

LOUISIANA USED MOTOR VEHICLE COMMISSION

STATE OF LOUISIANA

REGULAR MEETING

APRIL 19, 2010

BEGINNING AT 9:32 A.M.

3132 VALLEY CREEK

BATON ROUGE, LOUISIANA

REPORTED BY:

BETTY D. GLISSMAN, CCR

Betty D. Glissman, CCR
(225) 754-8609

1 APPEARANCES:

2
3 CHAIRMAN:

4 MR. GLEN ROBINSON

5
6 VICE CHAIRMAN:

7 MR. JOHN POTEET

8
9 COMMISSIONERS PRESENT:

10 MR. GEORGE BREWER

11 MR. TONY CORMIER

12 MR. RON DUPLESSIS

13 MR. GEORGE FLOYD

14 MR. KIRBY ROY

15 MR. HENRY "DARTY" SMITH

16
17 REPRESENTING THE LOUISIANA USED MOTOR
18 VEHICLE COMMISSION:

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

23 AND

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

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1 ALSO PRESENT:
2

3 MS. KIM BARON

4 MR. DEREK PARNELL

5 MS. HEATHER ELLIS

6 MR. BUTCH WRIGHT

7 MS. TONYA BURKS

8 MR. BARRY WARD
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1 MR. ROBINSON:

2 Derek, would you lead us in
3 the Pledge of Allegiance?

4 (Pledge of Allegiance)

5 MR. ROBINSON:

6 Good morning, everybody. I
7 appreciate everyone's attendance today.

8 We do have someone for public
9 comments, Ms. Kim?

10 MS. BARON:

11 Yes, sir, we do. That would
12 Tonya Burks. She would like to have y'all's
13 attention for just a moment.

14 MS. BURKS:

15 Good morning. I just wanted
16 to speak for a moment about the Relay for
17 Life. I'm not sure if y'all are familiar
18 with that, but that's basically like a
19 fundraiser we do in reference to cancer
20 patients. It could have been survivors or
21 it could have been somebody that actually
22 lost a family member due to cancer. And,
23 actually, it was in 2008 I lost my
24 mother-in-law due to cancer, due to
25 leukemia. So we actually all formed one

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1 team. We are called Prep for Life and we
2 participate in Relay for Life in which you
3 -- actually, you walk around a track for 24
4 hours and that's to represent that you are
5 constantly trying to help someone dealing
6 with cancer.

7 We are currently doing
8 fundraisers in order to raise money for our
9 team. Our goal is \$2,000. I'm not sure
10 exactly how much we've raised so far, but we
11 are currently doing it. The event will take
12 place April 30 in Brusly and any proceeds
13 that we get, it goes to towards the American
14 Cancer Society and, I mean, basically just
15 helping -- trying to, you know, help
16 patients fight cancer. I'm sure we've all
17 lost somebody with cancer and if you've seen
18 somebody struggling with cancer, it is very
19 hard for them. I mean, it's a thing that
20 you will never forget.

21 So I'm just here to mention
22 about the Relay for Life. If you all would
23 like to donate to the Cancer Society, I
24 would really appreciate it, anything you
25 have to offer. It could be 50 cents to a

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1 dollar to \$100 or \$1,000, but whatever you
2 would like, like I said, it's all going
3 towards the Cancer Society and we're just
4 trying to help people that's actually
5 fighting cancer or somebody that actually
6 lost somebody doing -- you know, somebody
7 died trying to fight cancer. So it's just
8 trying to help somebody go through cancer.

9 MR. ROBINSON:

10 Do they pledge so much an
11 hour or just a flat amount or so much a lap?

12 MS. BURKS:

13 We are trying to raise money
14 all of the way to April 30, because we are
15 trying to reach that goal, \$2,000 for that
16 day. So we've been doing it for the last
17 couple of months.

18 MR. ROBINSON:

19 So you're looking for just a
20 flat monetary --

21 MS. BURKS:

22 Whatever you have to donate.

23 MR. ROBINSON:

24 Have you got a sheet or --

25 MS. BURKS:

1 I have the form you can sign
2 and donate to me. My office is right there.
3 Whatever you give would be totally
4 appreciated.

5 MS. BARON:

6 Is it tax deductible?

7 MS. BURKS:

8 Yes. Right. Yes, it is.

9 So whatever you would like,
10 you know, think about it, whatever, just
11 whatever you can. Even after April 30, if
12 you want to just submit something to the
13 American Cancer Society, that's more than
14 grateful. We really appreciate it.

15 Any questions, comments?

16 MR. ROBINSON:

17 Thank you. We appreciate it.

18 Ms. Kim, everybody is here.

19 So let's go ahead and call roll.

20 MS. BARON:

21 Glen Robinson?

22 MR. ROBINSON:

23 Present.

24 MS. BARON:

25 George Brewer?

1 MR. BREWER:
2 Present.
3 MS. BARON:
4 Louis Bourgeois?
5 MR. BOURGEOIS:
6 (No response.)
7 MS. BARON:
8 Tony Cormier?
9 MR. CORMIER:
10 Present.
11 MS. BARON:
12 Ron Duplessis?
13 MR. DUPLESSIS:
14 Here.
15 MS. BARON:
16 George Floyd?
17 MR. FLOYD:
18 Here.
19 MS. BARON:
20 John Poteet?
21 MR. POTEET:
22 Here.
23 MS. BARON:
24 Kirby Roy?
25 MR. ROY:

1 Here.

2 MS. BARON:

3 Darty Smith?

4 MR. SMITH:

5 Here.

6 MS. BARON:

7 And Douglas Turner?

8 MR. TURNER:

9 (No response.)

10 MS. BARON:

11 Mr. Chairman, we have a

12 quorum.

13 MR. ROBINSON:

14 Thank you.

15 Item 4 on the agenda, items
16 for discussion, approval of the minutes from
17 last month. Have y'all reviewed the
18 minutes? So you received those before the
19 meeting.

20 Does anyone want to make a
21 motion on the minutes?

22 MR. SMITH:

23 I'll make a motion to
24 approve.

25 MR. ROBINSON:

1 Motion to approve the
2 minutes.

3 Second?

4 MR. POTEET:

5 Second.

6 MR. ROBINSON:

7 All in favor?

8 (All "Aye" responses.)

9 MR. ROBINSON:

10 Anyone opposed?

11 (No response.)

12 MR. ROBINSON:

13 The item carries.

14 Item B on the financial
15 matters. Ms. Heather, if you would, please.
16 And before you start, we've had some talk
17 about this a couple of times. Go ahead and
18 tell them the report you have about money
19 market accounts.

20 MS. ELLIS:

21 We did check into some money
22 market accounts. They are basically like a
23 checking account. Your money goes into the
24 account. You have access to the money.
25 They can provide you with checks if you need

1 for any reason. It is FDIC insured up to
2 \$250,000, but the rates are currently at
3 around one to 1.1 percent yearly. So that
4 was one thing that we had talked about
5 checking into instead of CDs. And that rate
6 is going to be variable throughout the year.
7 They did say that it could be changed
8 throughout the course. There is no minimum
9 amount of time that it has to be in there,
10 but there is also no maximum amount of time.
11 So -- because, we have the two CDs that are
12 going to mature at the end of this month.
13 If something is not done, they will
14 automatically renew for six months.

15 MR. ROBINSON:

16 Does anyone have comments or
17 questions, Commissioners?

18 MR. DUPLESSIS:

19 I definitely do. Right now,
20 I think we can invest in this. You might
21 help me here. We can actually go through
22 Chase and invest in State municipal tax free
23 bonds and get a net of about six and we can
24 retrieve that money within a three day
25 notice, which is a substantial difference

1 from 1.1 in tying it up or locking it up.
2 So I think we can invest in State municipal
3 bonds without any -- Sheri?

4 MR. ROBINSON:

5 Mr. Hallack?

6 Ms. Morris?

7 MS. MORRIS:

8 I'm not sure. We would have
9 to check with the Treasurer's office to make
10 sure that the bonds meet the requirements.

