he has it, but they don't
9 classify it as the level that I believe he
10 has.

11 MS. BARON:

12 It didn't have a specific title,
13 right?

14 MR. PARNELL:

15 Right.

16 MR. POTEET:

17 Okay. Committee report, the
18 Legislative Session.

19 MR. DUPLESSIS:

20 Okay. We have three bills out
21 there that concern us this year.

22 And, Derek, nothing we're playing
23 defense on that I see.

24 MR. PARNELL:

25 Well, no, not necessarily,

1 possibly on -- well, 770 is our bill that we
2 have out there, which when we were in the
3 Senate, Senator Martiny kind of mentioned to
4 us that he wanted to put on some amendments
5 out there on the bill, because he felt like
6 there wasn't enough penalties for the dealer
7 as it relates to the down payment and --
8 deposit and down payment. Once it went to
9 the Senate floor, Senator Martiny --
10 Counselor Morris suggested that he -- we
11 work with him on putting that amendment out
12 there. And it went to the Senate floor and
13 he went ahead and put it out there and --
14 which, in my opinion -- and I will let Ms.
15 Morris kind of talk about it a little bit,
16 kind of changes the intent of our
17 legislation as it relates to the down
18 payment and the disclosure. Now, we have, I
19 guess, two options at this point. We can go
20 ahead and accept the amendment and let the
21 rest of the bill go through or we can allow
22 the bill -- talk to Representative Price and
23 have the bill go to the Conference
24 Committee, but I'll let Ms. Morris kind of
25 talk about the Conference Committee and what

1 the pros and cons are about that.

2 MS. MORRIS:

3 The concern that Senator Martiny
4 expressed in committee was that he didn't
5 feel that it was fair to have -- if a dealer
6 took a deposit from someone, and then
7 another customer came and wanted the same
8 car and offered to pay more than the dealer
9 just had to return the deposit and there
10 wasn't any penalty on the dealer side and
11 there would be the inconvenience possibly on
12 prospective purchaser's side. So we had a
13 meeting at the commissioner's office on
14 something else that was scheduled at the
15 time the bill came up. Mr. Hallack and I,
16 we discussed including an amendment. We had
17 told Senator Martiny we would be happy to
18 work with him, but our intent was more to
19 clear up the misunderstanding between the
20 customers and the dealers as to how to
21 handle a deposit, because we wind up with
22 those complaints. And so we were going to
23 put some language in there to make it -- the
24 dealer would have to refund one and a half
25 times what the deposit was if the dealer

1 just backed out without any cause.

2 So before we got that in -- and
3 we were not aware that the bill was on the
4 Senate floor that day. It passed the Senate
5 floor with Senator Martiny, but really what
6 we did was we took out -- we said that you
7 have to give the customer a disclosure and
8 we said under these conditions, you have to
9 return the deposit and under these
10 conditions, you don't. Well, he took all of
11 that out. So he says we have to provide a
12 disclosure. It's now going to say that it
13 has to include the amount of the deposit,
14 down payment, whether the money is given as
15 a deposit or down payment, and the terms and
16 conditions for return or forfeiture of the
17 deposit by the customer, which we're, I
18 think, back to sort where we were before,
19 that the dealer just put all deposits
20 non-refundable.

21 And this kind of gives them the
22 -- right now I don't think they have
23 authority under State law to do that,
24 because the law of deposits would control
25 whatever you put on the form, but if the law

1 says that you're required to give disclosure
2 about the terms, which is refundable, maybe
3 this overrides the law of deposit. It's an
4 argument that I don't think we want to be in
5 the middle of.

