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LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
NOVEMBER 18, 2013
BEGINNING AT 9:32 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. TONY CORMIER

9 MR. RON DUPLESSIS

10 MR. GEORGE FLOYD

11 MR. KIRBY ROY

12 MR. HENRY "DARTY" SMITH

13 MR. DINO TAYLOR

14

15

16

17

18 REPRESENTING THE LOUISIANA USED MOTOR
19 VEHICLE COMMISSION:

20 ROBERT W. HALLACK, ESQUIRE
21 HALLACK LAW OFFICE
13007 JUSTICE AVENUE
BATON ROUGE, LOUISIANA 70816

22 SHERI MORRIS, ESQUIRE
23 ROEDEL, PARSONS, KOCH, BLACHE,
BALHOFF & McCOLLISTER
24 8440 JEFFERSON HIGHWAY, SUITE 301
BATON ROUGE, LOUISIANA 70809

25

1 ALSO PRESENT:
2

3 MS. KIM BARON

4 MR. DEREK PARNELL

5 MS. MONA ANDERSON

6 MS. TONYA BURKS

7 MR. DWAYNE TAMBLING

8 MR. NOLAN TOLLETT

9 MS. SANDRA KATZ

10 MR. GEOFF KATZ

11 MR. KEITH KIRALY

12 MR. RICHIE KIRALY

13 MR. DAMIEN CURTIS

14 MR. JERRY SULLIVAN, ESQUIRE

15 MR. ALEX VELAZQUES, ESQUIRE

16 MS. LISA ARCERI

17 MR. ALLEN LENTSCH

18 MR. BURGESS McCRANIE, ESQUIRE

19 MR. CHRIS ARCERI

20 MR. DALLAS FREEMAN

21 MS. BONNIE DOZIER
22
23
24
25

1 MR. POTEET:

2 Let's go ahead and get
3 started. Pledge of Allegiance.

4 (Pledge of Allegiance)

5 MR. POTEET:

6 Kim, can we have the roll
7 call, please?

8 MS. BARON:

9 John Poteet?

10 MR. POTEET:

11 Here.

12 MS. BARON:

13 George Brewer?

14 MR. BREWER:

15 Here.

16 MS. BARON:

17 Dino Taylor?

18 MR. TAYLOR:

19 Here.

20 MS. HARPER:

21 Tony Cormier?

22 MR. CORMIER:

23 Here.

24 MS. BARON:

25 Ron Duplessis?

1 MR. DUPLESSIS:

2 Here.

3 MS. BARON:

4 George Floyd?

5 MR. FLOYD:

6 Here.

7 MS. BARON:

8 Kirby Roy?

9 MR. ROY:

10 Here.

11 MS. BARON:

12 And Darty Smith?

13 MR. SMITH:

14 Here.

15 MS. BARON:

16 Mr. Chairman, we have a

17 quorum.

18 MR. POTEET:

19 Thank you.

20 Do we have anyone here today

21 for public comments?

22 MS. BARON:

23 No, sir. We do not.

24 MR. POTEET:

25 The first item on the agenda,

1 items for discussion are approval of minutes
2 from the previous meeting. I assume that
3 everyone has had a chance to review the
4 meeting minutes. I need a --

5 MR. SMITH:

6 I move to adopt.

7 MR. TAYLOR:

8 I second.

9 MR. POTEET:

10 Darty, and second by Dino.

11 All in favor, say, "Aye."

12 (All "Aye" responses.)

13 MR. POTEET:

14 Any opposed?

15 (No response.)

16 MR. POTEET:

17 All right. We have approval
18 of the minutes from the previous meeting.
19 Okay.

20 The next thing we have is
21 financial matters. Since we didn't have a
22 meeting last month, Mona, we're going to
23 have to do September and October. So we
24 better get started.

25

1 MS. ANDERSON:

2 All right. If you turn in
3 your packet to your September financials,
4 we're going to just kind of run through
5 September since we generally just look at
6 the year to date. The balance in the
7 operating account at the end of September
8 was \$1,192,000. Accounts receivable for
9 hearings and fines was \$51,200. And the
10 liability -- current liabilities were
11 \$29,304.

12 On Page 2, the deferred
13 in-flows, previously our deferred revenue,
14 you can see that most of it is the 2014
15 year, but we were starting to get a few 2015
16 renewals in. The total there is \$314,413.

17 Turning on to the statement
18 of revenues, expenses and changes in net
19 positions, midway the page in the center of
20 the page, is \$105,704 year -to-date
21 revenues. It's about a \$1,700 increase over
22 last year, same time this year last year.

23 Under expenses, the salaries
24 and related benefits were \$16,700 increase
25 from last year. The remainder of the

1 expenses decreased by \$9,300.

2 On Page 5, the year-to-date
3 net loss was \$110,841 compared to a loss of
4 \$105,093 last year, the same period.

5 Turning on to Page 6, you can
6 see the same figure there, the \$110,800 --
7 \$110,841 loss. And Page 7 shows a graph of
8 those revenue expenses and the net position.
9 You see in September before our renewal
10 season started up, the revenues were in the
11 decline.

12 And the following Page 8, our
13 fee revenue, at this point, the auction fees
14 were the higher fees. We have not started
15 to get our renewals in yet.

16 Page 9 is our certificates of
17 deposit, no change in that report. And Page
18 10, the hearings and fines accounts
19 receivable at the end of September was
20 \$51,200. We took in fines of \$3,000 -- we
21 booked fines of \$3,000 and we collected
22 \$18,300, the largest amount being the
23 \$15,600 on A-1 Autoplex.

24 Turning on to the October
25 statements, the balance in the operating

1 account at the end of October, you can see
2 was \$1,216,000, which was up about \$24,000
3 from September as we start our renewal
4 season. Accounts receivable hearings and
5 fines decreased to \$48,600, and our
6 liabilities decreased to \$17,400 -- current
7 liabilities, \$17,437.

8 On Page 2, the deferred
9 in-flows, you can begin to see that our
10 2014/15 licenses are being renewed and the
11 2015 unearned income is being booked as a
12 long-term liability, the in-flows. For
13 2015, we had \$30,900, and for 2014, we had
14 \$263,677.

15 Turning to Page 3,
16 year-to-date income as \$240,627, which is
17 lower than last year. Our fees are coming
18 in a little slower than they came in last
19 year, but they are increasing in November.

20 Under expenses, the salaries
21 and related benefits increased \$33,612.
22 This increase included unused annual leave
23 that we paid to a retiring employee. The
24 remainder of the expenses, other than
25 salaries and benefits, decreased by \$13,460.

1 On Page 5, the year-to-date loss was \$59,395
2 compared to \$23,330 last year. The October
3 month to date income was in the positive,
4 \$51,446. Again, those figures shown on the
5 chart in the next -- on Page 6, the
6 year-to-date loss of \$59,000.

7 Page 7, you can see the graph
8 of our revenues is beginning to upturn
9 somewhat. And on Page 8, you can see a
10 chart of our fee revenue, the dealer license
11 fees, are beginning to represent a larger
12 portion of the chart.

13 On Page 9, the certificate of
14 deposit report is the same. Page 10, we
15 booked -- in October, we booked \$1,750 in
16 fines and we collected \$3,750.

17 And unless there are any
18 questions, that concludes my report on the
19 financial statements.

20 MR. POTEET:

21 Does anybody have any
22 questions or comments for Mona on the
23 September and October statements?

24 (No response.)

25 MR. POTEET:

1 All right. I need a motion
2 to approve those.

3 MR. CORMIER:

4 I make a motion to approve.

5 MR. ROY:

6 I second.

7 MR. POTEET:

8 We have a first from Tony,
9 and second from Kirby.

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

12 (All "Aye" responses.)

13 MR. POTEET:

14 Any opposed?

15 (No response.)

16 MR. POTEET:

17 So we'll pass those two
18 together.

19 Now, let's go on and do the
20 proposed 2014/15 budget. As long as you're
21 standing up, you might as well keep going.

22 MS. ANDERSON:

23 Okay. In your packet, the
24 first page of the proposed budget is BC-1,
25 summary statement of means of financing and

1 you see the proposed budgeted revenues of
2 \$1,142,043, which is approximately a 3
3 percent increase over what we're estimating
4 for the end of this year. Now, we still
5 have 8 months left in this year. So, you
6 know, that is a -- that column is also a
7 guesstimate. And so the way this budget is
8 set up, the first two pages represent your
9 revenue and the second page being your
10 expenses, and the subsequent pages all fold
11 up into these two pages here.

12 So on BC-2, you can see our
13 expenditures there and if you'll go ahead
14 and turn to Page BC -- I'm sorry, BR-6a,
15 request for salary and merit increases of
16 incumbents, this is the detail for the
17 salaries. The total salaries that we
18 budgeted for the 2014/15 year were \$896,414,
19 salaries and related expenditures. This
20 sheet shows the salaries, first of all, in
21 the estimated 2013/14 salary column. Those
22 are based on ending salary rates and they're
23 not gross earning. They're based on the
24 ending salary rates and were used to budget
25 the 2014/15 salaries.