11 MR. DUPLESSIS:

12 They are State certified
13 bonds.

14 MS. MORRIS:

15 Well, any local bonds would
16 be approved by the Bond Commission for
17 issuance, but I'm not sure that they all
18 meet the requirements for purchase, but we
19 could check on that.

20 MR. DUPLESSIS:

21 It's a bond fund.

22 Does that present a problem?

23 MS. MORRIS:

24 Well, I don't have a statute
25 in front of me on investments, but we do

1 have restrictions that were set by the
2 Treasurer's office. So we just have to
3 check with the Treasurer's office to make
4 sure that that was an approved investment.

5 MR. POTEET:

6 It's actually a bond fund
7 through Chase?

8 MR. DUPLESSIS:

9 Bond fund through Chase and
10 it's made up of state tax free municipal
11 bonds and federal bonds that are redeemable
12 on a three day notice.

13 MR. POTEET:

14 It's not just the State of
15 Louisiana?

16 MR. DUPLESSIS:

17 There's a series of several
18 municipal bonds that I think would work for
19 us, and they yield -- they are a pretty nice
20 yield.

21 MS. MORRIS:

22 This is the state fiscal
23 agent bank. So they would probably know the
24 answer to that, too.

25 MR. DUPLESSIS:

1 I kind of stumbled on it.

2 MR. ROBINSON:

3 Mr. Hallack --

4 MR. HALLACK:

5 I don't know.

6 MR. ROBINSON:

7 -- you would defer. You are
8 like Ms. Morris.

9 Let's get someone to -- do
10 you have time to check into it?

11 MS. MORRIS:

12 Yes.

13 MR. ROBINSON:

14 We have a full 30 days before
15 the CD comes --

16 MS. ELLIS:

17 No.

18 MR. ROBINSON:

19 We have just to the end of
20 this month?

21 MS. ELLIS:

22 The end of this month.

23 MR. ROBINSON:

24 So we need it done somewhat
25 expeditiously.

1 MS. ELLIS:

2 Yes, the end of next week.

3 MR. ROBINSON:

4 I mean, we've already passed
5 resolutions where we can deal with it if we
6 find out that there is a vehicle where we
7 can divert some funds. Okay.

8 And then as far as the
9 financial report, Ms. Heather, if you would?

10 MS. ELLIS:

11 We will start on Page 1. We
12 had total revenues this month for licensees
13 \$41,840.75, and total revenues of
14 \$42,782.16. Page 2, we had total expenses
15 of \$59,463.19, which was a little more than
16 what we took in, but at this time of year,
17 that's going to be normal. Page 3, it shows
18 our revenues are going down from January,
19 February, and now into March which is to be
20 expected. We are still taking in a good bit
21 for this time of year. Page 4, also shows
22 our expenditures are going down, which is
23 very good considering the revenues are going
24 down. We were at \$59,463.19 as far as
25 expenditures for this month. Page 5, total

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1 revenues, we are at 79.4 percent of what we
2 expected to take in for this time of year.
3 And on Page 6, our total expenditures, we
4 are at 70.1 percent of what we had planned
5 on spending for the year.

6 On Page 7 --

7 MR. ROBINSON:

8 Are we on track then?

9 MS. ELLIS:

10 Yes, sir. We may come in a
11 little bit under what we had planned on
12 taking in, but we are very close for the
13 this time of year.

14 MR. ROBINSON:

15 In June, you know, we will
16 have to adjust our budget and we cannot --
17 and we can't come in short in areas. So
18 June is a big month. We do have to pass an
19 amended budget in June. We can't wait until
20 July.

21 MS. ELLIS:

22 Page 7, our balance sheet for
23 all of our assets, this is unchanged from
24 last month other than the cash in the bank,
25 which is going to fluctuate depending on

1 what we've taken in and what we've spent. I
2 know there were some questions about account
3 103 last month. That is something that we
4 are checking into. The more I look into it,
5 this is not an account that has been in use
6 for the past three or four years. I think
7 this is something that our previous auditor
8 used to make end of the year adjustments to.
9 So we are looking into if we can take this
10 off the report, if it needs to be zeroed out
11 or what's going to need to be done with this
12 particular account.

13 On Page 8, total liabilities,
14 and these are going to fluctuate depending
15 on what has been paid out and what hasn't
16 been paid out as far as our taxes and
17 related benefits. On Page 9, you will see
18 the same revenue and expenditure numbers,
19 revenue at \$42,782.16, and expenditures for
20 the month of \$59,463.19. Page 10 is our CD
21 summary and you will see that two of the CDs
22 do mature at the end of this month, one on
23 April 28 and one on April 30. We have
24 another CD that's going to need to be
25 renewed come July. So that's something else

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1 to be looking forward to thinking about. On
2 Page 11, there have been a lot of changes to
3 the accounts receivable because we did
4 receive a check for \$27,000. So a lot of
5 these older accounts receivable have now
6 been paid off and as of next month, they
7 will no longer show on this sheet. So we
8 actually have a total of \$11,656 that we owe
9 -- that is owed to us.

10 MR. ROBINSON:

11 And we -- actually, we
12 believe we've got a correction to make that
13 would lower that by this \$2,756.

14 MS. ELLIS:

15 Right.

16 MR. ROBINSON:

17 We believe that money was
18 received. Maybe it was posted incorrectly,
19 but -- so we have lowered our accounts
20 receivable drastically, because we are going
21 to be under \$9,000 now. So we are talking
22 about a \$30,000 reduction.

23 MR. BREWER:

24 What about this Westside
25 Wholesale, \$5,850?

1 MR. ROBINSON:

2 I instructed Ms. Kim this
3 morning to give it to Mr. Hallack to force
4 collection with the bond company.

5 MS. ELLIS:

6 Because, she has already
7 filed with the bonding company.

8 MR. BREWER:

9 Yes, this guy is not in
10 business anymore. He's working in a junk
11 yard right now.

12 MR. ROBINSON:

13 Well, this morning, we
14 instructed Ms. Kim to give it to Attorney
15 Hallack to get with them or file suit,
16 whatever we have to do to collect the money.

17 MR. BREWER:

18 Okay.

19 MR. HALLACK:

20 And Main Street Motors is not
21 on here either. We are supposed to be
22 getting five checks on those.

23 MS. ELLIS:

24 I don't have a judgment on
25 it.

1 All right. And the last
2 thing --

3 MR. ROBINSON:

4 Excuse me, do we have a
5 judgment on -- is it Main, M-A-I-N?

6 MR. HALLACK:

7 Main Street Motors, M-A-I-N,
8 Street Motors.

9 MR. ROBINSON:

10 So approximately what is the
11 judgment for?

12 MR. HALLACK:

13 Well, we don't have a
14 judgment. They are going to pay the bond,
15 pay the claim.

16 MR. ROBINSON:

17 The bond claim --

18 MS. BARON:

19 That money is going to the
20 DMV, though. That money is not for us.

21 MR. HALLACK:

22 Oh, really, not to us?

23 MS. BARON:

24 It's not to us. Well, not on
25 here.

1 MR. HALLACK:

2 Well, they are sending us the
3 check.

4 MS. BARON:

5 Yes. They send us the check,
6 and then we send it on to the Department of
7 Motor Vehicle.

8 MR. ROBINSON:

9 That explains that.

10 MS. ELLIS:

11 Page 12, I would like to just
12 touch on a few points. The salaries have
13 gone up due to merit increases that we had
14 in February and March, which have been put
15 in place. Auto maintenance was \$512 more
16 than the previous month due to all of the
17 cars need oil changes, air filters, and
18 those based mileage-wise, not month-wise
19 necessarily. Our telephone bill was \$592
20 more than the previous month, but we did get
21 the new Blackberries in for all of the
22 field. So they now have Internet through
23 their phones. And the utilities were \$73
24 more than the previous month, which we can
25 expect that to go up with the summer months

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1 coming, and that's it.