6 MR. POTEET:

7 It sounds like it's got a built
8 in loophole.

9 MS. MORRIS:

10 Well, it lets the dealers go back
11 to what they were doing.

12 MR. HALLACK:

13 The dealer can do whatever they
14 want to do.

15 MR. POTEET:

16 It's an endorsement of that.

17 MS. MORRIS:

18 And it may be -- and it might
19 pass muster with the court, because the
20 legislatures said you can -- as long as you
21 give disclosure, it may be okay. So it's
22 concerning, but at the same time, you have
23 to kind of look at the process and the
24 process is at this point in the second
25 chamber, it was -- since it was amended the

1 second time, it goes back to the House side
2 and Representative Price can reject to the
3 amendment.

4 But by rejecting an amendment, it
5 puts it in Conference Committee. Conference
6 Committee is kind of a dangerous thing to
7 me, because you don't get to participate.
8 There will be six members, three from the
9 House, three from the Senate appointed. The
10 Chairman of the Conference Committee will be
11 on it and then the author of the bill, and
12 then three other people. So in Conference
13 Committee, anything can be put on your bill.
14 You don't have any really good mechanism to
15 show up in here and explain and hear what's
16 going on. They just issue -- they meet when
17 they can and they issue a report, and then
18 when the report comes back, each Chamber can
19 accept or reject it.

20 If either Chamber rejects it or
21 if it's something that we don't agree with,
22 then we're going to have to pull the bill.
23 And this particular bill, we have some other
24 things that we felt like we needed in the
25 bill and that was the false advertisement

1 issue and clarification on the auction. So
2 it's a risk to put it in Conference
3 Committee and we just kind of have to decide
4 if it's a risk for us to take. It is --
5 session ends June 2nd, which is --
6 ordinarily, it goes through June, but June
7 2nd is the last day, and what happens is,
8 you get closer to the end of session. So if
9 we were in Conference Committee early, the
10 session might be a different deal, but if --
11 people that have lost bills that they were
12 promoting or whatever are looking for a bill
13 to attach onto and they can do it by
14 Conference Committee. So you can get some
15 very odd things attached onto your bill or
16 things that are really -- it could have to
17 do with somebody else and you don't really
18 care, because you're not interested in that
19 very law, but it could really reverse
20 everything that you have in your own bill.
21 So this late in the game, it's a difficult
22 issue.

23 MR. POTEET:

24 So maybe I didn't understand this
25 right. When this goes back to Price, he can

1 -- if he rejects the amendment, then it goes
2 to Conference Committee?

3 MS. MORRIS:

4 Correct.

5 MR. POTEET:

6 He can't make any changes other
7 than to reject it?

8 MS. MORRIS:

9 Correct. He can accept or
10 reject.

11 MR. POTEET:

12 Accept or reject.

13 MR. PARNELL:

14 And I told him that we would be
15 meeting today and let him know what we
16 decide today. So we can go ahead and move
17 forward.

18 MR. POTEET:

19 It sounds like we're suggesting
20 that we let it go.

21 MS. MORRIS:

22 It's one of those -- if he calls
23 -- because you don't know who is watching
24 the bill and maybe has -- we know that with
25 someone that has -- that suggested that we

1 put an amendment in our bill, which we
2 didn't feel like relative to auctions. We
3 didn't feel that it was appropriate, and so
4 I don't know if they're still watching the
5 bill or whatever. So it just kind of --

6 MR. DUPLESSIS:

7 Well, it has to be germane to the
8 law in the session.

9 MS. MORRIS:

10 It does, but they will not strike
11 it down for germaneness, and then our bill
12 is subject to attack in court. I'm going to
13 give you an example. This is a real life
14 example.

15 When I started with the
16 Cosmetology Board 14 years ago, they had a
17 piece of legislation and someone had to
18 amend -- to change the composition of the
19 Board and the Board was against it and the
20 Governor's Office was against it and
21 everybody was against it. So they thought
22 they got that amendment off and they thought
23 they won. Well, the last day of session or
24 so, there was a bill in Conference Committee
25 dealing with the Racing Committee, which has

1 nothing to do with the Cosmetology Board,
2 and so the people that lost their amendment,
3 they attached it on the Racing Committee's
4 bill and it passed without the Cosmetology
5 Board knowing about it, without the
6 Governor's Office knowing about it. So it
7 passed, because the Racing Commission got
8 the language they wanted, so they didn't
9 care what else was on the bill.

