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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS, AND SALESPERSONS**

TIME: 10:33 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

January 10, 2023

1 State Board of Vehicle Manufacturers,
2 Dealers, and Salespersons
3 January 10, 2023
4
5

6 BOARD MEMBERS:
7

8 Kirk A. Davis, Chairman
9 Irving Stein, Secretary
10 Arion R. Claggett, Acting Commissioner, Bureau of
11 Professional and Occupational Affairs
12 Mark Wolfe, Attorney General Representative
13 Steve T. Fretz, Professional Member - Absent
14 Angel Layton, Department of Transportation
15 Representative
16 Dale J. Yingst, Professional Member
17 Mark Baer, Professional Member
18 Randall Derr, Secretary, Professional Member
19 Joseph Bizzarro, Professional Member
20
21

22 BUREAU PERSONNEL:
23

24 Dean F. Picarella, Esquire, Senior Board Counsel
25 C. William Fritz II, Esquire, Board Counsel
26 Carolyn DeLaurentis, Deputy Chief Counsel,
27 Prosecution
28 Division
29 Amber Lee Czerniakowski, Board Prosecutor
30 Kayla R. Bolan, Esquire, Board Prosecution Liaison
31 Timothy J. Henderson, Esquire, Board Prosecutor
32 Jason T. Anderson, Esquire, Board Prosecutor
33 Paul J. Jarabeck, Esquire, Board Prosecutor
34 Janice Cline, Board Administrator
35 Andrew LaFratte, MPA, Executive Policy Specialist,
36 Department of State
37 Deena Parmelee, Legal Office Administrator 1,
38 Department of State
39
40

41 ALSO PRESENT:
42

43 Mark Stine, Executive Vice President, Legislative &
44 Public Affairs, Pennsylvania Automotive Association
45
46
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1 ***

2 State Board of Vehicle Manufacturers,
3 Dealers, and Salespersons

4 January 10, 2023

5 ***

6 [Pursuant to Section 708(a)(5) of the Sunshine Act,
7 at 9:00 a.m. the Board entered into Executive Session
8 with C. William Fritz II, Esquire, Board Counsel, for
9 the purpose of conducting quasi-judicial
10 deliberations. The Board returned to open session at
11 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Vehicle Manufacturers, Dealers, and
15 Salespersons was held on Tuesday, January 10, 2023.
16 Kirk A. Davis, Chairman, Professional Member, called
17 the meeting to order at 10:33 a.m.

18 ***

19 [C. William Fritz II, Esquire, Board Counsel, noted
20 the Board met in Executive Session prior to open
21 session and conducted quasi-judicial deliberations.

22 Mr. Fritz also noted the meeting was being
23 recorded, and voluntary participation in the meeting
24 constituted consent to be recorded.]

25 ***

1 Approval of minutes of the November 22, 2022 meeting

2 CHAIRMAN DAVIS:

3 Can we have a motion to approve the
4 meeting minutes from the November 22
5 meeting?

6 MR. STEIN:

7 I will make the motion.

8 MR. DERR:

9 Second.

10 CHAIRMAN DAVIS:

11 Roll call.

12

13 Stein, aye; Derr, aye; Yingst, aye;
14 Layton, aye; Baer, aye; Wolfe, aye;
15 Bizzarro, aye; Davis, aye; Claggett,
16 aye.

17 [The motion carried unanimously.]

18

19 Roll Call/Introduction of Attendees

20 [Chairman Davis requested a roll call of Board
21 members and introduction of attendees.]

22

23 Report of Prosecutorial Division

24 [Kayla R. Bolan, Esquire, Board Prosecution Liaison,
25 presented the Consent Agreement for Case No. 20-60-

1 007049 and Case Nos. 21-60-006834 & 21-60-006833.]

2 ***

3 MR. FRITZ:

4 The Board would entertain a motion to
5 approve the Consent Agreement at Case
6 No. 20-60-007049.

7 MR. STEIN:

8 I make the motion.

9 MR. DERR:

10 Second.

11 CHAIRMAN DAVIS:

12 Roll call.

13

14 Derr, aye; Yingst, aye; Layton, aye;
15 Baer, aye; Stein, aye; Davis, aye;
16 Wolfe, aye; Bizzarro, aye; Claggett,
17 aye.

18 [The motion carried unanimously. The Respondent's
19 name is Nicholas J. Silvidio.]