2 MR. ROBINSON:

3 The other thing when we met
4 this morning that we're checking on, we did
5 receive the \$27,000 claim against the bond.

6 Thank you, Mr. Hallack, for
7 your work on that.

8 It doesn't show in revenue,
9 and I don't understand why it doesn't show
10 on Page 1 in our revenue. And we are going
11 to get with our CPA and maybe he's got a
12 reason or maybe we have a different way to
13 account for it, but I don't see how you can
14 get that size money and not show it
15 somewhere on your report as revenue. So we
16 are looking into that, too.

17 MR. POTEET:

18 Did it come in in April?

19 MR. ROBINSON:

20 No, it came in in March.

21 So any questions or comments
22 on the financial report? Do you want to
23 make a motion to accept it?

24 MR. BREWER:

25 I make motion to accept the

1 financial report.

2 MR. ROY:

3 Second.

4 MR. ROBINSON:

5 Commissioner Roy second, Mr.
6 Brewer.

7 All in favor?

8 (All "Aye" responses.)

9 MR. ROBINSON:

10 Anyone opposed?

11 (No response.)

12 MR. ROBINSON:

13 The motion passes.

14 Did you have something, are
15 you finished?

16 MS. ELLIS:

17 Yes.

18 MR. ROBINSON:

19 "C" under Section 4, legal
20 matters and litigation, Mr. Hallack.

21 MR. HALLACK:

22 Well, we got the briefing
23 schedule on the Atchafalaya RV versus Double
24 Tree RV. We are waiting on the brief from
25 the appellant, which is the manufacturer.

1 Once we have that, we have, I think, only a
2 few days to provide our brief. Also, it is
3 not on here, but the Sunshine Boats --
4 what's the name of that? We filed our brief
5 in that matter. So we timely filed our
6 brief in that. That's where we were in St.
7 Tammany Parish trying to enforce the orders
8 that the Commission had entered into
9 including the two, \$2,000 fine -- per day
10 fines. So that's -- everything is going
11 well with that.

12 MR. ROBINSON:

13 So what appellate court is
14 that?

15 MR. HALLACK:

16 First Circuit. Both of these
17 are in the First Circuit.

18 The last thing is, like the
19 Chairman said, we received our check from
20 New York Marine. He called me on April 9
21 and said that he was issuing five more
22 checks on Main Street Motors, but those were
23 just the claims against the bond for the
24 unpaid sales taxes. That's it.

25 Does anybody have any

1 questions?

2 (No response.)

3 MR. ROBINSON:

4 Thank you, Mr. Hallack.

5 Item D, policy and
6 procedures, Mr. Parnell -- Director Parnell.

7 MR. PARNELL:

8 This item discussion to amend
9 policy and procedure #78. It came up in
10 discussion because of proposed legislation
11 of House Bill 589 that affects the rent with
12 the option to purchase dealers. As I
13 understand it, these arguments have been
14 going on for quite sometime. The argument
15 is pretty much that the Commission has not
16 been enforcing the actual statute that's in
17 place, which is -- if you look towards the
18 back, it's revised statute 32:793(D), which
19 states every rental dealer shall maintain a
20 contingent automobile liability policy of
21 insurance with minimums of \$100,000 per
22 occurrence, \$300,000 aggregate and \$50,000
23 in property damage, and it shall not be
24 sufficient for any rental dealer to share in
25 the policy of insurance which could under

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1 any circumstance create a limit of less than
2 what is set forth here in. Such policies
3 will be placed if available through an
4 insurance company licensed by and an
5 admitted in the State of Louisiana.

6 MR. ROBINSON:

7 Excuse me, do we have anybody
8 here about this particular item?

9 MR. HALLACK:

10 Mr. Barry Ward with the
11 Department of Insurance.

12 MR. PARNELL:

13 Pretty much what they were
14 doing is, the House Bill 589, it would
15 change the language in the law, take it out
16 of the bill in the provision. Also, it
17 would be specific guidelines as it relates
18 to the share and matching policies. From my
19 understanding and from my reading through
20 the minutes that this Commission has been
21 acting -- they created policy 78 -- policy
22 and procedure #78. Basically, that
23 procedure -- it states in that procedure
24 that it was done with the approval of the
25 Commission of Insurance that if you have to

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1 join a certain organization and adhere to
2 all of the guidelines of that organization,
3 then that insurance is not available.

4 That's what this Commission has been acting
5 on. The argument -- the counter argument
6 from the representatives was that we are
7 just not following the law as it states.

8 There was a meeting that we held,
9 Commissioner Duplessis, Mr. Hallack, Barry
10 Ward, and some others members from SEADRA
11 and their lobbyists. They came in and we
12 sat down. They were supposed to put forth
13 that bill 589 last Monday, but they agreed
14 not to push it through because we wanted to
15 get an opportunity to talk about the policy
16 and procedure #78. Commissioner Duplessis
17 was there and I would like him to go ahead
18 and interject.

19 MR. DUPLESSIS:

20 Basically, the reason that we
21 have this argument is we don't know how to
22 interpret it. So we've often asked Mr.
23 Barry Ward from the Insurance Commissioner's
24 -- Department of Insurance to explain to us
25 actually the definition of admitted and

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1 available, and what we found was an
2 organization by the name of SEADRA had
3 territories, and those territories excluded
4 other dealers from getting insurance or
5 becoming a member within that territory. So
6 then that policy was not available to the
7 general public or to that dealer. Well, we
8 are not -- our interpretation is that an
9 organization should not have the ability to
10 create a monopoly or limit the free
11 enterprise ability in the state.

12 Basically, rent to own is
13 providing transportation for the lower
14 income portion of the community, provide
15 transportation since we don't have a state
16 with great mass transportation. So we can't
17 try to put people out of business. Our job
18 is to regulate and try to promote this.

19 So we determined that if
20 there was not something on the admitted
21 list, then we went to what is called the
22 white list, which is the second tier of
23 state insurances that may not be approved on
24 that particular item of business, but they
25 were approved and admitted in the State and

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1 they offer a master policy which includes
2 contingent or vicarious liability.

3 So we have agreed to accept
4 those and make it a competitive format where
5 you can have competition with more than one
6 dealer and get an area. So that was the
7 reason for it and they approached this and
8 we kind of felt that SEADRA was trying to
9 get us to help legislate a monopoly. Well,
10 we quickly put our hands up and said we can
11 be no part of a legislative legal monopoly
12 through one organization or one company. So
13 we tried to reach a compromise. And I
14 didn't think their bill would sell well to
15 the Legislature in a down economy trying to
16 limit competition. So that was kind of our
17 position. So we agreed to take the
18 legislation off the table and work to reach
19 a compromise. So, at that point, Ms. Morris
20 was here and I will let Barry speak to it.
21 He is more probably in tune to it better
22 than I am.

23 MS. MORRIS:

24 Mr. Hallack was handling the
25 insurance.

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1 MR. DUPLESSIS:

2 I'm sorry, Mr. Hallack.

3 MR. ROBINSON:

4 Before we get to Mr. Ward,
5 Robert, you've dealt with this for years, I
6 mean, the two Commissions prior. Under the
7 Blanco administration, this organization
8 dealt with RTO on this same subject. So why
9 don't you give them a little background.
10 Wasn't there also another problem this
11 particular company, SEADRA, was the only,
12 quote, "admitted carrier"?

13 MR. HALLACK:

14 Well, they were the only
15 broker for the only admitted carrier.

16 MR. ROBINSON:

17 This created another
18 monopoly?

19 MR. HALLACK:

20 Yes. That's correct. That
21 began in 1998 when this group called SEADRA
22 was trying to formulate what we call rent to
23 own. That means you rent a car and at the
24 end of your rental contract, you own that
25 car if you make it that far. The title of

1 the car remains in the name of the dealer,
2 which the dealer likes because they believe
3 that that allows them to repossess the
4 vehicle with no notice, no -- nothing
5 whatsoever. So it was very attractive for a
6 dealer. It was very attractive for the
7 consumer, because these are people that
8 could not get traditional financing. So it
9 offered a lot to both sides.