10 So then they get a letter from
11 the Governor's Office saying that, you know,
12 so and so is being appointed. Well, he
13 isn't even qualified to be on the Board.
14 Well, he does because of act number such and
15 such. So things like that happen.

16 I've been involved where, you
17 know, people can put something that has to
18 do with Motor Vehicles, which is germane,
19 but it's something that you really would not
20 support. So it's a gamble one way or
21 another.

22 You also have the ability to pull
23 the bill. It's our bill and Representative
24 Price can reject the Conference Committee
25 order, but that leaves us with no bill. We

1 won't have the other things we want. And so
2 it's just whether or not you feel like
3 that's a risk that you want to take. And
4 there's really no way to tell.

5 MR. DUPLESSIS:

6 It's clear. Let the bill fly
7 through.

8 MS. MORRIS:

9 And then next year come back and
10 fix it.

11 MR. DUPLESSIS:

12 And get ahold of Martiny, because
13 you -- I think we've worked with Martiny
14 before and he's pretty reasonable. Every
15 now and then he does a knee jerk reaction
16 and he kind of goes in the session and he is
17 not listening as well as he should, but if
18 you have a year to present it to him and
19 show him what's going on, I think it's no
20 different than what we're doing. It's not a
21 catastrophic issue to us. It could be a
22 pain to us.

23 MS. MORRIS:

24 The only downside, I told Derek
25 was, you know, we're going to start

1 requiring disclosure and the disclosure will
2 be under this clause and we will try to come
3 back and change it next year. The dealers
4 will have to change their disclosures,
5 again, but -- so it's an inconvenience to
6 the dealer in that respect possibly, but,
7 really, if you're following the law of
8 deposit, you really shouldn't have to -- I
9 mean, we can make it like the law of deposit
10 and you wouldn't have to change your
11 disclosures, but the ones that say all
12 deposits are not refundable, they are --
13 they would have to come back, because --

14 MR. HALLACK:

15 Well, our two biggest problems
16 that we're seeing in terms of consumer
17 complaints are, one, there is no agreement
18 and the dealer just holds -- keeps the
19 money, period. And we've had hearings on
20 that issue before. Where there is no
21 contract, it would fall back to the law on
22 earnest money, but the problem is, you also
23 have dealers that write these deposit
24 disclosure agreements that are very onerous
25 on the consumer and, you know, it requires

1 exorbitant mileage. Everybody is familiar
2 with the bailment agreement, 50 cents a
3 mile, \$50 a day, and those things will hold
4 water. That's a contract that the person
5 agrees to under the law that we're trying to
6 propose. A dealer can't do that kind of
7 thing. He's restricted in what he can
8 charge for certain things. So, you know,
9 it's a big problem in the industry, not with
10 good dealers.

11 MS. MORRIS:

12 He didn't take out our day rate
13 and mileage reimbursement if the consumer
14 takes the vehicle. So you are restricted to
15 that amount. He didn't take that part out.

16 MR. HALLACK:

17 Well, I thought he took out all
18 of the disclosure requirements.

19 MS. MORRIS:

20 No. He's making the disclosure,
21 but the lines that he took out were the
22 failure to perform under the terms of the
23 agreement, including or not limited to, the
24 dealer's failure to provide the vehicle for
25 its intended use and the ability of the

1 customer to get financing. He took out
2 those. He didn't take out our day rate. He
3 took out -- his language says that you have
4 to disclose the terms and conditions, but he
5 took out some of our terms and conditions.
6 I don't think it does really what he said
7 his problem was. It does something else,
8 but he did leave part of ours in there.