20 ***

21 MR. FRITZ:

22 The Board would entertain a motion to
23 approve the Consent Agreement at Case
24 Nos. 21-60-006834 & 21-60-006833.

25 MR. STEIN:

1 I make the motion.

2 MR. DERR:

3 Second.

4 CHAIRMAN DAVIS:

5 Roll call.

6

7 Derr, aye; Yingst, aye; Layton, aye;

8 Baer, aye; Stein, aye; Wolfe, aye;

9 Bizzarro, aye; Davis, aye; Claggett,

10 aye.

11 [The motion carried unanimously. The Respondent's
12 name is Full Throttle and Jacob Price Coy.]

13

14 Report of Board Counsel - Formal Hearings/Arguments

15 [C. William Fritz II, Esquire, Board Counsel, stated

16 a joint motion for continuance was filed for the

17 hearing in the matter of Lucid Group USA, Inc., until

18 the February 21 Board meeting based on several

19 prehearing conferences.]

20

21 Report of Board Counsel - Status of Cases

22 [C. William Fritz II, Esquire, Board Counsel,

23 provided a Status of Cases Report for the Board's

24 review and offered to answer questions on any of the

25 newer cases. He also requested Board members notify

1 him of any recusals.

2 Mr. Fritz noted he is handling a new appeal that
3 was filed and is getting ready to submit the
4 certified record. He also noted a second protest was
5 filed by B&B Sales and Service v. Triumph Motorcycles
6 and not reflected on the cases.

7 Mr. Fritz stated the fee increase regulations
8 were presented to the Independent Regulatory Review
9 Commission (IRRC) at the beginning of December and
10 approved. He informed Board members that it would be
11 published as final in a week or two. He mentioned the
12 fee increase goes into effect for anyone renewing
13 after June 1, 2023. He also noted the fee increase
14 for new applications begins July 1, 2023.

15 Mr. Fritz informed Board members that there would
16 be a reinstatement hearing, along with the Lucid
17 Group USA, Inc., hearing at the February meeting.]

18

19 Report of Board Counsel - Adjudications and Orders
20 for

21 Approval

22 MR. FRITZ:

23 The Board would entertain a motion to
24 approve the Adjudications and Orders of
25 the Commonwealth v. Aaron Brown, Case

1 No. 19-60-009787; Commonwealth v. J's
2 Auto Center, LLC, Case No. 20-60-
3 005220; and Commonwealth v. Max
4 Levitskiy, Case No. 20-60-000039.

5 MR. STEIN:

6 I'll make the motion.

7 MR. DERR:

8 Second.

9 CHAIRMAN DAVIS:

10 Roll call.

11

12 Derr, aye; Yingst, aye; Layton, aye;
13 Baer, aye; Stein, aye; Wolfe, aye;
14 Bizzarro, aye; Davis, aye; Claggett,
15 aye.

16 [The motion carried unanimously.]

17

18 Report of Board Counsel - Proposed Adjudication and
19 Order

20 MR. FRITZ:

21 Item 4 is a Proposed Adjudication and
22 Order the Board discussed in Executive
23 Session.

24 Based on those discussions, the
25 Board would entertain a motion

1 directing Board Counsel to draft a new
2 Adjudication and Order in the matter of
3 the Commonwealth v. Christopher Fisher,
4 Case No. 19-60-005230.

5 MR. STEIN:

6 I'll make the motion.

7 MR. DERR:

8 Second.

9 CHAIRMAN DAVIS:

10 Roll call.

11

12 Derr, aye; Yingst, aye; Layton, aye;
13 Baer, aye; Stein, aye; Wolfe, aye;
14 Bizzarro, aye; Davis, aye; Claggett,
15 aye.

16 [The motion carried unanimously.]

17

18 Report of Board Counsel - Motion to Stay

19 MR. FRITZ:

20 Item 5 is the Motion for Stay filed by
21 Holly Kabiru. We had already approved
22 an Adjudication and Order in that
23 matter. Since the approval, she filed
24 an appeal with the Commonwealth Court
25 as well as a Motion for Stay with the

1 Board requesting that we stay the
2 section until the appeal is complete.
3 She is going to file a Motion for Stay
4 with the Commonwealth Court as well.
5 That is a separate issue.

6 The issue right now is the motion
7 before the Board, and with that, the
8 Board would entertain a motion to deny
9 the Motion for Stay filed by Holly
10 Kabiru, Case No. 19-60-013685 & 19-60-
11 008587.

12 MR. STEIN:

13 I make the motion.

14 MR. DERR:

15 Second.

16 CHAIRMAN DAVIS:

17 Roll call.

18
19 Derr, aye; Yingst, aye; Layton, aye;
20 Baer, aye; Stein, aye; Wolfe, aye;
21 Bizzarro, aye; Davis, aye; Claggett,
22 aye.