1 You'll notice that we have a
2 new compliance investigator that we have
3 estimated to hire in January of this year.
4 So you'll see half a year salary for that
5 individual, and then total annual salary for
6 the 14/15 year. We budgeted a -- the 4
7 percent increase in salaries in case that
8 comes through for the end of 2015. The
9 retirement benefits -- our current
10 retirement benefits are at 31.3 percent.
11 We've budgeted 33.5 percent as this will
12 likely increase that -- during that year for
13 funding of the LASERS unfunded liability.
14 We also budgeted a 5 percent increase in
15 group insurance. This past year we received
16 a decrease. We don't know, but we're
17 budgeting 5 percent as a precaution. These
18 totals were brought forward to the previous
19 sheet, which is BC-6. So you see total of
20 the salaries and related expenditures on
21 BC-6.

22 If you turn to BR-6b, which
23 is right after the salary detail, you see
24 the compensation for Commission members.
25 That's the per diem amounts. BC-7, the

1 following page, is travel reimbursement for
2 Commissioners and for field representatives.

3 And if you'll turn to BC-8,
4 these are our budgeted operating expenses.
5 Total operating expenses, we estimate about
6 a 10 percent increase over what we've
7 estimated for the rest of this year. And,
8 again, we still have 8 months left in this
9 fiscal year. So both are estimates of the
10 totals. We've made significant decreases in
11 printing and postage by mailing out post
12 cards for the renewals and using e-mails to
13 communicate with our dealers.

14 Under maintenance of
15 vehicles, that would include minor repairs
16 and maintenance to the vehicles.
17 Maintenance other would be our janitorial,
18 lawn care, pest control, that type of item.
19 Miscellaneous expenses are miscellaneous
20 charges such as our fees for our merchant
21 credit cards, our bank fees and criminal
22 background checks. Payroll related expenses
23 are for direct deposit in our employee
24 payroll. And automotive supplies is
25 gasoline.

1 Turning to Page 9, our
2 professional expenses, we budget our
3 professional expenses as a maximum of the
4 contract as a cautionary measure.

5 On Page 10, other charges are
6 basically Internet related IT type charges.
7 The fee -- annual fee that we pay for our
8 licensing system and support for that,
9 annual fees for the support of the
10 accounting program and other related virus
11 protection type programs that we use.

12 On Page 11, we -- are our
13 major acquisitions and major repairs. In
14 the 14/15 year, we budgeted for two new
15 cars, one of which will be our annual
16 replacement of our aging vehicles. We're
17 trying to replace one every year to keep our
18 vehicles on the road, and the other one
19 would be for the new field representative --
20 the new compliance investigator that we'll
21 need an additional vehicle for that.

22 Computers, we budgeted
23 \$10,000 for the replacement of computers.
24 Believe it or not, at the end of 2015, we're
25 almost at five years with the computers that

1 we purchased. So we'll need to be replacing
2 those as they wear out. We'll also need to
3 purchase a new laptop for the compliance
4 investigator. And all of these sheets that
5 we've looked at fold up into BC-2, which is
6 the total of our budgeted expenses for the
7 year at \$1,251,172.

8 BC-3 shows you a summary of
9 our net position, previously our fund
10 balance, and you can see there that we're
11 looking -- we're estimating on 2013/14 and
12 that does impact what carries over into
13 14/15. So the fund balance may change as,
14 you know, the remaining months in this
15 fiscal year happen. Even so, at some point
16 in the future, I think we're going to need
17 to look at some sort of fee increase in
18 order to maintain these budgeted figures.

19 Unless there are any
20 questions, that concludes my report about
21 the budget.

22 MR. POTEET:

23 I'm just waiting to see if
24 anybody had any questions or comments.

25 (No response.)

1 MR. POTEET:

2 All right. If you look over
3 right after all of that information that
4 Mona just went over with us, there's a
5 resolution to adopt the 2014/2015 fiscal
6 year operating budget. I need a motion
7 accept that resolution.

8 MR. TAYLOR:

9 I'll make a motion.

10 MR. CORMIER:

11 Second.

12 MR. POTEET:

13 Do we need to read it? It's
14 all right there for everyone to see.
15 Basically, what we're saying is that this is
16 the -- we'll adopt these numbers, and then
17 how we handle that. We can move things
18 around. The Executive Director can move
19 things around as long as it doesn't exceed
20 10 percent of the total budget. This is
21 really a -- kind of a working document
22 anyway.

23 MR. TAYLOR:

24 I make a motion that we
25 accept the resolution.

1 MR. CORMIER:

2 Second.

3 MR. POTEET:

4 I have a second from Tony.

5 All in favor, say, "Aye."

6 (All "Aye" responses.)

7 MR. POTEET:

8 Any opposed?

9 (No response.)

10 MR. POTEET:

11 All right. So we have a
12 resolution adopting the 2014/2015 fiscal
13 year operating budget.

14 MS. BARON:

15 I'll get you one to sign.

16 MR. POTEET:

17 All right. Before we move on
18 to the next item on the agenda, we've got a
19 lot of people here today and I think a lot
20 of you are here for -- to discuss the
21 hearings and appeals. Am I right? Are most
22 of you here for that?

23 MR. HALLACK:

24 Rent-to-own.

25 MR. POTEET:

1 Rent-to-own type of folks.
2 All right. If there's no objection from
3 anyone, I would like to move that up to this
4 point in the agenda. I think we need a
5 motion to do that.

6 MR. ROY:

7 I'll make that motion.

8 MR. SMITH:

9 I'll second.

10 MR. POTEET:

11 All in favor, say, "Aye."

12 (All "Aye" responses.)

13 MR. POTEET:

14 Any opposed?

15 (No response.)

16 MR. POTEET:

17 All right.

18 (Recess taken.)

19 MR. POTEET:

20 We need a -- I need a motion
21 from someone to discuss D before we discuss
22 C.

23 MR. SMITH:

24 I'll make a motion.

25 MR. BREWER:

1 Second.

2 MR. POTEET:

3 Motion, second.

4 All in favor, say, "Aye."

5 (All "Aye" responses.)

6 MR. POTEET:

7 We're going to do Item Number
8 D -- Item Letter D, discussion of Motor
9 Vehicle Sales Finance Act.

10 Do you want start, Derek?

11 MR. PARNELL:

12 Yes. Commissioners, there's
13 a lot of discussion about the Motor Vehicle
14 Finance Act, specifically when are used
15 motor vehicle dealers required to hold a
16 motor vehicle sales finance license,
17 according to the Motor Vehicle Commission
18 and as written with the motor vehicles --
19 According to the meetings we had with the
20 Motor Vehicle Commission, it was with regard
21 to the Motor Vehicle Sales Finance Act: A
22 dealer is required to hold a Motor Vehicle
23 Sales Finance Act if he is making consumer
24 loans or if he is originating consumer
25 loans. LUMVC defines origination of a loan

1 to be the entire application process, from
2 the initial application to the funding of
3 the loan. We do have with us Commission
4 counsel, Burgess McCranie.

5 If you can kind of help us
6 get the conversation started as it relates
7 to what do they define -- how do they define
8 origination of a loan, kind of give us a
9 synopsis of it, but I'm pretty sure he can.

10 MR. McCRANIE:

11 Back in 2007, we sent a memo
12 out and talked about what origination of a
13 loan was, and what the law requires is that
14 if you make the loan or if you originate the
15 loan, you have to have a license.
16 Origination of the loan is if you fill out
17 the credit application and do the
18 preliminary work. That's originating the
19 loan. That's the way we've always taken the
20 position. You know, we certainly would be
21 happy to discuss that, but I'll give you a
22 copy of this memo that went out in 2007.
23 And that's kind have been our position. You
24 know, we've administered this law since the
25 '70s and it's been the same ever since. And

1 I guess what we're talking about here is
2 what is originating a loan, and I think that
3 seems to be the issue. There's no question
4 about if you're making a loan. I mean,
5 that's clear as a bell, but the statute has
6 always read originating a loan. You know,
7 in a car dealership situation, you're
8 certainly originating the loan when you do
9 it. In fact, for a period of time, the car
10 dealer is actually the lender and it would
11 probably be the same in some of your
12 transactions with commercial credit, some of
13 those. You're originating a loan and you
14 are the creditor until -- up until you
15 assign that contract. So that's certainly
16 origination if you're doing -- going that
17 far.

18 I guess I would need to have
19 some better understanding of what the issues
20 are in regard to what origination is, what
21 is the guy doing who is not originating a
22 loan. If I'm contacting a lender on behalf
23 of a client, I'm originating the loan, and
24 like I say, I'm sure on some of what I call
25 the big companies, or the banks if they do

1 any business with banks, you are the lender
2 for a period of time until that loan is
3 actually assigned. That has also been, I
4 think, an issue about -- raised that new car
5 dealers do not have to get a license. Well,
6 the reason for that is, is that the new car
7 dealers are licensed by us to begin with and
8 we have access to go in and do audits and so
9 forth if we need to for any law that
10 pertains to the sale of an automobile. The
11 reason that the used car dealers have to be
12 licensed is to give us authority to go in,
13 and that's the only real difference. If we
14 don't license you, we can't administer our
15 law, which we've administered since the
16 '70s.