9 MR. HALLACK:

10 His original position was that he
11 wanted to create something that was more
12 consumer friendly, but what he did with his
13 amendment make it --

14 MS. MORRIS:

15 Less consumer friendly, in my
16 view.

17 MR. POTEET:

18 Well, that's what -- to Ron's
19 point, I think what we do is let this go
20 through, and then have a year to discuss it
21 with him and say, look, you know, what
22 happened was your intentions -- we
23 understand your intentions, but basically we
24 interpreted that and this is why we'd like
25 to change it and this is somebody that we've

1 worked with before without much trouble,
2 maybe he'll deal with that.

3 MR. HALLACK:

4 One of the biggest problems in
5 the law the way that it is written right now
6 is if the consumer cannot obtain financing
7 for the deal, the dealer has to eat the
8 entire deposit, and we've had a series of
9 problems including some complaints out of
10 New Orleans where the --

11 MR. DUPLESSIS:

12 The consumer never has to eat the
13 entire deposit.

14 MR. HALLACK:

15 Right. The consumer loses.
16 Right, that's correct. The way our law is
17 structured, the way it's written right now,
18 if a consumer can't get financing, the
19 dealer loses the entire deposit.

20 MR. POTEET:

21 The consumer, you're not saying
22 the dealer.

23 MR. DUPLESSIS:

24 The dealer has to return the
25 deposit.

1 MR. HALLACK:

2 Has to return the deposit. I'm
3 sorry.

4 MS. MORRIS:

5 But I think under this section,
6 you could put that in your disclosure. See,
7 he took it out of the law, but he said you
8 have to disclose the terms. So you can
9 probably write your disclosure that way.
10 But it's not -- we might make them write the
11 disclosure like that.

12 MR. DUPLESSIS:

13 Sheri, you can't contract against
14 what's in the law.

15 MS. MORRIS:

16 Right. He just took out -- we
17 were making it specific that if the consumer
18 didn't give adequate or accurate information
19 about their ability to obtain financing and
20 insurance, then the dealer got to keep the
21 deposit. He just took that out, but I don't
22 know that it necessarily precludes you from
23 putting that in your disclosure.

24 MR. DUPLESSIS:

25 Well, right now, the law is, you

1 have to return the deposit.

2 MR. HALLACK:

3 The dealer must return the
4 deposit.

5 MR. DUPLESSIS:

6 Right.

7 MR. HALLACK:

8 We have a couple of dealers that
9 are complaining that that's not fair. If
10 the consumer can't get financing, then it's
11 the consumer's fault and I shouldn't have to
12 give back the deposit. I know everybody
13 disagrees with that, but we actually have a
14 couple of dealers that are complaining that
15 if the consumer can't get their own
16 financing, I shouldn't have to give back the
17 deposit. I don't agree with that. I'm not
18 saying I agree with it. I'm just telling
19 the Board that we have dealers that are
20 complaining that I shouldn't have to give
21 back a deposit where the consumer can't get
22 financed.

23 MS. MORRIS:

24 One way for the dealer to protect
25 themselves if they come with a bank

1 clearance like they could in the real
2 estate, but they will. I mean, the -- I can
3 go down to the credit union and they can
4 tell you that you can get a line of credit
5 for this amount or something.

6 MR. HALLACK:

7 I don't think that's how it
8 works.

9 Mr. Taylor, what do you think?

10 MR. TAYLOR:

11 Well, the last time --

12 MS. MORRIS:

13 Before you take the deposit.

14 MR. TAYLOR:

15 -- the last time we discussed
16 this, I was kind of leaning more towards
17 Martiny and his thoughts. If you go all the
18 way back to discussing -- the dealer is
19 providing a tool to get the consumer
20 financed. Ninety times out of a hundred,
21 even these independent lots, we have an
22 indirect lending for that. They're telling
23 the consumer that they're going to get them
24 financed, and then when they come back in
25 and you can't get them financed, there's a

1 whole new problem even though they couldn't
2 do it and it's really a small technicality,
3 but you need to put it in writing. Well,
4 the dealers should have done his homework.