23 [The motion carried unanimously.]

24 ***

25 Report of Board Counsel - Motions to Deem Facts

1 Admitted (MDFa)

2 MR. FRITZ:

3 The Board would entertain a motion to
4 grant the following Motions to Deem
5 Facts Admitted and directing Board
6 Counsel to draft an Adjudication and
7 Order for the matters of the
8 Commonwealth v. Scott Bone, Case No.
9 18-60-03408; Commonwealth v. Nerik
10 Borukhov, Case No. 20-60-010543;
11 Commonwealth v. Johnathan Davey, Case
12 No. 22-60-004458; Commonwealth v.
13 Blaine Haney, Case No. 21-60-011165;
14 Commonwealth v. James Kasperowski, Case
15 No. 20-60-002823; Commonwealth v.
16 Kenton Lincoln, Case No. 20-60-004341;
17 Commonwealth v. Thomas Serfass, Case
18 No. 20-60-004030; and Commonwealth v.
19 Michael Vasilik, Case No. 20-60-
20 000337.]

21 MR. STEIN:

22 I will make the motion in all the above
23 cases.

24 MR. DERR:

25 Second.

1 CHAIRMAN DAVIS:

2 Roll call.

3

4 Derr, aye; Yingst, aye; Layton, aye;

5 Baer, aye; Stein, aye; Wolfe, aye;

6 Bizzarro, aye; Davis, aye; Claggett,

7 aye.

8 [The motion carried unanimously.]

9

10 Report of Board Chairman - No Report

11

12 Report of Acting Commissioner - No Report

13

14 Report of Board Administrator

15 [Janice Cline, Board Administrator, provided 2024

16 Board meeting dates; and the Board agreed to January

17 16, February 20, April 9, May 14, July 9, August 20,

18 October 8, and November 19.

19 Chairman Davis noted 2023 Board meeting dates are

20 posted on the agenda and recommended Board members

21 notify Ms. Cline of any conflicts with any of the

22 meeting dates.

23 Chairman Davis addressed Board member terms.

24 Mr. Fritz informed everyone that the Board has

25 seven vacancies for Board members and is in need of

1 professionals. He encouraged anyone interested in
2 becoming a Board member to contact the association
3 and/or their local legislators.]

4

5 Application Review - Criminal Conviction Applicants -
6 Informal Hearings

7 MR. FRITZ:

8 The Board would entertain a motion to
9 approve without restriction the
10 Application filed by Jose Martinez.

11 MR. STEIN:

12 So moved.

13 MR. DERR:

14 Second.

15 CHAIRMAN DAVIS:

16 Roll call.

17

18 Derr, aye; Yingst, aye; Layton, aye;
19 Baer, aye; Stein, aye; Wolfe, aye;
20 Bizzarro, aye; Davis, aye; Claggett,
21 aye.

22 [The motion carried unanimously.]

23

24 MR. FRITZ:

25 The Board would entertain a motion to

1 approve the Application filed by
2 Jazmuhn Nath subject to two years of
3 probation.

4 MR. STEIN:

5 I make the motion.

6 MR. DERR:

7 Second.

8 CHAIRMAN DAVIS:

9 Roll call.

10

11 Derr, aye; Yingst, aye; Layton, aye;
12 Baer, aye; Stein, aye; Wolfe, aye;
13 Bizzarro, aye; Davis, aye; Claggett,
14 aye.

15 [The motion carried unanimously.]

16

17 [The Board recessed from 10:55 a.m. until 11:00 a.m.]

18

19 [Carolyn A. DeLaurentis, Esquire, Deputy Chief
20 Counsel, Prosecution Division, presented to the Board
21 to provide a summary of the prosecution division's
22 role and present annual numbers for 2022. She
23 informed Board members that the Bureau of
24 Professional and Occupational Affairs provides
25 administrative and legal support to all 29 boards and

1 commissions, along with prosecution, the counsel
2 division, and hearing examiners. She noted
3 professional licensing protects the health and safety
4 of the public and protects the integrity of the
5 professions to ensure everyone is complying with laws
6 and regulations.

7 Ms. DeLaurentis explained that the Office of
8 Chief Counsel is under the Governor's Office of
9 General Counsel, noting the prosecution division is
10 one division under the Office of Chief Counsel. She
11 noted the prosecution division works with the Bureau
12 of Enforcement and Investigation (BEI), along with
13 the Professional Compliance Office (PCO).