17 We are always willing to work
18 with Sheri and Derek and John and whoever
19 else. If there are some issues that we need
20 to resolve, we are more than willing to sit
21 down and do that. You know, we even have an
22 agreement that goes back with the Governor's
23 Office, you know, that we will work together
24 and nobody will impinge on -- I won't
25 impinge on your law and you won't impinge on

1 mine. I have a copy of it if you want to
2 see that. Some of you who have not maybe
3 been around long enough, here's this. And
4 we have worked, I think particularly -- and
5 with Derek here, we've a good working
6 relationship.

7 MR. PARNELL:

8 Absolutely.

9 MR. McCRANIE:

10 And we want to continue that
11 relationship, and I came up today not to
12 offer anything or do anything other than the
13 fact that we want to work with you, and
14 there we are. But as far as the licenses,
15 the licenses simply gives us authority to go
16 and administer the law and the reason the
17 dealers are not -- all car dealers, we have
18 authority to go in there anyway. That's my
19 explanation for that and it's been that way
20 forever. But if there are some specific
21 issues that we need to look at, we are happy
22 to do that.

23 One of the things that
24 somebody -- the guys -- the lessors that are
25 coming over there, well, you know, I can't

1 stop them from doing that, and you're
2 talking about insurance issues, in our
3 statute, we simply state you provide such
4 insurance as you and your agent deem
5 necessary to protect yourself and the
6 public. We don't require any specific
7 insurance, because I don't want to get in a
8 position of telling Ron Duplessis what
9 dealership -- he needed a dealership and
10 have somebody come to me and say, why do you
11 require this, you know. I don't want to get
12 into the requirement business and that's the
13 way our law is phrased now. So we don't
14 have this issue with the lessors about what
15 -- the potential liability, because our
16 position is, you protect yourself and get
17 the insurance that does that.

18 I think -- I've been trying
19 to work with the lessors when they come over
20 there. It's an entirely different animal.
21 It's a lease. It's not a rent-to-own. In
22 the lease, you're under the auspices of the
23 lease and movables act. You have to go to
24 court to get your car back. You literally
25 cannot sign a surrender at the time you do

1 the deal under the commercial laws and under
2 Article 9. You can't do that. So we are
3 much more -- it's much more difficult with
4 leasing it. Also, with a lease, you can
5 very easily become a credit sale. If you
6 get down to the point where there's nothing
7 really owed at the end, it's a credit sale
8 and I need that truth in lending that you
9 have to put in there. So I think some of
10 these things are working and I think what
11 y'all have done this morning, I think the
12 principal reason the people have come over
13 there is because of the insurance issue. I
14 don't know that, but I suspect that's the
15 case. And, to me, this is very well -- this
16 may have solved that issue. I think it
17 would have resolved that issue after today,
18 and I think you-all made the correct
19 decision and I think the thing that really
20 got me, I think is that 593 when they tried
21 to put in exempt and the Legislature said,
22 no. To me, that meant they can use surplus
23 lines and everybody uses surplus lines.

24 Ron, I bet you've got surplus
25 lines in your garage policies and everything

1 now.

2 MR. DUPLESSIS:

3 I do.

4 MR. McCRANIE:

5 So that's just not a big
6 issue. But I'm just saying we're willing
7 here to work with you. If there are some
8 issues, John, let's sit down and talk about
9 them. We're not out to get anybody, your
10 dealers, or take them over and anything like
11 that.

12 MR. POTEET:

13 Well, Derek, why don't you
14 sum up some of the issues that you've had?

15 MR. PARNELL:

16 Well, one of the main things
17 that I've been getting a lot of calls about
18 is the fact where -- the exemption that
19 takes place on -- in the Motor Vehicle Sales
20 Finance Act, which is 6 -- 959.36 where it
21 talks about a motor vehicle dealer is able
22 to be exempt from -- he can hold up 12
23 contracts. On the 13th contract, he must
24 hold a sales finance license. What we ran
25 into with dealers, they were under the

1 impression for many years that used car
2 dealers can do that as well. It wasn't
3 until, I would say, maybe a year ago when we
4 had discussions, Sheri and I went down --
5 that was earlier this year, where it was
6 said that that's actually specifically for
7 new dealers. And I know recently within
8 rule and reg, new car -- you changed it to
9 say new in the rule and the reg. But that's
10 one of the main issues, is that -- the
11 exemptions of it. It's something dealers
12 are calling me constantly saying, how is it
13 that a new car dealer can be exempt for up
14 to 12 vehicles and on 13, you have to have a
15 contract and the used car dealer, if he does
16 -- he can't hold up to 12 and have -- and
17 not be exempt.

18 MR. POTEET:

19 His first one.

20 MR. PARNELL:

21 Right. If he originates a
22 loan, period, if he takes paperwork, why
23 does he have to have a license versus a new
24 car dealer who can up to 12. That's one of
25 the main concerns.

1 MR. McCRANIE:

2 I think -- I tried to answer
3 that just now, because if I don't license
4 him, I can't go in there and audit him. I
5 can't do it. And I can do -- new car
6 dealers, I can go in there all day, but
7 that's -- the reason for that is that if I
8 don't license them, I can't go there.

9 MR. POTEET:

10 I guess my question about
11 that --

12 MR. DUPLESSIS:

13 Back in the day, it was
14 referred to you have two conflicts of law
15 there and I was around, unfortunately, in
16 the day way before that was written, and the
17 12 was originally referring to whole
18 contracts --

19 MR. McCRANIE:

20 Right.

21 MR. DUPLESSIS:

22 -- buy here, pay here.
23 Actually, the federal law self-limit is 25
24 before you have to report you're under
25 compliance. You know, clearly, the law, I

1 think it originates loans. Our guys --
2 everybody, including the ATV dealers, boat
3 dealers, everybody, if they were
4 originating, they could make an indirect
5 loan according to this law and the finance
6 laws. But this is not controlled by the
7 Office of Financial Institutions. For us to
8 license our guys and make sure that the
9 leasing guys are in compliance with
10 Regulation M, Regulation Z, you know,
11 everything, we have not put together a
12 training program or told our dealers what to
13 expect of this license and what they are
14 complicit to. So I'll be honest with you, I
15 think y'all are correct that it's hard for
16 you guys to go in and police our guys. It's
17 going to create a fiasco. So I recommend --
18 I've talked to Lessie and Burgess and Ray
19 Brandt, and I think probably what we need to
20 do is assess it, form a committee -- a small
21 committee that can sort this out and get
22 back to you. It's an enormous subject and
23 we will be here a lot longer than that
24 hearing, I can tell you, before we solve
25 this one. So that's my recommendation. But

1 I think they're very willing to work with us
2 and they -- we all understand the issues.

3 MR. McCRANIE:

4 This is no change. I mean,
5 this memo was in 2007.

6 MR. TAYLOR:

7 Well, the change is that --
8 the enforcement now. You know, it's people
9 wanting the enforcement. That's what's got
10 the feathers ruffled --

11 MR. POTEET:

12 Right.

13 MR. TAYLOR:

14 -- because us as used car
15 dealers have not hear from you guys, you
16 know, from then to now.

17 MR. McCRANIE:

18 Well, I sent -- we sent you a
19 memo in 2007 and said, here you are.

20 MR. TAYLOR:

21 I don't doubt you did. I
22 don't doubt that at all. But the other
23 issue I see here just -- you say you can --
24 an entity of the New Car Commission is the
25 financing. That's an entity. It's a

1 separate entity within the New Car
2 Commission.

3 MR. McCRANIE:

4 It's a separate statute.

5 MR. TAYLOR:

6 Separate statute. Okay.

7 We're going to pay for you
8 guys to be able to enforce that statute or
9 you to audit our dealers.

10 MR. McCRANIE:

11 And banks and leasing
12 companies and everybody else.

13 MR. TAYLOR:

14 As an independent dealer, I
15 don't necessarily disagree that that might
16 or might not -- should or should not happen,
17 but what I do disagree with is the fact that
18 the new car dealers, even though you can go
19 in there, are not having to pay the \$400
20 that we're having to pay. I think
21 representing the dealers -- I'm not trying
22 to represent the dealers, but I think that's
23 where -- the majority of the flack. I mean,
24 you hear a lot, a lot of complaining that
25 the new car stores are not having to do the

1 same thing that the independents are doing
2 and it's going to create a bunch of
3 problems.

4 MR. McCRANIE:

5 I hear you and if this was
6 something new that just happened, I would
7 say -- but that has been -- that \$400 has
8 not changed ever since the first Sales
9 Finance Act back in the '70s. It's never
10 ever been changed. And the licensees have
11 been paying that for 40 years, you know.
12 But without licensing you, I can't regulate
13 it and I have to regulate the law.