10 So in 1998, a judge in
11 Jefferson Parish ordered -- between the Used
12 Motor Vehicle Commission and the New Car
13 Commission, they ordered the Used Motor
14 Vehicle Commission to regulate it. And it's
15 supposed to be vehicles that are at least
16 two years older or older. Anything outside
17 of that, we would consider that to be a
18 lease and that would be regulated by the New
19 Car Commission. So we received a judgment
20 from Jefferson Parish ordering us to
21 regulate it, eventually re-started adopting
22 rules and regulations.

23 In 2004, we went ahead and
24 put it in statute form and basically what we
25 did was, we borrowed a statute from Oklahoma

1 and used that as the framework to come up
2 with what we wrote. Some of it was changed
3 and tweaked by the representatives of SEADRA
4 that kind of put in language that was very
5 favorable to their operation and that
6 language was the Statute 793(D), which I
7 think is in your packet. This requires that
8 the dealer carry contingent liability
9 insurance, which means that if the operator
10 of that vehicle fails to maintain insurance
11 on that car as he is required to do by state
12 law, the minimum requirements, then the
13 dealer's contingent liability insurance is
14 supposed to provide coverage up until a
15 certain point where the dealer can make that
16 correction, either bring the car back in or
17 whatever the dealer needs to do to make the
18 customer put the insurance back on the car.
19 So -- but included in Subsection D was also
20 a few other requirements, one that the
21 policy be 100/300. The other that the
22 policy only be written by an admitted
23 carrier. An admitted carrier is someone who
24 pays in, and Mr. Ward might correct me on
25 this a little bit, is an insurance company

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1 that pays into the LIGA fund, the Louisiana
2 Insurance Guaranty Association Fund. Well,
3 at that time, there was also --

4 MR. ROBINSON:

5 That's what makes somebody an
6 admitted carrier?

7 MR. HALLACK:

8 Well, admitted is not
9 actually defined under the statute. So
10 that's general --

11 MR. ROBINSON:

12 I've just heard this
13 terminology forever.

14 MR. WARD:

15 An admitted company has
16 submitted a request for a certificate of
17 authority to operate in the State of
18 Louisiana. These other companies are
19 surplus line companies, like Lexington, for
20 example, who are domiciled elsewhere, who
21 aren't actually authorized, if you will, or
22 admitted to operate in the State of
23 Louisiana, but if somebody needs coverage
24 that is not available through an admitted
25 carrier, say Mardi Gras float coverage or

1 something like that, then you can go through
2 a surplus lines company who is on the white
3 list, people who have all of the financial
4 backing and all of that necessary to operate
5 in the state, just don't have a certificate
6 of authority issued by the State of
7 Louisiana. An admitted company is a company
8 that has a certificate of authority issued
9 by the State of Louisiana.

10 MR. ROBINSON:

11 So it's basically based on if
12 they have the financial wherewithal to get
13 the certificate, is that kind of the bottom
14 line?

15 MR. WARD:

16 There are a lot of smaller
17 companies that have certificates of
18 authority. It's not merely a financial
19 matter.

20 MR. ROBINSON:

21 Well, would it be speculation
22 on your part to suggest why a company
23 wouldn't try to get that certificate?

24 MR. WARD:

25 Because they don't want to be

1 subjected to all of the regulatory efforts
2 of the Department of Insurance.

3 MR. ROBINSON:

4 Okay.

5 MR. HALLACK:

6 But isn't part of that paying
7 into the fund?

8 MR. WARD:

9 Yes. Yes.

10 MR. ROBINSON:

11 So that kind of may be the
12 single biggest reason paying into that fund?

13 MR. WARD:

14 Surplus lines companies are
15 typically much larger, much more financially
16 capable than some of the admitted companies.

17 MR. ROBINSON:

18 When I first got in business,
19 my garage liability insurance was a
20 non-admitted carrier, a big red stamp on the
21 policy that said they were.

22 MR. WARD:

23 Surplus lines company.

24 MR. ROBINSON:

25 So, obviously, surplus lines

1 is very common in Louisiana?

2 MR. WARD:

3 Very common. It's very
4 common. And that is -- basically, the only
5 difference is that the surplus lines policy
6 has to have that stamp on it saying that
7 this policy is issued by a surplus lines
8 company, not admitted in the State of
9 Louisiana and it has LIGA or at least
10 Insurance Guaranty Fund backing for that
11 policy. So you have to default to the
12 financial wherewithal of that individual
13 company, particularly if you look at the
14 financial requirements of being on the white
15 list, which is the approved unauthorized
16 insurers, their financial requirements are
17 much larger than our requirements for being
18 an admitted carrier.

19 MR. ROBINSON:

20 Thank you.

21 MR. HALLACK:

22 So according to the statute,
23 you have to purchase this insurance from an
24 admitted carrier. And what happened was, we
25 soon learned in enforcing this provision

1 that there was only one admitted carrier
2 being sold in Louisiana and that was from
3 Great American, and Great American was sold
4 exclusively by SEADRA.

5 Now, if you're not familiar
6 with SEADRA, SEADRA is an organization --
7 you have to be a member and the policy is a
8 very -- the premium -- the annual premium is
9 only like \$1,200 or even \$1,000. So the
10 policy itself is not being sold for a
11 ridiculous amount of money, but you have to
12 be a member of SEADRA in order to purchase
13 the policy. You have to pay -- at one time,
14 they called it an administrative fee, which
15 is \$20 per vehicle that is out on your rent
16 to own contract per month, \$20 per vehicle
17 per month that is done on a rent to own
18 contract. So the membership fee is what was
19 the high dollar mark for the policy. So in
20 order to buy the Great American policy, you
21 had to be a member of SEADRA. To be in
22 SEADRA, you had to buy the policy.

23 At one time when we looked at
24 this, the earlier Commission, there were
25 exclusive territories. In other words, if

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1 there was already a SEADRA dealer, for
2 instance, in Hammond that -- and again
3 exclusive territory, there could be no other
4 SEADRA dealers there and, therefore, you
5 couldn't do rent to own if that was the only
6 policy available to you. So the Commission
7 looked at it and said, well, if this is the
8 only policy available, then that's not
9 really available. We need to give our
10 dealers an option on where they can get
11 their insurance and if this is the only one
12 available, then they can go to the approved
13 white list. And so that's what policy #78
14 was developed to do, was to allow dealers an
15 option of looking at this.

16 Now, House Bill 589 --

17 MR. ROBINSON:

18 Which is current.

19 MR. HALLACK:

20 -- which is current --

21 MR. ROBINSON:

22 This is the -- current in the
23 Legislature as we speak.

24 MR. HALLACK:

25 Right. It removes two things

1 from the bill -- the bill removes two things
2 from 793(D). One, it removes the shared or
3 master policy exception. The law allows a
4 dealer to purchase a shared or master
5 policy. Most of our dealers, 36 I believe
6 that it was, most of our dealers are insured
7 through this policy. I can't remember --
8 Derek, do you remember the name of that?

9 MR. PARNELL:

10 It was through GMI.

11 MR. HALLACK:

12 GMI. And that's where most
13 of our dealers are insured. It's a master
14 policy. So if this amendment passes, then
15 that's no longer allowed. That exception is
16 removed and the dealer can no longer buy a
17 shared or master policy.

18 The second thing that the
19 amendment would remove, House Bill 589 would
20 remove, is "if available". In other words,
21 that's it. You can only have insurance from
22 an admitted carrier, period. If you don't
23 have insurance from an admitted carrier,
24 then you can't do rent to own. So those are
25 two exceptions that are being removed under

1 House Bill 589. So in an effort to try to
2 compromise that, we asked SEADRA if there
3 were changes to policy #78 that we could
4 make that would satisfy them and ask them to
5 withdraw House Bill 589, and they approached
6 us with something. We had made an agreement
7 as to language in the meeting, and then they
8 proposed some language that wasn't what we
9 really agreed to, and then we sent back
10 something else which I think they are in
11 agreement with.