14 Ms. DeLaurentis stated the prosecution division
15 is tasked with receiving complaints, investigating
16 allegations, ensuring public safety, and enforcing
17 compliance with the acts and regulations that govern
18 the 29 boards and commissions.

19 Ms. DeLaurentis stated the prosecution division
20 has five senior prosecuting attorneys and is broken
21 into five teams, noting Paul Jarabeck is the senior
22 prosecuting attorney for the State Board of Vehicle
23 Manufacturers, Dealers, and Salespersons. She also
24 noted the other senior prosecuting attorneys are Karl
25 Geschwindt, who is an acting senior prosecutor,

1 Heather McCarthy, Ray Michalowski, and William
2 Newport. She mentioned there are currently 33
3 prosecuting attorneys.

4 Ms. DeLaurentis addressed the complaint process,
5 noting complaints are received from any source. She
6 stated the most efficient way to file a complaint is
7 on the Pennsylvania Licensing System (PALS) at
8 pals.pa.gov and encouraged the public to utilize the
9 online website. She noted prosecution accepts
10 referrals from other agencies, law enforcement, and
11 sometimes hear something through the news.

12 Ms. DeLaurentis discussed levels of review,
13 including jurisdiction checks, noting administrative
14 assistants review every complaint to see if it falls
15 under one of the boards. She mentioned complaints
16 are sent to sister agencies if prosecution does not
17 have jurisdiction. She noted BEI helps to determine
18 whether an investigation is warranted after it is
19 determined prosecution has jurisdiction.

20 Ms. DeLaurentis addressed levels of review to see
21 if allegations are a violation of the law. She
22 explained that prosecution is able to file charging
23 documents if a violation is found and include orders
24 to show cause or citations. She mentioned that a
25 warning letter may also be issued but is not

1 disciplinary action. She stated the individual is
2 entitled to a hearing if charged and the hearing
3 examiner issues a proposed decision but then the
4 Board makes a final decision. She noted the Board
5 also makes the final decision for consent agreements,
6 where both sides are negotiating toward a resolution.

7 Ms. DeLaurentis informed Board members that
8 investigations by their office are confidential and
9 privileged under confidentiality statutes, where
10 prosecution cannot disclose something within their
11 files if it is not contained within the document
12 presented to the Board.

13 Ms. DeLaurentis addressed a question requesting
14 additional information regarding the investigation
15 process by prosecution. She noted BEI has over 70
16 investigators and 30 inspectors. She stated
17 prosecutors review a case to decide whether an
18 inspection or an investigation is warranted. She
19 noted prosecution has the ability to interview
20 witnesses and ask for records and documents, along
21 with asking for a subpoena from the Board if denied
22 records or documents.

23 Ms. DeLaurentis explained that BEI is not law
24 enforcement and does not have search warrant
25 authority but does have certain boards under their

1 statute that are required to comply with requests to
2 see records and documents, including their Board.
3 She reported the internet to be helpful as an
4 investigative tool. Ms. DeLaurentis stated BEI not
5 only conducts interviews, inspections, and obtains
6 evidence but also serve subpoenas, orders, letters
7 and also testify. She noted some boards are supposed
8 to comply based upon their governing regulations and
9 statutes if BEI asks to see their records, but there
10 are limitations.

11 Ms. DeLaurentis noted BEI provides the
12 information to the attorneys and legal analysts to
13 decide whether to close the case or charge. She
14 noted they have the ability to do immediate temporary
15 suspensions if someone is an immediate danger to the
16 health and safety of the public.

17 Ms. DeLaurentis stated prosecution also has the
18 ability to issue automatic suspensions that usually
19 concern drug act violations, orders for examination,
20 petitions for appropriate relief when someone has
21 violated a board order, orders to show cause, and
22 consent agreements. She noted levels of discipline
23 include revocations, suspensions, probations,
24 reprimands, fines and citations, remedial education,
25 and cost of the investigation.

1 Ms. DeLaurentis referred to the confidentiality
2 statute under 63 Pa.C.S. § 3109, where prosecution
3 information is confidential and privileged except for
4 the final action of the agency and why prosecution
5 cannot answer some questions concerning consent
6 agreements. She explained that Department of State
7 investigations are deemed as noncriminal
8 investigations under the Right-to-Know Law.

9 Ms. DeLaurentis stated information could be
10 shared with other licensing boards, law enforcement,
11 and other agencies in furtherance of investigative
12 efforts but only their final action could be shared
13 publicly.