5 Wouldn't you agree, Ron, to find
6 out if the right fix before you spotted the
7 car? I have a tendency to lean more towards
8 the consumer than the dealer, even though I
9 am a dealer in this case. I don't know if
10 I'm answering your question.

11 MR. POTEET:

12 Well, I mean, you know, that
13 seems like a harsh penalty for somebody if
14 they can't get financing to lose their whole
15 deposit.

16 MR. TAYLOR:

17 There are times they're just
18 saying that I can get you financed.

19 MR. POTEET:

20 What does the dealer -- I mean,
21 you know, what is the dealer giving up for
22 that deposit, a little bit of time, maybe
23 the car is not available for sale, but --

24 MR. DUPLESSIS:

25 Well, you're giving up floor

1 planning. You're giving up a drop in the
2 book. So, you know, you lose three percent
3 on the drop of the book and you lose your
4 floor plan, I don't know \$10 a day for 20
5 days, 200 bucks plus the loss on the books
6 you're looking at. You know, 550 bucks for
7 that period of time is a calculable loss.

8 MR. TAYLOR:

9 I think that they give you 20
10 days or something.

11 MR. DUPLESSIS:

12 Twenty days.

13 MR. POTEET:

14 That's what I was curious how
15 long.

16 MR. TAYLOR:

17 You have a finance manager and if
18 they can't afford it, they would let
19 somebody stay in one of your cars for 20
20 days without being able to get that thing
21 funded.

22 MR. DUPLESSIS:

23 I think the difference with us
24 is, we don't spot cars. And I think in the
25 independent world, that is a habit to slow

1 the customer down, if you will, to keep the
2 customer. You go shop credit, but, you
3 know, you get your stips up front, your
4 stipulations and your contracts. In my
5 opinion, if it -- the only time that the
6 customer is going to be his own victim is
7 when he's delusional in the fact that he can
8 get financed and he says, you know, I've got
9 my deal covered and I have -- I can kind get
10 you but I can go to the credit union, and
11 then the credit union won't hook him, then
12 you can be assured he's just not a
13 possibility to be financed. So I think --
14 you know, I have an issue with contracting
15 against the scheme of law. So, you know, I
16 think that's a bad precedent for us to
17 start, where we can allow our dealers to
18 create a contract that puts the consumer in
19 conflict of our -- of State law. I think
20 that's the issue.

21 MR. HALLACK:

22 Well, that's Martinez's
23 amendment. Martinez's amendment says the
24 dealer is free to contract in any way he
25 sees fit. So the consumer has to give them

1 -- has to lose the deposit or whatever.

2 MR. TAYLOR:

3 If that's the case, that is a
4 profit center for a dealer.

5 MR. DUPLESSIS:

6 Sure it is. The gate is open.

7 MR. HALLACK:

8 Sure. Absolutely.

9 MR. POTEET:

10 The gate is open now.

11 MR. HALLACK:

12 It is.

13 MR. DUPLESSIS:

14 Not like this one is going to be.

15 MR. HALLACK:

16 Well, this is going to be the
17 double gate are open.

18 MR. BREWER:

19 About two years ago, we had a
20 dealer in here from New Orleans who was
21 making a living doing that, the old guy.

22 MR. POTEET:

23 I remember that. But this would
24 also -- I mean, if that does happen, then
25 that certainly gives us some room to work

1 with Martiny next year to get this done.
2 You know, I think right now --

3 MS. MORRIS:

4 We have most of the contingencies
5 covered, but that one.

6 MR. POTEET:

7 -- I think what we're looking at
8 right now, you know, in real time is, do we
9 want to take a chance on letting this bill
10 get away from us.

11 MR. DUPLESSIS:

12 The answer is, no.

13 MR. POTEET:

14 And the answer is, no. And I
15 think, you know, that we should go ahead and
16 go with this and, you know, try to work on
17 it for next year and try to get it -- and
18 see what happens. I mean, it may prove that
19 the things that Mr. Hallack is saying and
20 that Mr. Duplessis is saying are going to
21 come true and it's even more impetus to get
22 it done correctly.