14 MR. DUPLESSIS:

15 But the law is in error of
16 itself in actuality. Like you collect -- if
17 you don't license the guy, you can't --
18 especially, on the used car side. So that's
19 why I think we need to sit down and form a
20 committee and resolve the conflict, because
21 there's a perceived conflict and it's going
22 to be worse. The great thing is, nobody
23 knew about it. They got the notice and
24 threw it in the trash can, nobody paid for
25 it. So no harm, no foul. Now that they

1 have to pay \$400, I think they're nervous to
2 death that y'all are going to come in and
3 regulate them. It is conflict.

4 MR. McCRANIE:

5 We have -- all I'm trying to
6 say is this. There have been dealers -- and
7 I can find out. There's 1,000 of them, new
8 car dealers -- used car dealers that have
9 licenses from us. They've had them for
10 years.

11 MR. TAYLOR:

12 I had it on just one of my
13 lots, my finance lot. My additional lot, of
14 course, don't have them right now today.

15 MR. McCRANIE:

16 I mean, we have a zillion
17 used car dealers that have licenses, always
18 had licenses. I mean, it's been forever. I
19 mean, it's not -- it may be some particular
20 people that we said, oh, what about John, is
21 he licensed? Go see, you know. But that
22 doesn't mean we haven't been licensing,
23 getting \$400 from used car dealers for 30
24 years. I mean, I'll find out exactly how
25 many we've got, but I bet it's 1,000.

1 MR. HALLACK:

2 And there are 3,500 used
3 motor vehicle dealers.

4 MR. McCRANIE:

5 Well, I would say at least
6 1,000. I don't know how many there are.

7 MR. TAYLOR:

8 I assume the majority of
9 those would be owner financed cars. I would
10 assume that.

11 MR. McCRANIE:

12 Oh, yes. They jimmy up right
13 quick. And banks are an example. We have
14 banks that get a license from us that pay
15 \$400 just because they don't want any
16 issues, you know. They have to comply with
17 the law. I mean, even if you were not
18 licensed, you would still have to comply
19 with the law and that doesn't -- the law
20 doesn't change, because you're -- like a
21 bank is exempt. A bank does not have the
22 ability to charge other interest rates for
23 anything or not comply with the law. But we
24 have banks that get licensed, you know, just
25 don't want to fool with it. That's the

1 thing.

2 MR. BREWER:

3 The question I've been asked
4 many, many times is, you can't even take a
5 credit app, not that you have the license.

6 MR. McCRANIE:

7 That's what we talk about
8 when we're saying you're originating a loan.

9 MR. BREWER:

10 So that originates the loan
11 -- the transaction. So they have to get the
12 license to take a credit app.

13 MR. McCRANIE:

14 Look, you know, the law has
15 said originate a loan. The question then
16 becomes, do we need to define originating a
17 loan. It's never been defined. There may
18 be in the great scheme of things a federal
19 definition of originating a loan. I don't
20 know.

21 MR. BREWER:

22 And it starts with the credit
23 app.

24 MR. McCRANIE:

25 It starts with a credit app.

1 MR. BREWER:

2 Okay.

3 MR. HALLACK:

4 Well, I want to say this on
5 behalf the Commission, we disagree that
6 filling out a credit app is a loan
7 origination. When you read the Motor
8 Vehicle Sales Finance Act, that's a law that
9 was written for lenders. Origination is an
10 act by the lender, not by a dealer taking an
11 app. The dealer is not --

12 MR. McCRANIE:

13 I don't see -- that may be
14 something we need to look at.

15 MR. HALLACK:

16 I have.

17 MR. McCRANIE:

18 We haven't changed our
19 opinion of that, at least since 2007, you
20 know.

21 MS. MORRIS:

22 I started doing some work --
23 some research on origination, which I
24 haven't completed, and there are various
25 definitions and various rules related to

1 other lending situations that we can kind of
2 borrow and figure out.

3 MR. McCRANIE:

4 Sheri, that's fine with me.

5 I mean, I have no problem --

6 MS. MORRIS:

7 And I think that --

8 MR. McCRANIE:

9 -- working on what is an
10 acceptable definition of origination of a
11 loan. Like I said, we -- our position was
12 set out, probably before '07, but the last
13 time was 2007. And there may be in the
14 federal statutes or sometime, maybe
15 origination of a loan. I don't know. I
16 don't know if OFI has an origination of a
17 loan definition.

18 MS. MORRIS:

19 They have several in their
20 rules, because they have mortgage lenders,
21 they have different types of lenders and
22 different --

23 MR. McCRANIE:

24 Right. We would be the same
25 as consumer credit.

1 MR. HALLACK:

2 Well, I just want to point
3 out to you that it's -- the \$400 per year
4 license is not the big issue. The big issue
5 is, are our dealers in violation, can they
6 be subjected to fines --

7 MR. McCRANIE:

8 Sure.

9 MR. HALLACK:

10 -- and things like that.
11 That's the big issue. The other issue is,
12 too, that our dealers are being told that if
13 they are originating a loan, they need to
14 let a license, but they have to comply with
15 the New Car Commission's advertising laws,
16 too. So those are the two big issues. It's
17 not just the \$400 per license issued. It's
18 also, are they going to be subjected to
19 fines or is their advertising going to be
20 criticized. That's the two really big
21 issues that confront our dealers right now.
22 So in the interim before we do the study
23 group, you know, I would like to know, can
24 we tell our dealers that this is going to be
25 studied, nobody is going to be handed a

1 violation ticket.

2 MR. McCRANIE:

3 Now, I don't -- I do not have
4 the authority to say that.

5 MR. POTEET:

6 Well, then, what we need to
7 do is, we need to get a meeting before the
8 next Commission -- is that possible, Derek,
9 to get a meeting?

10 MR. McCRANIE:

11 You are talking about
12 advertising. I've been in the position
13 where the Chairman said, of course, we're
14 subject to y'all's advertising rules, you
15 know. I've heard that for years.

16 MR. HALLACK:

17 I kind of disagree with that.

18 MR. McCRANIE:

19 We don't talk to them about
20 advertising. There's several rules on
21 advertising on leasing, that's federal
22 rules, you know. We don't have any --

23 MR. HALLACK:

24 But the New Car Commission
25 investigator has been talking to used motor

1 vehicle dealers about their advertising.
2 That is going on.

3 MR. TAYLOR:

4 That is correct, in my town.

5 MR. McCRANIE:

6 I don't know. I'll look into
7 that. I don't know. I have no idea.

8 MR. PARNELL:

9 Yes. We -- both Commissions
10 have worked -- since I've been here four
11 years, we've worked very well together and I
12 think moving forward at the suggestion of
13 Commissioner Duplessis we get together and
14 do a committee study prior -- you can do it
15 prior to your next meeting. That way, we
16 can --

17 MR. POTEET:

18 I was going to say -- sorry,
19 Betty. I was going to say that if you get
20 together with Lessie and kind of resolve
21 sort of a short-term, you know -- I don't
22 know what to call it, but a cooling off
23 period or something where we say, hey, give
24 us 60 days or 90 days to look at all of
25 these issues.

1 MR. McCRANIE:

2 I would have to talk to them.
3 I don't have any authority.

4 MR. POTEET:

5 That's what I'm saying. I
6 was going to ask Derek to do it. I think
7 Mr. Hallack had summed up pretty much the
8 two issues -- or the two main issues. I
9 don't think there's really an issue with the
10 \$400 fee. It's just a matter of should I be
11 paying that or not and do I fall into that.
12 And I think we've got at least some issues
13 that revolve around that. Am I right?

14 MR. HALLACK:

15 Yes, sir.

16 MR. POTEET:

17 I'm going the right way.

18 So, Derek, before the next
19 meeting, if you could get together with
20 Lessie, and then maybe just to get an
21 agreement to start working towards
22 something, and then maybe we could appoint
23 one or two of our --

24 MR. McCRANIE:

25 I'm trying to think of

1 anything in our advertising rules that would
2 apply to used cars and the only one I can
3 think of right off the top of my head is,
4 you can't advertise a discount on a used
5 car, discount for --

6 MR. POTEET:

7 Well, we're talking about --
8 I mean, the advertisements that were in
9 question, weren't they about the finances?

10 MR. TAYLOR:

11 It's generally about finance
12 and terms as low as and things of that
13 nature is the things that --

14 MR. McCRANIE:

15 Well so much of that is
16 federal stuff.

17 MR. TAYLOR:

18 But if that's federal who --
19 you know, as dealers, we need to know who
20 enforces that.

21 MR. McCRANIE:

22 We have the -- anything
23 involving the sale of cars, your guys should
24 enforce that.

25 MR. DUPLESSIS:

1 Well, there's the key words.
2 You know, I sit on both sides of the
3 equation, so I kind of get it. Most of the
4 stuff is federally regulated. Our rules
5 here are adopted by the Federal Trade
6 Commission, truth in advertising. That's
7 what we go by. The -- I think the
8 acceptance is when you have buy there on the
9 spot manufacturer rebates -- hidden rebates
10 that don't apply to the used car side. But
11 what does apply, you know, is possibly some
12 of key prohibited words.