12 MR. DUPLESSIS:

13 On the last communication?

14 MR. HALLACK:

15 Yes, sir.

16 MR. DUPLESSIS:

17 Because what they sent out
18 was something totally different than what we
19 agreed to at the meeting.

20 MR. HALLACK:

21 Correct.

22 MR. PARNELL:

23 This is it, right?

24 MS. BARON:

25 It's all in the packet.

1 MR. ROBINSON:

2 Mr. Ward, most -- I know
3 there are all different kinds of insurance.
4 Most of those, are there ways that you can
5 use what you refer to here, this gentleman,
6 as the white sheet or non-admitted carrier,
7 is that common in almost all types of
8 insurance?

9 MR. WARD:

10 It is. And that's -- one of
11 the topics that was covered in the meeting
12 was who decides what is available or not.
13 And, you know, I thought that during the
14 course of that meeting we discussed that,
15 you know, the agent or the dealer himself is
16 not able to determine whether or not that
17 policy is available. He has to call an
18 insurance broker or someone and tell them,
19 look, I need to get a policy of contingent
20 liability coverage. The agent will survey
21 the marketplace and determine whether or not
22 it is available and if it's not, then he has
23 to sign an affidavit saying, I searched the
24 marketplace, this coverage is not available
25 and I'm going to go through the surplus

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1 lines marketplace to get it, and he has to
2 sign an affidavit stating that and that's
3 basically where the determination of the
4 availability takes place.

5 MR. ROBINSON:

6 That's currently State law or
7 regulations by your department?

8 MR. WARD:

9 That is how it's done.

10 MR. ROBINSON:

11 Okay. Regardless of whether
12 it would be contingent liability or --

13 MR. WARD:

14 Correct.

15 MR. ROBINSON:

16 -- maybe some health
17 coverage?

18 MR. WARD:

19 Correct. And, you know, one
20 of the things that we are doing --

21 MR. ROBINSON:

22 I'm sorry, but what we are
23 asking for here is the norm, I guess, for
24 the insurance industry.

25 MR. WARD:

1 That is the norm for the
2 insurance industry. The approved list is
3 the norm. Yes, there are a number of
4 surplus lines companies out there, but only
5 those -- the white list is those companies
6 that have submitted documentation to the
7 Department of Insurance showing their
8 financial strength and other filings, that
9 they have everything that we require other
10 than a certificate of authority. And the
11 reason for their enhanced financial strength
12 is because they are not on -- or they don't
13 -- they are not part of the Insurance
14 Guaranty Association, whereas, LIGA will
15 back the admitted carrier. Since there is
16 no backing, they have to have enhanced
17 financial strength to operate outside of
18 that guaranty association.

19 And one of the things that we
20 are doing right now is surveying the
21 admitted companies, and I guess after
22 reading this, there is no need to survey
23 surplus lines companies to find out who is
24 willing to write the contingent liability
25 coverage in this state. There are other --

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1 there are companies out there that may have
2 on their certificate of authority lines of
3 authority not being used at this point.
4 They may be willing to open some resource.
5 I don't know. I don't know. We haven't
6 gotten it out yet. We haven't gotten
7 responses to it. But we are going to try to
8 figure out if there are any other companies
9 out there besides Great American, who
10 operates through SEADRA, and one or two
11 other names that I've heard.

12 MR. ROBINSON:

13 I have had our agency contact
14 the list of companies supposedly that are
15 available. It was 40 something companies.

16 MR. PARNELL:

17 It was 92 on that list.

18 MR. ROBINSON:

19 And we've contacted how many?

20 MR. PARNELL:

21 Probably about 20 or so.

22 MR. ROBINSON:

23 And not a single one offered
24 it, but yet we are being told all of these
25 companies offer it.

1 MR. WARD:

2 Well, as I was looking
3 through this, not the -- the second to last
4 -- third to last paragraph, it says, "Be it
5 further resolved that there is only one
6 admitted carrier offering contingent
7 liability insurance in Louisiana." I was
8 talking to a couple of guys prior to the
9 last meeting and they said that they were
10 the only two dealerships that this one
11 particular company would write. So even
12 though that company is admitted and has two
13 policyholders, he is not offering it to
14 anybody else. So I don't know if his being
15 here is -- fits this definition of offering
16 or is this talking about somebody who is
17 taking on new business, not just somebody
18 who is in the state, but yet has a closed
19 window, if you will.

20 MR. HALLACK:

21 GMI did -- GMI is an admitted
22 carrier. They offer a policy alone to two
23 of our dealers. That's it. They have told
24 us that they are not going to write any more
25 policies, only that you have to be a member

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1 of Northland.

2 Northland offers a rent to
3 own group as well. So of the other 34
4 people who have a policy with GMI, it's all
5 -- they are all getting the policy on a
6 master policy or a shared policy. So House
7 Bill 589 will eliminate that, but they are
8 not writing any new policies.

9 MR. ROBINSON:

10 Unless you go through
11 Northland, which is a sister corporation; is
12 that it?

13 MR. HALLACK:

14 Well, it's not a sister, but
15 it's a --

16 MR. DUPLESSIS:

17 Affiliated.

18 MR. HALLACK:

19 Well, they are actually
20 opposed to each other. Northland actually
21 came up with a rent to own system and SEADRA
22 kind of borrowed it. So they are not -- I
23 guess --

24 MR. ROBINSON:

25 GMI and Northland have

1 nothing in common?

2 MR. HALLACK:

3 No. No. They have something
4 in common. To buy the GMI policy now, you
5 have to go through Northland to get it. We
6 have two stand alone dealers who got in on
7 it early that did have to be members.

8 MR. ROBINSON:

9 So it is or is not part of
10 the same company, GMI and Northland?

11 MR. HALLACK:

12 They are not part of the same
13 -- I wouldn't think they are the part of the
14 same. It's just that Northland is an
15 exclusive broker for the GMI policy now.

16 MR. ROBINSON:

17 So they are somewhat like
18 SEADRA?

19 MR. HALLACK:

20 Yes, sir, very much. What
21 they offer is a shared policy.

22 MR. ROBINSON:

23 And they are \$10 a month per
24 car instead of \$20 a month per car.

25 MR. HALLACK:

1 Yes, sir.

2 MR. ROBINSON:

3 So they are half the cost.

4 MR. HALLACK:

5 Yes.

6 MR. ROBINSON:

7 I don't think there is any
8 annual charge with Northland.

9 MR. HALLACK:

10 I don't remember.

11 MR. ROBINSON:

12 And SEADRA has an annual
13 charge of \$1,000 approximately?

14 MR. HALLACK:

15 Yes, sir.

16 MR. ROBINSON:

17 But as of what, Friday, this
18 is in agreement, if we pass this, this makes
19 everybody --

20 MR. PARNELL:

21 I spoke to their
22 representative Thursday, actually. They
23 sent over a draft resolution which we really
24 didn't -- as Mr. Hallack stated, didn't have
25 the language in it that was talked about

1 during the meeting. I had Robert Hallack
2 draft an amended policy and procedure which
3 actually is something that they agree with.
4 The one that's in your packet, they just had
5 two lines that they weren't in agreement
6 with and I have asked Mr. Hallack to go back
7 in and look at those lines and make the
8 change on those and those were the only two
9 things. Other than that, they said they
10 were in agreement and they wouldn't move
11 forward with it.

12 MR. PARNELL:

13 And what we have passed out
14 has some things.

15 MR. ROBINSON:

16 What does this change
17 exactly?

18 MR. HALLACK:

19 If there is any other
20 admitted carrier available, then those
21 dealers have to choose from one of those
22 two. In other words, you either have to
23 have a GMI policy or you have to have a
24 Great American policy. And those are only
25 offered through association in those groups,

1 and that's the biggest change. Under the
2 pending policy #78, if there is not enough
3 admitted available, then you go through the
4 approved list, but this says -- the amended
5 policy #78 says if there's more than one,
6 you've got to get from one of those two.