23 MR. DUPLESSIS:

24 It might be a long year.

25 Sheri, I don't think it's that

1 big a deal, and we're going to have to make
2 decisions in the best interest of the
3 consumers and if we have to go to court,
4 then we'll have to testify. Is there any
5 way of getting our arms around Martiny and
6 talk to him and get him to reconsider this?

7 MS. MORRIS:

8 For this session or --

9 MR. DUPLESSIS:

10 Yes.

11 MS. MORRIS:

12 We can certainly try to meet with
13 him, but I guess --

14 MR. POTEET:

15 You have to talk to Price today,
16 right?

17 MS. MORRIS:

18 If Price is going to reject it,
19 he's got to -- he probably has rejected it
20 today. It's scheduled for today, but there
21 is the Republican golf tournament and that's
22 where they all are and they are going to be
23 a little while in the House and they go
24 back, because they're going to lose too many
25 people.

1 MR. POTEET:

2 Can't they wait until June 3rd?

3 MS. MORRIS:

4 Well, they actually have it a
5 week later, but the session ends June 2.
6 They usually have it the Tuesday after
7 Memorial Day, but they had to move it this
8 year. I don't think that they will get
9 through their whole schedule today or not,
10 but --

11 MR. POTEET:

12 Anybody else have anything to say
13 about this? I mean, we've been talking
14 about it. My feeling is we let it go
15 through. I think Ron is saying we need to
16 let it go through.

17 MR. DUPLESSIS:

18 And I'm going to get to the main
19 point of that with the next bill.

20 MR. POTEET:

21 Does anybody else have a --

22 MR. TAYLOR:

23 I don't know what else to do.
24 Who orchestrated this in the beginning? I
25 mean, I know we sat here and put some ideas

1 together, and then just let Martiny -- how
2 does that process go?

3 MS. MORRIS:

4 He is the main Chair of Commerce,
5 and so Representative Price agreed to
6 sponsor our bill and he's a member of the
7 Commerce Committee in the House, and it's
8 better for us to work with somebody on the
9 Commerce Committee, because they can better
10 track it. They've got to do it in
11 committee, anyway. So Representative Price
12 helped us last year and he agreed to help us
13 this year and he's done a very good job of
14 getting in touch with Derek when anything
15 changes, and it went through the House fine.
16 There was no comment or anything, no
17 discussion. When it got to the Senate, the
18 day that we were in the Senate Commerce
19 Committee -- I don't know if y'all have been
20 reading the paper, but there's a bill to
21 change the plumbing code that's drawn a lot
22 of controversy and a lot of people down at
23 the Capitol. We happened to be on that same
24 day. So it was packed. You couldn't even
25 get near the room. The overflow room was

1 packed. And Representative Price approached
2 Senator Martiny about are we going to be
3 before this bill or after this bill, because
4 we would have been there all day. I think
5 we would have been after the plumbing bill.
6 Then Representative Martiny then started
7 saying this page, this page, started asking
8 all kind of questions, and so we -- that day
9 was kind of hectic in his committee.
10 Senator Martiny is the Chair of the
11 committee. He had a lot on his plate. So
12 he didn't really have time to speak with us
13 about it or try to work something out. And
14 so when we presented the bill, he did
15 express that concern. He said it's not
16 fair. If I want to buy this car and I put
17 down a deposit, and then the next person I
18 will give you two thousand more, then there
19 is no penalty for the dealer.

20 And I explained to him that that
21 really wasn't what was brought to us and
22 what we were trying to address, but we would
23 work with him on that issue, and so it just
24 kind of made it there before we even sat
25 down with him. So he is the Chair of the

1 Commerce Committee. So he is going to be on
2 the Conference Committee and it's just the
3 time crunch of being kind of sure of his
4 position before we have to make the call for
5 Representative Price if it does, in fact,
6 come up this afternoon.