13 MR. McCRANIE:

14 The financing is at issue
15 here.

16 MR. DUPLESSIS:

17 Yes.

18 MR. McCRANIE:

19 Well, everyone finances.
20 Well, that's just bull. You know, no state
21 in the world allows everybody to finance.

22 MR. POTEET:

23 I think the advertising that
24 was in question, wasn't that -- the way it
25 was worded, there was going to be a bank

1 representative on site. I can't remember
2 how it was.

3 MR. TAYLOR:

4 That was out of Shreveport.

5 MR. POTEET:

6 Financing through, you know,
7 ABC Bank and that was -- somehow was an
8 interpretation. I don't know.

9 MR. McCRANIE:

10 Well, look, if you -- if
11 something like that comes up, let Lessie
12 know. We're not out to get your people.

13 MR. POTEET:

14 I know you're not.

15 MR. McCRANIE:

16 But we also -- I think we
17 both or all of us have an obligation to
18 protect the consumer.

19 MR. POTEET:

20 Correct.

21 MR. McCRANIE:

22 And some of these ads are
23 just -- you know, I'll tell you a Fair Trade
24 Commission rule. If there's a negotiated
25 price, nothing is free. That's Federal

1 Trade Commission. In a car, if you're
2 negotiating a price, then you can't say
3 anything is free, because it's in the
4 negotiated price. That's a Federal Trade
5 Commission rule, you know. You can't say,
6 I'm going to give you free gas for life, you
7 know, because it's not free, you know. If
8 there's a negotiated price, all that's got
9 to be figured in. That's -- in the Federal
10 Trade Commission, there's no such thing as
11 free items in a negotiated price.

12 MR. TAYLOR:

13 When the dealer -- this is a
14 question I don't know. When a dealer pays
15 their \$400 and gets their finance license,
16 what portion, what percentage, all of it,
17 what are we as dealers bound to, I mean, is
18 it just your Sales Finance Act?

19 MR. McCRANIE:

20 Just the Sales Finance Act.

21 MR. TAYLOR:

22 Period?

23 MR. McCRANIE:

24 Period.

25 MR. TAYLOR:

1 It doesn't open up the rest
2 of anything that would contradict with one
3 of our statutes?

4 MR. McCRANIE:

5 No. I think the sales
6 finance you've got, it's just -- it's
7 consumer sale or credit sale or a consumer
8 loan. A consumer loan would be, you know,
9 if you go to the bank and borrow money.
10 Consumer credit is when you take a lien
11 against the car, you know. Both are covered
12 and the interest rates are covered in the
13 statute, but that's all we cover. And then,
14 we've got gap in there, too. I don't know
15 if you all offer gap or not.

16 MR. TAYLOR:

17 We do.

18 MR. McCRANIE:

19 It seems to be an enormously
20 profitable deal guided only by what the
21 finance company will finance. Now, some
22 states have a limit on what you can charge
23 for gap. Y'all are probably typically
24 paying a gap of about \$100, maybe \$140,
25 charging \$600 or \$800 for it, huge profit

1 incentives for the dealer. That's what I'm
2 saying, if you're not using gap, you -- as a
3 seller, you must offer gap.

4 MR. TAYLOR:

5 No. We've got a gap where if
6 you decline it, you sign a gap waiver.

7 MR. McCRANIE:

8 Has that been approved?

9 MR. TAYLOR:

10 Has my gap waiver been
11 approved?

12 MR. McCRANIE:

13 Gap has to be approved by the
14 -- the waiver has to be approved, and there
15 are certain rules what you can do and what
16 you can't do.

17 MR. HALLACK:

18 I think -- if you're going to
19 put together a committee, I think the
20 Commissioners who want to be on the
21 committee need to voice up and say, I want
22 to participate and be involved in that, and
23 make sure that they get notice of when the
24 meeting is coming up.

25 MR. TAYLOR:

1 Give me time to check on that
2 gap waiver first.

3 MR. HALLACK:

4 You didn't notice, I was
5 trying to get off that issue.

6 MR. McCRANIE:

7 You have to have a license as
8 a dealer or a salesman.

9 MR. DUPLESSIS:

10 It has to be pre-approved by
11 the gap provider. So we'll let you sleep on
12 it.

13 MR. McCRANIE:

14 But, you -- he said he had
15 his own waiver.

16 MS. MORRIS:

17 I'm sure that the company
18 provided --

19 MR. POTEET:

20 Oh, yes, absolutely.

21 MS. MORRIS:

22 He didn't write it.

23 MR. McCRANIE:

24 And it has to be insured.

25 MR. POTEET:

1 I think you've been very
2 helpful.

3 MR. McCRANIE:

4 Well, thank you. I really
5 enjoyed y'all's meeting today. I keep
6 saying my leasing guy is coming back to the
7 fold, you know. No. I thought it was
8 handled very well. I think you really made
9 the right decision. You know, you talk
10 about your Article 9 or whatever is absurd.
11 I think this did reach an absurd conclusion,
12 you know, or whatever. Anyway, you know
13 where I am. Thank you for your time.

14 MR. POTEET:

15 Okay. So I think what -- Mr.
16 Hallack is saying, yes, whoever wants to be
17 on the committee, but I think you need to
18 talk to her before we form a committee and
19 determine what are the issues the committee
20 is going to discuss.

21 MR. HALLACK:

22 Our responsibility is to our
23 dealers, because our dealers are looking to
24 us for answers to these questions, am I
25 going to be issued a fine, because I got

1 somebody to fill out a credit app?

2 MR. TAYLOR:

3 That's exactly right.

4 MR. POTEET:

5 Derek.

6 MR. PARNELL:

7 That's what we're trying to
8 establish.

9 MS. MORRIS:

10 Derek and I previously met
11 with Lessie and Burgess and we had -- I
12 thought at the end of that meeting, which
13 was before the session, and, you know, let's
14 write down kind of checklist, so we all
15 understand and interpreting it the same way
16 and if we're not interpreting it the same
17 way, let's work out those things, but we
18 never received the checklist or the
19 interpretation and we didn't know about the
20 2007 letter, which might have helped as a
21 starting point.

22 MR. POTEET:

23 And I think to that point --
24 back to Robert's point is that, you know, if
25 somebody this afternoon from the New Car

1 Commission goes out to one of our dealers
2 and starts asking them questions, we need to
3 have something. So I'm just saying if you
4 could get Lessie to give us some period of
5 time, 30 days, to come up with some sort --
6 at the end of the year, to come up with some
7 sort of an agreement or checklist or
8 whatever, then we can work on that.

9 MR. DUPLESSIS:

10 I spoke to her on Friday. I
11 spoke to both Derek and Sheri and it was --
12 and I spoke to her specifically about the
13 north Louisiana instance, and I think
14 they're going to calm down and we'll be able
15 to put together a coalition that makes it
16 right. I think we owe our guys an
17 obligation to and do what we can in all the
18 things that we license, but if this Motor
19 Vehicle Finance Act is not adequate to serve
20 our dealers that we represent, I'm going to
21 tell you, no.

22 MR. PARNELL:

23 They have no training at all.

24 MR. DUPLESSIS:

25 They don't have anything.

1 They don't have anything that I think that
2 we need to have. And I'm going to request
3 they do a compliance. New car dealers are a
4 totally different animal. You have captive
5 financing. So you have all of that in play.
6 Our guys have to go find that for
7 themselves. So I think we need to be good
8 stewards here and they'll work with us.

9 MR. PARNELL:

10 I really need to get
11 something out to the dealers, so they can
12 know exactly.

13 MS. MORRIS:

14 Especially, in the beginning
15 of the year when they're renewing their
16 license or getting their license.

17 MS. BARON:

18 Well, they're getting very
19 scared, because they're seeing fines, fines,
20 fines, you know, and we didn't know.

21 MR. PARNELL:

22 It is primarily in north
23 Louisiana that we have that issue.

24 MS. BARON:

25 Yes, and there's a lot up

1 there.

2 MR. HALLACK:

3 They are having an
4 investigator problem.

5 MR. DUPLESSIS:

6 Agreed. I think it's been
7 researched, let's say.

8 MR. POTEET:

9 All right. Let's move on to
10 C.

11 MR. TAYLOR:

12 After you talked about
13 financing, can we have a cooling period. We
14 have two dealers, in particular, that I
15 would like to, you know, just to be able to
16 tell them, you know, this is coming, this is
17 going to happen, I can see that it's going
18 to happen, but, guys, we're going to try to
19 put together something for y'all, just hold
20 tight and do the right things and -- you
21 know, I need some information to bring to
22 these guys.

23 MR. PARNELL:

24 I'll do that.

25 MR. HALLACK:

1 A memo to that effect would
2 be fine, to say that we're currently
3 pursuing this and looking into it and we'll
4 let you know what's going on.