7 MR. ROBINSON:

8 You can't go to the white
9 list?

10 MR. HALLACK:

11 No. If there's more than
12 one, you cannot go to the white list.
13 That's correct. Whereas, under the current
14 policy #78, yes, you can go to the white
15 list.

16 MR. ROBINSON:

17 So how is this good for the
18 public and good for the dealers?

19 MR. HALLACK:

20 This amended policy #78,
21 well, it's not.

22 MR. ROBINSON:

23 I'm not just asking you, any
24 of you.

25 MR. HALLACK:

1 It's not a good policy, but
2 it is a compromise right now. If House Bill
3 589 passes, then the only carrier in which a
4 dealer would be able to get contingent
5 liability insurance is through Great
6 American, which is sold exclusively by
7 SEADRA. So if you want to do rent to own,
8 if House Bill 589 passes, you have to be a
9 SEADRA member. That's what we're looking
10 at. If that amendment passes, if that bill
11 passes, that's the only policy rent to own
12 can do. Now, let's look at some numbers.
13 In 2009, we had a 107 rent to own dealers.
14 Now, we have only have --

15 MR. PARNELL:

16 65.

17 MR. HALLACK:

18 -- 65. That's almost double.
19 We almost lost half of our dealers, because
20 I think most of the problem was getting this
21 insurance.

22 MR. DUPLESSIS:

23 Let me make a clarification
24 there, and we stumbled on this and we have
25 got to research this. That is not exactly

1 true. We may have previous licensees of
2 107, less than 62 that are currently not
3 licensed under this Commission or the New
4 Car Commission.

5 MR. ROBINSON:

6 We may have some dealers that
7 fell through the cracks on licensing.

8 MR. PARNELL:

9 And what we did was, this
10 past week, I had Kim print out a list of all
11 of the dealers that we originally had that
12 are not licensed or did not renew their
13 license this year with the Commission, and I
14 sent that out to all of the field
15 investigators and they are actually actively
16 going out and looking at each and every one.

17 MR. ROBINSON:

18 Shouldn't we first contact
19 the New Car Commission to see if --

20 MR. PARNELL:

21 I've already done that as
22 well.

23 MR. ROBINSON:

24 They didn't register with the
25 licenses --

1 MR. PARNELL:

2 She knew of some and I sent
3 her the list actually last week and she said
4 she is going to try to get that back to me
5 the beginning of next week to let me know
6 exactly which ones that didn't go through
7 with them. She was telling me, Lessie
8 House, was that a lot of the dealers that
9 were rent to own were trying to go into
10 leasing. They didn't meet the requirements
11 for leasing. So they were denied through
12 the New Car Commission and she doesn't know
13 what happened to them after that. So she
14 may have some that are over there, but she
15 doesn't know, because she said she hadn't
16 checked.

17 MR. DUPLESSIS:

18 She has two, and she has only
19 picked up two that have -- you have to
20 submit a lease -- your actual lease
21 documents for approval. They also do the
22 finance of new cars. And only two had
23 proper lease instruments. The remainder
24 just dropped off the face of the earth and
25 they are probably doing business without

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1 either being licensed by the New Car or Used
2 or they might have a used car dealership
3 license and not a rent to own license. So
4 they slid through there and I think they are
5 looking for the insurance and if we were to
6 go in there and shut them down without
7 providing that, that would probably
8 automatically trigger the repossession, if
9 we do it properly, of all these rent to own
10 vehicles out there.

11 MR. HALLACK:

12 That's the other side of it,
13 too. If we force them to only get insurance
14 from one source, then they will have to kick
15 a bunch of people out of their contract. I
16 mean by that the consumers that are buying
17 the cars, because they are under a car
18 that's under a different policy. If we
19 require them to change policy, it may kick
20 them out of their contract. So you could
21 potentially affect hundreds of consumers
22 that are driving cars under current contract
23 that would lose their cars.

24 MR. DUPLESSIS:

25 But if they have a legitimate

1 contract, if the dealer provides -- or fails
2 to provide the license requirements, they
3 are going to have a lawsuit against that
4 dealer and I don't know how this is going to
5 act, but here we have kind of an industry
6 that's providing cars and transportation for
7 the public and we are going to go in and
8 legislate a bunch of lawsuits, put a bunch
9 of people out of business, put a bunch of
10 people out of cars, spur lawsuits, and if
11 they can't get to work and have a job, what
12 has this Commission accomplished? We
13 haven't accomplished anything except
14 compromising a bill that's in the
15 Legislature.

16 MR. ROBINSON:

17 Mr. Ward, from the Insurance
18 Department, what's your take on this, that
19 they want us to vote on today, have you had
20 a chance to read it?

21 MR. WARD:

22 I have. It's not what I
23 thought was the agreement when I left here.
24 I thought they were going to approve the
25 white list carriers, I would say what Mr.

1 Duplessis was talking about coming down the
2 pipe. I mean, there's just nowhere to go.
3 It just seems like it closes all of the
4 loopholes and puts SEADRA as the only
5 carrier. I did speak with a fellow who was
6 with Great American, probably a year and a
7 half ago, and he said that he did not want
8 to be the only carrier for this type of
9 coverage in the State of Louisiana. So I
10 don't know where that leaves him.

11 MR. ROBINSON:

12 Does -- the Insurance
13 Department, is it their position, would they
14 fight passage of a bill that's currently --
15 are they going to -- is the insurance going
16 to go to committee and testify against that
17 bill?

18 MR. WARD:

19 When I spoke to my executive
20 counsel about that when I first read this
21 thing, he said that we would have to take
22 some kind of action to prevent this. Now,
23 that was when it first came out, when it was
24 first brought to my attention. We haven't
25 had a discussion about it since, but I can't

1 imagine that his position changed. Now,
2 that's not the Commissioner's position. I
3 don't know if the Commissioner has been
4 apprised of the bill at all.

5 MR. HALLACK:

6 You have to understand, about
7 every year we get a demand from SEADRA to
8 enforce the law as it's written, and
9 sometimes that demand comes with a letter
10 from the Attorney General chastising us for
11 not enforcing the law as it's written.
12 Sometimes that comes with a letter from
13 Commissioner Donelon that says we are not
14 enforcing the law as written. Historically,
15 we have pretty much said, well, this is how
16 we are interpreting "if available". If
17 somebody else wants to challenge us on that,
18 then go ahead.

19 MR. DUPLESSIS:

20 I think the bottom line is
21 real simple. How many consumer lawsuits,
22 how many consumers have come in here
23 complaining about the rent to own,
24 complaining about not having coverage on
25 vicarious or contingent liability. We never

1 see an issue surface in front of us that we
2 are not serving the industry properly, but
3 when you don't deliver title on the used
4 car, the consumers are saying I have paid my
5 money, I want my title and we have to
6 address that, but I do not recall a single
7 case that we've ever heard on not being able
8 to provide a reasonable form of contingent
9 or vicarious liability in the state.

10 MR. ROBINSON:

11 So the bottom line is that we
12 a adopt this as new policy or they move
13 forward with the bill?

14 MS. MORRIS:

15 Yes, sir.

16 MR. ROBINSON:

17 Just so y'all understand.

18 And, you know, my preference as Chairman,
19 topics like this is to introduce it and vote
20 on it at the next meeting and let you guys
21 go back and do your homework on it, talk to
22 dealers or whatever you want to do. If we
23 take no action, if we wait to vote on it
24 next month, they are going to go ahead and
25 introduce the bill. If we vote not to

1 implement this, they are going to go ahead
2 and introduce the bill.

3 MR. HALLACK:

4 And they have a very
5 aggressive lobbyist. He will probably -- he
6 will take the quickest action he possibly
7 can take.

8 MR. PARNELL:

9 He is pushing it through. I
10 spoke to him on Thursday and that's where
11 they stand.

12 MR. ROBINSON:

13 So the question really goes
14 back to what Ron said, is the Legislature
15 going to vote to allow a single carrier and
16 literally put a few thousand people out of
17 their cars? If we've got 36 dealers, we've
18 got at least -- you got 3,000, 4,000
19 vehicles on the street.