7 MR. DUPLESSIS:

8 John, my thought is to let it go
9 through before you try to get your hands
10 around Martiny and --

11 MS. MORRIS:

12 He's real busy --

13 MR. DUPLESSIS:

14 Right.

15 MS. MORRIS:

16 -- being the Committee Chair at
17 last day of --

18 MR. DUPLESSIS:

19 But if he would try to slow down
20 the unintended consequences maybe I could --
21 you have a good rapport with him and I think
22 he understands that the Commission is doing
23 the right thing. If we can rearrange that
24 language and send it through.

25 MR. POTEET:

1 Yes. I think with your
2 relationship with him, explain we're on the
3 same page. He's on the same page with us.
4 It's just -- it's a wording thing.

5 MS. MORRIS:

6 We don't agree with what he was
7 trying to do.

8 MR. POTEET:

9 Yes. And maybe he understands,
10 like Mr. Hallack is saying, we'll kind of
11 open it up, maybe we can get it done before
12 we have to get back with Mr. Price.

13 MR. DUPLESSIS:

14 But I don't think he put it in
15 the Conference Committee.

16 MR. TAYLOR:

17 And if not, we let it through.
18 Is that what you're saying?

19 MR. DUPLESSIS:

20 Yes, exactly. And the reason we
21 don't want it in Conference Committee is
22 because of 1089. That's -- if -- you know,
23 if you really want to create an issue, have
24 that put in the Conference Committee and
25 then get it done.

1 MR. TAYLOR:

2 If one goes down, they all go?

3 MR. DUPLESSIS:

4 Pardon me?

5 MR. TAYLOR:

6 If one goes down, they all go?

7 MS. MORRIS:

8 If you put a bill in Conference
9 Committee that's germane, that, you know,
10 has to do with used motor vehicles, anything
11 else that's out there that anybody is trying
12 do --

13 MR. DUPLESSIS:

14 They can get it attached.

15 So at the end, you don't want to
16 go into where they make the sausage in that
17 room and that's -- you don't want to open
18 yourself up to that. So I think as long as
19 everything is floating through. But 1089
20 kind of drops -- it drops it down to a B
21 plus rating of non-admitted carriers and
22 approved carriers for contingent liability.
23 That -- the latest update on that is it's
24 going through just fine. We've got no
25 opposition. There's no appearance of

1 opposition, but you never know how that
2 works in Conference Committee.

3 MR. PARNELL:

4 But there was an amendment on the
5 Senate floor when it go did through where it
6 kind of deleted that information about the B
7 plus rating. It's in your packet. Now, the
8 bill -- at least lines 15 through 17, such
9 policy may be surplus lines of insurance as
10 defined by Revised Statute 22:46. So that
11 language, it did away with the B plus rating
12 or better. So it just says it has to be
13 surplus lines insurance now. So as far as
14 -- you know, where does that put the bill
15 now.

16 MR. DUPLESSIS:

17 Well, that's an enhancement over
18 what we were trying to get. So that was not
19 a negative. That was a positive to the
20 bill.

21 MR. POTEET:

22 Yes. The rating wasn't really
23 the issue, was it?

24 MR. PARNELL:

25 No, no, no. It was admitted

1 versus non-admitted.

2 MR. DUPLESSIS:

3 Right. Yes. I knew that bill --
4 that amendment was coming, but that wasn't
5 detrimental to us. So that was -- that's
6 what we wanted. And then the last one
7 talking about the provisional license. I
8 actually that 1273 is an excellent bill and
9 I think you're kind of practicing that now
10 with the provisional license with people
11 that are suspect in licensing.