5 MR. TAYLOR:

6 I would like to be on that
7 committee, of course.

8 MR. PARNELL:

9 C is discussion of Louisiana
10 Auctioneers Licensing Board meeting. There
11 was -- a month ago, there was a discussion
12 with the Louisiana Auctioneers Board. It's
13 been ongoing regarding the need for a
14 separate auction license issued by the LUMVC
15 in addition to the auctioneers license that
16 they hold.

17 Robert, I think you had put
18 something together for us just to kind of --

19 MR. HALLACK:

20 Okay. Well, what you have is
21 a letter that I wrote to Derek. As you
22 know, we had to go and find the files on
23 this matter, because this is not the first
24 time it was discussed, and it's kind of
25 strange to me why they feel like it's a new

1 issue. This is not a new issue. In 2004,
2 we were -- had become aware that -- let me
3 back up even further. In 1984, we started
4 licensing auctions as a used car dealer.
5 Auctions sold used cars, so we licensed them
6 as used car dealers. Auctions have always
7 been part of our law. And in 2004, the
8 Auctioneers Board tried to license one of
9 the used motor vehicle auctions. That
10 person did not want to have a license with
11 them and us at the same time. So the issue
12 came up, and so we told them, well, we've
13 been licensing used auctions since our
14 inception, but I tell you what, we'll put
15 auctions in the definition of a used motor
16 vehicle dealer, and then we'll exclude
17 certain things that you believe need to be
18 -- stay within the Auctioneers Board. So we
19 included auctions in the definition of a
20 used motor vehicle dealer in 2004. What you
21 have in the letter is the minutes of the
22 Commission meeting where it was discussed,
23 and that's how it started. We had a dealer
24 complaint about dual licensing. We got with
25 the Auctioneers Board. We came together and

1 came to an understanding, which resulted in
2 my letter of February 24th. I don't know if
3 that's in there or not. But the letter of
4 understanding between the two Commissions
5 then became legislation in 2004, like I said
6 where we added auctions to the definition of
7 a used motor vehicle dealer. So it reads
8 that if you sell, borrow, everything, and
9 auction used motor vehicles, you must be --
10 you must have a license with this Commission
11 and it included the word auction. But we
12 also excluded certain things that the
13 Auctioneers Board wanted us to exclude in
14 that provision or my letter. It excludes
15 liquidations, bankruptcies, farm equipment,
16 and things like that. So that was the
17 understanding that became -- I think I
18 called it Act 550 of the 2004 legislative
19 session. So that was our understanding.
20 Now, that -- I think what they're
21 questioning now is that part of legislation
22 that says principal part. You know, it says
23 -- I don't have it in front of me.

24 MS. BARON:

25 It's in the packet, the rest

1 of the -- rest of what he's talking about is
2 inside the packet.

3 MR. HALLACK:

4 Right. And it gives you the
5 definition there. Auctioneers are auction
6 houses who are not engaged in the auction of
7 used motor vehicles as the principal part of
8 their business. So I think they're kind of
9 looking for an interpretation of that
10 principal part of their business, because
11 they now have a member who does occasionally
12 sell used motor vehicles through a used
13 motor vehicle auction, and they've always
14 been licensed by this Commission, but now
15 they question whether or not they should be
16 licensed by this Commission.

17 MR. POTEET:

18 At one time, auctions only
19 had one license.

20 MR. HALLACK:

21 That's correct.

22 MR. POTEET:

23 Then we added a separate. So
24 an auction now that's principally selling
25 cars, not other things, those auctions pay a

1 -- they get a UD license, and they also get
2 from this Commission an auction license, two
3 separate licenses.

4 MR. HALLACK:

5 Now, talking to the
6 Administration, it's my understanding that
7 -- you have to realize, everything at the
8 inception of the Commission was licensed as
9 a used motor vehicle dealer, motorcycle
10 dealer, dismantler. Everybody was licensed
11 as a used motor vehicle dealer. Then we
12 separated it out and created
13 classifications, and so -- but it's still
14 licensed as a UD dealer and I talked to the
15 Administration. I don't understand if a
16 used motor vehicle auction is not selling
17 vehicles at retail why they would have to
18 have a UD license, and Kim tells me it's for
19 insurance and bond purposes. There are a
20 lot of used motor vehicle auctions
21 apparently that do sell cars on the side,
22 too, or I don't know.

23 MR. POTEET:

24 I'm sure there are some. I
25 don't do that.

1 MS. BARON:

2 There's a lot of them that
3 do.

4 MR. HALLACK:

5 But I would recommend that if
6 an auction doesn't sell cars retail, that
7 they only have to have one license and they
8 would make the provisions in the law.

9 MR. POTEET:

10 The auctions, not the used
11 dealer.

12 MR. HALLACK:

13 Right, the auction license,
14 not the used dealer license.

15 MR. POTEET:

16 Everybody is looking at me.
17 I guess I'm the only auction here.

18 Well, I mean, I guess that
19 makes sense. I don't know -- you know, I
20 don't know what I have really in common with
21 used car dealers, I mean, other than cars.
22 I mean, I'm not selling to the public. I
23 don't -- I certainly don't get into any kind
24 of financing with the public. I don't even
25 allow the public on my property, if I can

1 stop them, other than people who are
2 redeeming their cars that have been
3 repossessed. So I think we are a different
4 animal within subcategory in your industry
5 -- in our industry, you know. I don't
6 compete, per se, with some dealers. I
7 compete with wholesalers, but I'm not --
8 again, there's no consumer -- really,
9 there's no consumer involved with it. So
10 I've always wondered about that myself, too.
11 But I can see how, I guess, an auction would
12 be, you know, questioning really why do I
13 need three licenses. It's not the question
14 of two licenses. It's the question of three
15 licenses.

16 MR. HALLACK:

17 Well, there are a number of
18 businesses that are regulated by state and
19 federal law that have a number of different
20 licenses.

21 MR. POTEET:

22 Yes. We have this -- we were
23 just talking about it, just talking about
24 that same thing.

25 MR. HALLACK:

1 Yes, sure.

2 MR. POTEET:

3 So, you know, I guess I would
4 sort of have to almost recuse myself,
5 because I would like to pay less in license
6 fees.

7 MR. TAYLOR:

8 Would you run me through all
9 the licenses again auctions have? They have
10 a two year?

11 MR. POTEET:

12 I have to have a two year. I
13 have to have a used car dealer license just
14 like you do, and then I have an auction
15 license.

16 MR. TAYLOR:

17 How much is your auction
18 license?

19 MR. POTEET:

20 They're the same price.

21 MS. BARON:

22 Four hundred.

23 MR. POTEET:

24 And then I also have to get a
25 license by the LALP, and, you know, the

1 Auctioneer Licensing Board, really, they
2 spend all their time with the real estate
3 auctions. When you talk about who they're
4 regulating, they don't get into car auctions
5 very often, because the car auctions are --
6 you know, except for some off site type
7 sales, most car auctions are going to be in
8 the same place at the same time every week,
9 the same building. Whereas, somebody who is
10 doing a real estate auction, they're running
11 around to all of these different estates
12 and, you know, estate auctions and all the
13 different -- gun auctions. We're the only
14 thing that I can think of -- maybe somebody
15 can think of this, but we're the only type
16 of auction that is in a set place all the
17 time. So we're kind of a different animal.

18 MR. TAYLOR:

19 How many auctions do we have
20 licensed?

21 MS. BARON:

22 Eighty-ish.

23 MR. TAYLOR:

24 How many, 80?

25 MS. BARON:

1 About 80 or something.

2 MR. PARNELL:

3 Seventy or 80.

4 MR. POTEET:

5 That includes the salvage
6 auctions, right, which, I mean, they're a
7 different category, too.

8 MS. MORRIS:

9 And it includes auctions that
10 are not just selling vehicles. You're
11 limited to vehicles. Some of them are
12 selling trailers, equipment, vehicles all
13 mixed in, and they do move from place to
14 place.

15 MR. POTEET:

16 It's a different kind of
17 auction.

18 MR. HALLACK:

19 Well, I think the licensee
20 that's complaining, she does some
21 liquidations. She does some estate, but we
22 looked her up on the Internet last week and
23 she was doing a motorcycle -- a used
24 motorcycle auction. We know that she was
25 heavily involved in the used travel trailer

1 auctions. So what I'm recommending is that
2 we simply write back to the Auctioneers
3 Board and explain to them what -- that we're
4 going to enforce the law as it's written,
5 and this was the agreement that we reached
6 with your Board back in 2004, that everybody
7 has been happy to live under for nine years.

8 MR. POTEET:

9 Nine years.

10 So this -- was this the
11 actual interagency agreement?

12 MR. HALLACK:

13 The interagency agreement was
14 the statute that we agreed on.

15 MR. POTEET:

16 Well, I will say it, again.
17 I would think -- I don't know if anybody
18 else has any comments on this. I would say
19 to send this back to them, that here's what
20 we have dating back to 2004, I mean, what's
21 different now, kind of like Mr. McCranie
22 told us.