20 MR. HALLACK:

21 In 2007, we proposed the
22 anti-SEADRA bill. It was pulled before it
23 was ever taken up by the committee, but
24 basically the bill said as long as you are
25 carrying a policy of insurance that will

1 provide coverage on that car while it's on
2 the road, you are meeting our requirements.
3 So we didn't care if you labeled it
4 contingent. We didn't care how you labeled
5 it, as long as that car was being insured,
6 and that was the intent of the law. The
7 intent of the law was to make sure that car
8 was being insured while it was being
9 operated. So we didn't care what label you
10 put on it. We didn't care if it was
11 100/300. We didn't care if it was from an
12 admitted carrier as long as that car was
13 being insured. That was our purpose when we
14 wrote this law in 2004 and, like I said, it
15 got tweaked. How it got tweaked, where it
16 got tweaked in the Legislature, I don't
17 know, but it got tweaked and got written to
18 where it was only an admitted carrier that
19 could sell this policy. Like I said, in
20 2007 we tried to amend the rent to own law
21 to include whatever a dealer was required to
22 carry.

23 I mean, just like now, all of
24 you have to have garage liability. We're
25 not telling you it has to be from an

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1 admitted carrier. We're not telling you
2 what the limits are. Just as long as you
3 have garage liability insurance. That's all
4 that really matters.

5 MR. ROBINSON:

6 Any Commissioners, do y'all
7 have any questions or comments? I know it
8 is a lot of information. Any questions or
9 comments from anybody?

10 MR. POTEET:

11 What is the -- what are the
12 chances of the passage of this bill?

13 MR. DUPLESSIS:

14 I think it depends on who --
15 when it goes to the committee.

16 MR. ROBINSON:

17 Is it Commerce?

18 MR. HALLACK:

19 Yes.

20 MR. DUPLESSIS:

21 It's going to be Commerce.
22 They are going to ask us to -- I think we
23 are obligated and the two people that
24 certainly need to be there is Director
25 Parnell and probably Robert Hallack and

1 possibly Barry. And, to me, I think you sit
2 at the table and let the Legislators ask you
3 questions about how this is going to affect
4 their constituents. When they get up after
5 they vote, good, bad or indifferent, they
6 are going to have to go back and face the
7 constituents in their marketplace. The
8 first thing that they are going to hear is,
9 I was paying my bill to rent to own, it's
10 the only transportation I had to bring my
11 kids to school and I was trying to rebuild
12 my credit and I have a job, I'm trying to
13 work, and now I'm wheel-less because we
14 passed a monopoly on an insurance company
15 for some agenda. I just don't think they
16 are going to have the stomach for that in
17 this session. So I think it's a fairly easy
18 thing, but the core thing is, are we
19 benefiting the people of Louisiana in trying
20 to get them to work and provide for their
21 families or are we complicating their lives
22 in providing a law that prevents that?
23 That's the bottom line. That's what the
24 Legislators are going to take away.

25 MR. HALLACK:

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1 I think legally you have to
2 oppose the bill. Politically, it depends on
3 how strong you are. We have a fee bill
4 that's very important to this Commission.
5 You know, I think politically, we need to
6 keep calm waters and, you know, we don't
7 need opposition from sources that we didn't
8 see originally. From a political source,
9 you may be accepting a compromise at this
10 point, and then re-looking at it next year
11 when we've got our fee bill underneath us
12 and we are a lot stronger.

13 MR. ROBINSON:

14 What Robert is saying is, we
15 got our fee bill out of committee without
16 any -- without a single person speaking
17 against it. And we go before the House
18 tomorrow, which is the big vote, the full
19 House. And, you know, between now and then,
20 they could very easily find somebody to get
21 up and speak against our fee increase.
22 That's the way of the world. That's part of
23 the equation y'all need to be aware of. I'm
24 just a little more direct than the Attorney
25 Hallack. And that's the way of the world.

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1 That's what we're looking at. That's part
2 of it.

3 Ms. Morris.

4 MS. MORRIS:

5 If they did go forward with
6 the legislation, could we maybe suggest to
7 them that they amend it, so that it doesn't
8 affect any current contracts, so we wouldn't
9 be putting people out of vehicles, that it
10 would become effective at a future date?

11 MR. HALLACK:

12 We suggested that in the
13 meeting.

14 MS. MORRIS:

15 That doesn't happen?

16 MR. HALLACK:

17 No. It's about money.

18 MR. ROBINSON:

19 So we have to decide what it
20 is we want to do, whether we want to adopt
21 this new policy and procedure or not.

22 MR. HALLACK:

23 Like we said before, 36 of
24 the 65 are non-SEADRA.

25 MR. PARNELL:

1 Right.

2 MR. HALLACK:

3 So that many others are
4 SEADRA dealers.

5 MR. PARNELL:

6 No, 26 are SEADRA dealers.
7 It's a total of 62, I think is the correct
8 number. 26 are with SEADRA and 30 are with
9 GMI and National.

10 MR. HALLACK:

11 And if you go to those 39
12 SEADRA dealers -- you know, usually, people
13 that are adamantly opposed to working with
14 SEADRA, they have been involved in
15 litigation with SEADRA and there is bad
16 blood between. So if you were to go to one
17 of those 30 something dealers, they would be
18 on top of their seats screaming and
19 hollering that you can't do this.

20 MR. ROBINSON:

21 In fact, in prior Commission
22 meetings, we've had testimony where people
23 tried to get away and get out from SEADRA
24 and they were all -- and they were sued in
25 the appropriate district court to keep them

1 from meeting and trying to get away from
2 SEADRA.

3 MR. HALLACK:

4 Yes. We have at least five
5 dealers that have been involved in hotly
6 contested litigation that ended up on
7 appeal. One dealer I know of, he has three
8 dealerships, one in Houma, one in Leesville,
9 and one in Shreveport and he filed
10 bankruptcy and he couldn't get out of the
11 SEADRA deal. He was forced to go into
12 bankruptcy. And that's easy for rent to
13 own. I think it's L&G or something like
14 that in Houma -- J&G.

15 MR. ROBINSON:

16 Does any other Commissioner
17 have any question or comment?

18 (No response.)

19 MR. ROBINSON:

20 Derek, Ron, you are the guys
21 that -- and I appreciate Ron attending the
22 meeting. It's a long way for me to go to a
23 10 to 45 minute meeting. So Ron was very
24 kind to sit in and I appreciate that. You
25 guys were there.

1 And I guess this was done
2 between you and their attorney, Robert, this
3 policy?

4 MR. HALLACK:

5 Actually, I wrote it and gave
6 it to Derek and Derek gave it to their
7 people.

8 MR. ROBINSON:

9 So is it -- do y'all have a
10 recommendation, do you think this is
11 something we should do or leave our policy
12 as it stands?

13 MR. HALLACK:

14 Well, like I commented,
15 there's a legal solution and there's a
16 political solution, and I think each Board
17 member needs to come to terms with what he
18 thinks the most important is. I can't --
19 legally, I wrote the amendment for the 2007
20 that would allow the dealer to get -- just
21 as long as that car was insured, it met the
22 requirements of the law. So I'd rather see
23 our dealers have every option available to
24 them to perform this type of business, and
25 I'd like for our consumers to have every

1 option available to them to be in a car that
2 they could not ordinarily get into under
3 traditional financing.

4 MR. DUPLESSIS:

5 Let me say this. We are --
6 I've been involved with this Commission for
7 a long time and legislation through the new
8 car dealers and a lot of things and I have a
9 lot of experience, along with Ms. Morris and
10 Mr. Hallack, and this Commission has been
11 under a fire storm the last two years and
12 saddled with a bad reputation. And we would
13 go up there to the Legislature and just get
14 rocks thrown at us. We have cleaned up our
15 act. We are developing a very professional
16 reputation very quickly. Derek shows well.
17 He sells well. He's smart. Ms. Morris does
18 very well, and Mr. Hallack represents us for
19 years in a very methodic manner. We are
20 rebuilding our reputation. If we were to
21 allow us to go through and you've got
22 consumers out of cars and dealers out of
23 business, my God, we will have TV cameras in
24 here and we would be on the spot. And I
25 just don't think this is what we were

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1 assigned to do. It's to benefit the people
2 of the State of Louisiana and help
3 understand industry regulation and giving
4 one company a monopoly or putting consumers
5 in harm's way, I just don't think is the
6 purpose or to the benefit of this
7 Commission.