12 MR. PARNELL:

13 Right. And it provides relative
14 to the issuance of provisional licenses to
15 ex-offenders in order to -- in order for
16 them to work in certain fields. We brought
17 this up at -- Lessie and I, we kind of
18 discussed this bill. She had concerns with
19 how is it going to affect us, but pretty
20 much now the way -- once we get our
21 licensing applications in, we do our
22 background checks and pretty much now it's
23 almost similar to what we're doing already.
24 I don't feel that this bill is anything that
25 will affect us negatively. What they're

1 saying is basically that we need to supply
2 individuals with a provisional license. If
3 they have an ex-offender and it is not
4 really related to the industry, then we have
5 the right to deny them that. It's kind of
6 similar to what we're doing now. I wouldn't
7 call it a provisional license, but I will
8 issue a license for somebody and put them on
9 probation. It's kind of similar to what
10 we're doing now. If they're background
11 check does come back inappropriate, I will
12 deny it and give them an opportunity to
13 appeal that denial, but they have the
14 opportunity to do that. In talking with Ms.
15 Morris, I think -- did you get in touch with
16 Burgess on that?

17 MS. MORRIS:

18 I didn't.

19 MR. PARNELL:

20 Because he had called and he was
21 just asking what our position was on this
22 bill, just to see what -- if we wanted to
23 get together and maybe try to get ourselves
24 exempt from the bill, because they have a
25 couple of -- well, several agencies on there

1 that are exempt from this, but I just didn't
2 even see where it would cause any problems
3 for us.

4 MR. POTEET:

5 Any comments, guys?

6 (No response.)

7 MR. POTEET:

8 It sounds like we're already kind
9 of doing that. I mean, this would be -- if
10 I understand it, so if somebody came in and
11 they had been convicted of selling drugs and
12 now they were paroled, then we could give
13 them a provisional license, because it
14 doesn't deal with us directly. But if
15 somebody came in with some kind of a
16 violation, they lost their used car dealer
17 license in Georgia, then that would be
18 handled differently?

19 MR. PARNELL:

20 Right. It gives you that option.

21 MR. POTEET:

22 You have an option.

23 MR. PARNELL:

24 Yes. It doesn't really do
25 anything for us.

1 MR. POTEET:

2 I don't see anything wrong with
3 that.

4 MS. MORRIS:

5 You're not required to give a
6 license if it's a violent crime, any grade
7 of homicide or sex offense or if the
8 conviction relates -- involves fraud in the
9 licensed field of work.

10 MS. BARON:

11 Do we have to deny them?

12 MS. MORRIS:

13 You still have discretion.

14 MS. BARON:

15 So we do have discretion.

16 MR. POTEET:

17 Mail fraud, forgery.

18 MS. MORRIS:

19 You would not have to give them a
20 provisional license.

21 MR. POTEET:

22 I think anything that allows us
23 to have the -- you know, the decision making
24 authority is important rather than having
25 something that you can't decide.

1 MR. TAYLOR:

2 It's what we're already doing.
3 It's just putting it on paper and giving us
4 authority to do that, correct?

5 MR. PARNELL:

6 Pretty much, yes.

7 MR. DUPLESSIS:

8 That concludes the reports.

9 MR. POTEET:

10 Thank you. It looks like we're
11 moving along pretty well on all that. Okay.

12 Well, the next thing we have are
13 the hearings. We need a motion to adjourn.

14 MR. SMITH:

15 I make a motion.

16 MR. BREWER:

17 Second.

18 MR. POTEET:

19 All in favor?

20 (All "Aye" responses.)

21

22 (Meeting adjourned at 10:24 a.m.)

23

24

25

REPORTER'S CERTIFICATE

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2
3 I, BETTY D. GLISSMAN, Certified Court
4 Reporter, Certificate No. 86150, in and for
5 the State of Louisiana, do hereby certify
6 that the Louisiana Used Motor Vehicle
7 Commission May 19, 2014 meeting was reported
8 by me in the stenotype reporting method, was
9 prepared and transcribed by me or under my
10 personal direction and supervision, and is a
11 true and correct transcript to the best of
12 my ability and understanding.

13 This June 2, 2014, Baton Rouge,
14 Louisiana.

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