23 MR. TAYLOR:

24 Now, we're trying to --
25 primarily, that was the word they were

1 trying to define, available. I mean, all of
2 this is kind of coming full circle here.

3 MR. POTEET:

4 It's been a bad
5 interpretation.

6 MS. BARON:

7 To clarify how many auctions
8 we have, there's actually only 44.

9 MR. POTEET:

10 And there are probably only a
11 dozen or so that are like us.

12 MS. BARON:

13 That are like you.

14 MR. POTEET:

15 That are like me.

16 MR. HALLACK:

17 That don't sell cars on the
18 side.

19 MR. POTEET:

20 We don't sell cars on the
21 side. We don't do mobile auctions. We
22 don't travel around. We don't go to
23 somebody's dealership and do auctions. I
24 know that Manheim does that, but not, I
25 don't think, in this state. I think they do

1 it in Mississippi. That's where they will
2 go to a dealership and say, we will create a
3 -- like, a private label -- they call it a
4 private label auction.

5 MR. HALLACK:

6 So do we need to make
7 legislation to create a separate
8 classification for auctions that don't sell
9 used --

10 MS. BARON:

11 They do it separately, if
12 we're not going to make them have both
13 licenses.

14 MR. HALLACK:

15 What would all of that
16 entail?

17 MS. MORRIS:

18 I think we need to go back
19 and look at the statute, but I'm not
20 convinced that we need legislation to
21 clarify that. We probably need
22 clarification as to when you need the other
23 license. You might need to get some more
24 information on the application just to
25 verify the nature of the business to

1 determine which license to issue. So I'm
2 not sure that we need an adjustment of the
3 statute, but we just need to go back and
4 research that. I don't think our current
5 application gives us enough information that
6 we know what you're doing. So, in some
7 cases, we know the business of the person,
8 the particular complaint. We don't know the
9 scope of her business and really what we
10 found was from the Internet, which may or
11 may not be accurate. So I think we might
12 need to -- we might be able to work with the
13 current statute and look at our application
14 with respect to auctions and just have them
15 certify that they're not doing this or that,
16 and they wouldn't need the additional
17 license, maybe.

18 MS. BARON:

19 All the application asks is
20 if it's wholesale or public or do you own --

21 MS. MORRIS:

22 We don't gather enough
23 information to do that.

24 MR. POTEET:

25 Well, in Texas -- you know,

1 my company has an auction in Texas. And
2 there we don't have any kind of license
3 through the motor vehicle. We have an
4 auctioneer license. That's it.

5 MR. HALLACK:

6 But should an auction, if
7 they sell at retail, should they be required
8 to have a bond?

9 MR. POTEET:

10 I guess so.

11 MR. DUPLESSIS:

12 That's where they should have
13 a bond.

14 MR. POTEET:

15 Well, I have a bond with
16 both. I have a bond with you guys and I
17 have a bond with the Auctioneer Licensing
18 Board. Those are two separate bonds.

19 MR. HALLACK:

20 But I agree, there's no
21 reason why you should have to have two
22 licenses, and that's why I'm trying to
23 understand.

24 MR. POTEET:

25 Also -- the way I understand

1 it, the auction license through this
2 Commission was because I'm dealing with car
3 dealers and there are certain things that
4 need to be considered, but to be a used
5 motor vehicle dealer, I don't do anything
6 that any of these guys do. I mean, unless
7 somebody can tell me.

8 MR. TAYLOR:

9 You're in the public auction,
10 you are, but you don't have a public auction
11 license.

12 MR. POTEET:

13 I think somebody that's a
14 public auction has to be both, because
15 they're a car dealer. Dealing with public
16 auction, you have to do all the same things
17 a car dealer does.

18 MR. HALLACK:

19 Maybe we don't need an
20 auction license, we just need a used motor
21 vehicle dealer license.

22 MR. POTEET:

23 Or the other way around.

24 MR. HALLACK:

25 I'm just trying to understand

1 what the justification is for both.

2 MR. DUPLESSIS:

3 Well, don't you think that
4 maybe it's just an inherent complaint?

5 MR. HALLACK:

6 Sure.

7 MR. DUPLESSIS:

8 That's what it sounds like to
9 me, because I've watched the videotapes that
10 were sent.

11 MR. POTEET:

12 Yes, I watched some tapes,
13 too.

14 MR. DUPLESSIS:

15 They're really -- they're
16 quite entertaining.

17 MR. POTEET:

18 It's an entertaining
19 Commission, Board.

20 Well, I don't -- you know,
21 again, I don't know if I should even be
22 discussing this, because, you know, it's
23 just like anybody in this room, would you
24 rather have your license fees go up or go
25 down. The answer is going to be, prefer

1 them to go down. I mean, I don't have any
2 -- you have the same investigators. There's
3 not a separate investigator that comes and
4 investigates me for auction, and then
5 another investigator investigating me for
6 car dealer. And if he's investigating -- he
7 or she were investigating me for car dealer,
8 what would you look at?

9 MR. HALLACK:

10 Well, we do have a separate
11 set of laws that deal only with auctions.

12 MR. POTEET:

13 Right, and I'm okay with
14 that. I'm just saying as a car dealer -- if
15 you're going to treat me as a car dealer,
16 what would you say to me, you haven't had
17 any sales, you're not advertising, you're
18 not --

19 MS. BARON:

20 You have no complaints.

21 MR. POTEET:

22 I haven't had any complaints
23 from dealers. I've had complaints.

24 MR. HALLACK:

25 Well, I just thought from our

1 MS. BARON:

2 They would have to regulate
3 them some sort of way. So they would have
4 to go out and make sure that the auctions
5 that they say they're doing is what they're
6 doing.

7 MR. POTEET:

8 Then you would be a
9 curbstoner.

10 MS. BARON:

11 Exactly.

12 MR. POTEET:

13 That would be essentially
14 what you would be is a curbstoner. If I
15 decided to start selling cars on my lot and
16 I only had the auction license, then I would
17 essentially be a curbstoner. Then you would
18 fine me for curbstoning or say, you need to
19 get a used car dealer license, which is the
20 same thing we say to curbstoners.

21 MR. HALLACK:

22 Is that something you want to
23 look into or just let it go for now?

24 MR. POTEET:

25 I think what we should do is

1 go back to these people, back to their
2 Auctioneer Licensing Board, and remind them
3 of all the things that we talked in the past
4 and see what they do next.

5 MR. BREWER:

6 You only have, what, about 12
7 or so true auto auctions in the state?

8 MR. POTEET:

9 I think it's 14, somewhere
10 from 12 and 14.

11 MS. BREWER:

12 And they probably are all
13 required to have the dual license, right?

14 MR. POTEET:

15 Yes.

16 MR. BREWER:

17 It's not a big issue.

18 MR. POTEET:

19 Not to us. I mean, this
20 other --

21 MS. BARON:

22 But they're looking at it.
23 That's the thing. We have one person that's
24 complaining and they're looking into it
25 hard.

1 MR. POTEET:

2 So, again, my recommendation
3 is what Mr. Hallack dug up out of his
4 archives and this new letter and send it
5 over to them and say, here's what we came up
6 with. It's kind of like chess, what's your
7 move. We're responding to their complaint.
8 It really hasn't been a complaint. I mean,
9 we've seen the video, but their formal
10 correspondence with us has not been a
11 complaint. It's been more what do you think
12 we should do. So I think this is our answer
13 right now. Put a tag on their plate and see
14 what they come back with.

15 From our standpoint, as an
16 auction, I think you've got a couple of
17 different types of animals. You've got the
18 kind of auction that I'm in, which is, you
19 know, a brick and mortar structure on a lot
20 that never moves, and then you've got the
21 kind of auctions that do cars and
22 motorcycles, sometimes as part of an estate
23 or something else, and those are the ones
24 that are -- I mean, ours -- to George's
25 point, I think it's easy to figure out what

1 we do. Some of those others, it might be a
2 little harder to figure out what they're
3 doing. I would assume when they have an
4 auction, that -- and, again, this is an
5 assumption. I would assume that they invite
6 the public, that they're not just a dealer
7 on the auction. This is the other part, you
8 know, not only are we a standalone brick and
9 mortar building, we're a dealer on the
10 auction. We're specifically excluding the
11 public.

12 MS. BARON:

13 And we have several that rove
14 -- that go from address to address.

15 MS. MORRIS:

16 I think sometimes when people
17 apply for their license at the end of the
18 year, they don't know what type of items
19 they're going to be hired to auction. So I
20 think some of them get it, because they
21 don't know if they'll get a whole fleet of
22 vehicles.

23 MS. BARON:

24 Yes.

25 MS. MORRIS:

1 You don't know what business
2 you are going to get. So some of them, I
3 think, have it and it might be at the end of
4 the year they could say, I only sold five
5 vehicles, but they didn't know that until
6 people approached them to do auctions.