14 Ms. DeLaurentis noted the annual report is not
15 finalized but provided data as of January 3, 2023,
16 noting the number of current open cases for the whole
17 division is 13,154 and less than last year. She
18 stated 16,084 cases were opened in 2022 and is down
19 from 2021 at 18,363 cases. She reported closing
20 17,826 files in 2022 and is up from 2021, where
21 15,994 cases were closed. She thanked the
22 prosecution and counsel divisions and the Board for
23 their hard work in 2022.

24 Ms. DeLaurentis mentioned that her goal is for
25 all cases to be handled within a year or so but that

1 cases can stay open for years pending the results of
2 a criminal trial. She noted prosecution monitors
3 those cases to have a final action ready once a
4 decision is made. She reported the average to close
5 a case is 343 days. She also addressed the hearing
6 process.

7 Ms. DeLaurentis addressed another question
8 further explaining that not all of the 13,000 open
9 cases are going to an investigator but offered to
10 provide Board Counsel with the actual numbers. She
11 noted the Bureau of Enforcement and Investigation is
12 managed by leaders who make sure cases keep moving.
13 She mentioned everything to be a group effort of
14 about 37 attorneys in prosecution, about 17 or 18
15 attorneys in the counsel division, 5 legal analysts,
16 and 12 paralegals.

17 Ms. DeLaurentis reported prosecution is at full
18 complement for staff, where attorney case lists are
19 around 150 and manageable. She reported some of the
20 cases are on hold pending an evaluation.

21 Ms. DeLaurentis commented that a breakdown of
22 case categories would be on the final annual report
23 provided to the General Assembly and would be
24 available for review soon.

25 Ms. DeLaurentis addressed specific information

1 for the State Board of Vehicle Manufacturers,
2 Dealers, and Salespersons, noting 993 cases were
3 opened in 2022, which is down from 2021 at 1,167.
4 She reported 1,076 cases were closed in 2022 and
5 1,256 in 2021 with 816 cases that are currently open
6 and down from 890 last year. She noted 35 fines, 25
7 probation cases which is down from 2021 at 66 cases,
8 22 revocations, 13 suspensions, and 29 voluntary
9 surrenders.

10 Ms. DeLaurentis addressed cases closed without
11 discipline and referred to Z codes, where prosecution
12 was not warranted. She reported 264 warning letters
13 in 2022, which is down from 2021 at 360.

14 Ms. DeLaurentis answered a question asking
15 whether it is a burden on prosecution when the Board
16 places somebody on probation not concurrent with
17 their criminal probation.

18 Ms. DeLaurentis explained that the tracking of
19 criminal probation and their probation is separate,
20 where someone on criminal probation has a probation
21 and parole officer. She mentioned that prosecution
22 has a probation compliance officer who monitors
23 whether a licensee's obligations are being met during
24 their probation. She commented that the monitoring
25 helps with probation violations and reinstatement.

1 Ms. DeLaurentis addressing utilizing Google to
2 find PALS when filing a complaint in Pennsylvania at
3 pals.pa.gov.

4 Acting Commissioner Claggett confirmed the
5 website can be accessed through Google. He also
6 noted PALS provides information on anyone reprimanded
7 under verify a license.]

8 ***

9 Adjournment

10 CHAIRMAN DAVIS:

11 Do we have a motion for adjournment?

12 MR. STEIN:

13 I make the motion to adjourn.

14 MR. DERR:

15 Second.

16 CHAIRMAN DAVIS:

17 We are adjourned.

18 ***

19 [The State Board of Vehicle Manufacturers, Dealers,
20 and Salespersons Meeting adjourned at 11:36 a.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Vehicle Manufacturers, Dealers and Salespersons meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Vehicle Manufacturers, Dealers and Salespersons meeting.



Derek Richmond,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS, AND SALESPERSONS
REFERENCE INDEX

January 10, 2023

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8		
9		
10	9:00	Executive Session
11	10:30	Return to Open Session
12		
13	10:33	Official Call to Order
14		
15	10:34	Approval of Minutes
16		
17	10:36	Roll Call/Introduction of Attendees
18		
19	10:36	Report of Prosecutorial Division
20		
21	10:40	Report of Board Counsel
22		
23	10:47	Report of Board Administrator
24		
25	10:53	Application Review
26		
27	10:55	Recess
28	11:00	Return to Open Session
29		
30	11:00	Appointment - Carolyn A. DeLaurentis,
31		Esquire, Deputy Chief Counsel,
32		Prosecution Division, Annual Report
33		Presentation
34		
35	11:36	Adjournment
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