7 MR. HALLACK:

8 It sounds kind of like it's
9 not really worth the effort to figure out a
10 way to reduce it to one license for
11 businesses like yours since there are only
12 12 to 14.

13 MR. POTEET:

14 I abstain from the
15 discussion.

16 MS. MORRIS:

17 We have the other 30.

18 MR. POTEET:

19 Does anybody else agree,
20 because our next step is to send all this
21 over to them and let them look at it?

22 MR. TAYLOR:

23 But, in the meantime, that
24 person, if they sell cars, needs a license.

25 MR. POTEET:

1 They have one.

2 MR. PARNELL:

3 They already had one.

4 MS. MORRIS:

5 They are a long-time
6 licensee. This was after they renewed.
7 They're not in violation.

8 MR. PARNELL:

9 I think that when we went to
10 a two-year license, it kind of got to them a
11 little bit. That's when she made that
12 complaint. So I don't know if that had
13 anything to do with it.

14 MR. POTEET:

15 Okay. So let's move on to
16 the Executive Director's report. What else
17 can he talk about?

18 MR. PARNELL:

19 I have a review of complaints
20 totals you'll find in your packet. We have
21 the complaint totals from September and
22 October. The first document is your alleged
23 issue counts. There were a total of 113
24 alleged issues for the month of September,
25 2013. The second document is also an

1 alleged issue count for the month of
2 October.

3 For the month of October,
4 there were a total of 105 alleged issues.
5 The third report is the case report for the
6 month of September. As always, the case
7 report illustrates the number of assigned,
8 completed and remaining open cases for that
9 month. In particular, there were 84 cases
10 assigned in the month of September.
11 Thirty-five cases were closed, leaving 49 of
12 those cases remaining open. The month of
13 October is the next case report. There were
14 82 cases assigned. Nineteen cases were
15 closed, leaving 53 cases remaining open for
16 the month of October. The next document is
17 the department summary report. For the
18 month of September, there were 91 cases
19 closed in the month of September. In the
20 month of October, there were 42 cases
21 closed.

22 That would conclude the
23 Executive Director'S report. General
24 information, I would like to strike that
25 from the agenda.

1 MR. POTEET:

2 Okay. Does anybody have any
3 questions for Derek at this point?

4 (No response.)

5 MR. POTEET:

6 Okay. Ratification of
7 revocations.

8 MR. PARNELL:

9 All right. Commissioners,
10 you will find in your packet an illustration
11 of the revocations. The first item it is
12 Rabee Auto Sales, which is located at 2600
13 Lapalco Boulevard, Harvey, Louisiana.

14 MR. POTEET:

15 Hold on just a second. Do we
16 know if any one of these dealerships are
17 represented here today, any of these? Do
18 you want to just check?

19 MS. BARON:

20 Yes. I can check, but I
21 don't believe anybody was coming.

22 MR. POTEET:

23 No one.

24 MS. BARON:

25 No one.

1 MR. POTEET:

2 So what we'll do is, we'll
3 have you go through all of these, and then
4 we'll do one ratification.

5 MR. PARNELL:

6 One at the end?

7 MR. POTEET:

8 Yes, one at the end.

9 MR. PARNELL:

10 All right. Commissioners, as
11 we found, there are no persons here
12 representing any of these dealerships. The
13 first one on the list is Rabee Auto Sales.
14 They're located at 2600 Lapalco Boulevard,
15 Harvey, Louisiana, 70058. Their license UD
16 number is 242458 and their AD number is
17 40658. Their license was revoked back in
18 January of 2013 because of no licensed
19 salesperson. Salesperson -- I'm sorry, a
20 suspension notice was sent March 22nd of
21 2013 giving him 10 days to comply. The
22 final revocation notice was sent September
23 26, 2013.

24 The next item is Top Hatch,
25 815 Central Avenue, Jefferson, Louisiana.

1 Their ZIP code is 70121. Their license
2 number UD is 240514. It was revoked on
3 January 1, 2013 because of no salesperson
4 licenses. A suspension notice was sent
5 March 13 of 2013 giving them 10 days to
6 comply. The final revocation notice was
7 sent on September 30th of 2013.

8 The third item is Auto
9 Solutions located at 3303 South Broad
10 Street, New Orleans, Louisiana, 70125.
11 Their license UD number is 243494. They
12 were revoked back on January 1st because of
13 no licensed salesperson. A Suspension
14 notice was sent on March 23rd of 2013. The
15 final revocation was sent on October 4th of
16 2013.

17 The fourth item is M&S Auto
18 Wholesale located at 9033 Highway 23 in
19 Belle Chasse, Louisiana, 70037. License
20 number UD number is 243262. Their license
21 was revoked back on January 1, 2013 because
22 of no licensed salesperson. A suspension
23 notice was sent March 25, 2013. The final
24 revocation notice was sent October 4th of
25 2013.

1 The fifth item is Quality
2 Auto Solutions, LLC. They're located at
3 9515 Almonaster Avenue in New Orleans,
4 Louisiana, 70127. Their license UD number
5 is 243172. Their insurance expired on July
6 29th of 2013. They were revoked back on
7 July 30th of 2013 because of the insurance
8 expiration. A suspension notice was sent on
9 September 13th of 2013 giving them 10 days
10 to comply. The final revocation notice was
11 sent on October 17th of 2013.

12 The sixth item on the list is
13 Unlimited Auto Sales. They're located at
14 7900 Chef Menteur Highway, New Orleans,
15 Louisiana, 70126. Their license UD number
16 is 243538. They were revoked January 1st of
17 2013 because of no licensed salesperson. A
18 suspension notice was sent on March 25,
19 2013. The final revocation notice was sent
20 October 17th of 2013.

21 The seventh item is Hammond's
22 Transportation, LLC. They're located at
23 13921 Chef Menteur Highway, New Orleans,
24 Louisiana. ZIP code is 70129. The license
25 UD number is 243362. They were revoked back

1 on January 1, 2013 because of no licensed
2 salesperson. A suspension notice was sent
3 on March 25, 2013. The final revocation
4 notice was sent on October 21st of 2013.

5 Number eight on the list is
6 Stafford Used Auto Parts and Supplies.
7 They're located at 2101 Peters Road, Harvey,
8 Louisiana, 70058. The license AD number is
9 40337. They were revoked back on January 1,
10 2013 because of no salesperson. A
11 suspension notice was sent out on March 13,
12 2013. The final revocation was sent on
13 October 21, 2013.

14 Number nine is Ross' Trading
15 Post. They're located at 1735 Airline
16 Drive, Kenner, Louisiana, 70062. Their
17 license UD number is 239749. They were
18 revoked back to January 1st of 2013 because
19 of no licensed salesperson. A suspension
20 notice was send March 23, 2013. The final
21 revocation notice was sent on October 21,
22 2013.

23 Number 10 on the list is
24 Preferred Motors, LLC. They're located at
25 2332 Williams Boulevard, Kenner, Louisiana,

1 70062. Their license UD number is 242332.
2 Insurance expired on August 10th of 2013.
3 Revocation on August 11th of 2013 because of
4 the expiration of insurance. A suspension
5 notice was sent on September 6, 2013 giving
6 them 10 days to comply. The final
7 revocation notice was sent on October 21st
8 of 2013.

9 Number 11 and our final one
10 is Thibodeaux Auto Sale, Inc. They're
11 located at 461 Billeaux Road in Carencro,
12 Louisiana, 70520. Their license number UD
13 is 239648. Their insurance expired on
14 August 11th of 2013. Their license was
15 revoked on August 12th of 2013 because of
16 the expiration of insurance. A suspension
17 notice was sent August 26th of 2013. The
18 final revocation notice was sent on October
19 21st of 2013.

20 Commissioners, I ask that you
21 ratify all 11 revocations and their sales
22 persons.

23 MR. ROY:

24 I move.

25 MR. SMITH:

1 Second.

2 MR. POTEET:

3 I have a motion. Second,
4 Darty.

5 All in favor, say, "Aye."

6 (All "Aye" responses.)

7 MR. POTEET:

8 Any opposed?

9 (No response.)

10 MR. POTEET:

11 Okay. All of those are
12 revoked.

13 So the only thing that we
14 have left on our agenda is items for next
15 agenda. I'm assuming you passed out the
16 January date. It's on the 20th. So MLK Day
17 is on the 20th, I assume. So we need to
18 have a meeting probably the 27th, because we
19 can't get our financials done by the 13th.
20 Am I right? So can everybody make the 27th
21 versus the 20th for the January meeting, not
22 for the December meeting?

23 MS. BARON:

24 Right, January.

25 MR. POTEET:

1 February had a date, which is
2 the 16th. Okay. So the 27th.

3 Saying that, this meeting is
4 adjourned.

5
6
7 (Meeting adjourned at 1:51 p.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 November 18, 2013, 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 November 26, 2013, Baton Rouge, Louisiana.

BETTY D. GLISSMAN, CCR
CERTIFIED COURT REPORTER

Betty D. Glissman, CCR