8 MR. ROBINSON:

9 However, this procedure,
10 there would be two companies.

11 MR. DUPLESSIS:

12 It would, and I still -- you
13 know, we forget -- let's don't forget about
14 the 60 guys that are flying under the radar
15 here and if we start to put -- if we are
16 only addressing 20 percent of the dealers
17 and we are going to be a fire storm, I just
18 think that the fire storm -- if they are
19 strong enough to put this through and
20 convince the Legislators it's good for the
21 people of Louisiana -- and that's what they
22 are going to do. Then, the obligation is
23 going to be on them and not us, and then I
24 think Barry's commission -- Barry's office
25 is going to have to step in and there's

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1 going to have to be some executive rulings,
2 because I just don't think you want to see
3 five, seven, eight thousand people out of
4 cars, and that's very well what we may be
5 obligated and forced to do if we have to
6 enforce the law and that is the law. And,
7 boy, we are in a pickle. So I think we have
8 to stand up on our own two feet and muster
9 our integrity and say this is not for the
10 benefit of the consumer. That's the way I
11 see it.

12 MR. ROBINSON:

13 Mr. Wright, the LAIDA, do you
14 have RTO dealers in your organization?

15 MR. WRIGHT:

16 A couple.

17 MR. ROBINSON:

18 Do you have any position on
19 this, LAIDA?

20 MR. WRIGHT:

21 I haven't brought it up to my
22 Board. I really couldn't say.

23 MR. ROBINSON:

24 Do you do recommend that we
25 not adopt this procedure?

1 MR. DUPLESSIS:

2 That's my recommendation, Mr.
3 Chairman.

4 MR. ROBINSON:

5 Mr. Parnell, what is your --

6 MR. PARNELL:

7 I kind of -- I agree with
8 both. I kind of see it as neither option is
9 really that good for the consumer and for
10 this Commission, but I also see that we do
11 have the fee bill that's out there right
12 now. What we've been doing is, we've been
13 doing -- as Commissioner Duplessis is
14 saying, we've changed the face of this
15 Commission and we are moving in a direction
16 where not a lot of unwanted attention is on
17 us. If that -- they move that bill through,
18 the argument is going to be that this
19 Commission is categorically not following
20 and upholding the law as it's written, which
21 would put a lot of unneeded and unwanted
22 pressure on this Commission at the same time
23 we are trying to move this bill through.

24 I kind of have the agreement
25 that we do need to make changes to that

1 legislation, because it's really not
2 beneficial to really anyone but SEADRA, but
3 this amendment right here, I believe that
4 it's something that we can do as of now and
5 next year look towards trying to stand
6 strong and to change the legislation.

7 MR. ROBINSON:

8 Any other Commissioner?

9 MR. POTEET:

10 Mr. Chairman, I would like to
11 make a motion that we take a five minute
12 recess before we vote.

13 MR. ROBINSON:

14 There is a motion.

15 Is there a second?

16 MR. DUPLESSIS:

17 I'll second.

18 MR. ROBINSON:

19 All in favor?

20 (All "Aye" responses.)

21 MR. ROBINSON:

22 Five minute recess, anyone
23 opposed?

24 (No response.)

25 MR. ROBINSON:

1 All right. We'll be back in
2 five minutes.

3 (Recess taken.)

4 MR. ROBINSON:

5 All right. The Used Motor
6 Vehicle Commission is back in session. We
7 left off at policy and procedure, which was
8 Item 4D on the agenda. We need to decide
9 what it is that we -- what action we want to
10 take on this policy and procedure #78.

11 Any commissioner, any other
12 questions from anybody, any comment from any
13 of the Commissioners?

14 MR. DUPLESSIS:

15 Mr. Chairman, let me make
16 this comment and I will make a motion. In
17 legislation, I think we often say that
18 legislation is like making sausage. You may
19 not want to see how it's made, you just want
20 to see the end product. And it's -- often
21 you get into a kind of fire storm of your
22 options, but, you know, the core thing is
23 here, we held a Legislative Committee
24 meeting in January and we asked everybody to
25 come and bring their issues and submit them.

1 We had a little input and we had a good
2 many. I think to put pressure on these
3 Commissioners today without having the input
4 of our dealers, our consumers, SEADRA,
5 whoever -- Northland, whoever wants to come
6 and talk and work this out for legislation
7 next year, I think that's what we do. We
8 hold a hearing and we make a decision what's
9 best for the dealers and the consumers and
10 the general public. With that being said, I
11 don't think that we can take and move this
12 bill -- this policy forward, but I would
13 recommend that we consider changing our
14 policy in future months and we get input
15 from all sides.

16 So my motion is to table this
17 discussion until at least next month until
18 we can bring in the people we represent, the
19 consumers, the dealers and the insurance
20 company and equally hear everybody's voice,
21 and then craft a piece of legislation or
22 reaction to the legislation that would best
23 benefit the people of Louisiana.

24 MR. ROBINSON:

25 And that's a motion?

1 MR. DUPLESSIS:

2 That's a motion, sir.

3 MR. POTEET:

4 I'll second that.

5 MR. ROBINSON:

6 We have a motion and a
7 second.

8 Any comments, any other
9 discussion from any Commissioner?

10 (No response.)

11 MR. ROBINSON:

12 All in favor of that motion
13 say "Aye."

14 (All "Aye" responses.)

15 MR. ROBINSON:

16 Anyone opposed?

17 (No response.)

18 MR. ROBINSON:

19 Hearing none, the motion
20 passes.

21 Item 5, Executive Director.

22 MR. HALLACK:

23 We have one other item that
24 might require action this month or next
25 month. June Powell is investigating a case

1 involving garage liability insurance and
2 that's why I asked Mr. Ward to kind of stay
3 on. We need to do something about garage
4 liability insurance because of what happened
5 to this particular dealer.

6 MR. ROBINSON:

7 Do we need an amendment?

8 MR. HALLACK:

9 No. This is just for
10 discussion.

11 MR. ROBINSON:

12 Okay.

13 MR. HALLACK:

14 We have a dealer, his 17 year
15 old son was driving one of the cars in his
16 inventory. He gets in a wreck and a lot of
17 people are seriously injured. His garage
18 liability insurance did not kick in on the
19 vehicle and it's our general understanding
20 -- our statute requires garage liability
21 that covers the cars in the dealer's
22 inventory, cars for sale or cars that are
23 being used on the highway in whatever
24 manner. So -- and I think a lot of people
25 believe that if this is a car in my

1 inventory that's for sale, it's covered
2 under my garage liability. But this
3 particular man, with his 17-year-old son
4 driving the car, he did not have coverage on
5 the vehicle. Is that what basically
6 everybody understands, their garage
7 liability will provide coverage for any car
8 in their inventory that's offered for sale?

9 MR. ROBINSON:

10 No, I can't say that for me.
11 I didn't know that minors -- I don't let
12 minors drive. I didn't know minors were
13 covered.

14 MR. BREWER:

15 I thought it had to be 21
16 years of age.

17 MR. HALLACK:

18 On your garage liability, you
19 have to be 21?

20 MR. ROBINSON:

21 My policy a 17-year-old
22 wouldn't drive a car of mine without a
23 parent.

24 MR. PARNELL:

25 What happened in that

1 particular case is --

2 MR. ROBINSON:

3 Well, I'm just trying to
4 answer your question. No, I don't
5 necessarily believe that.

6 MR. PARNELL:

7 Now, they did have the garage
8 liability, but being the fact that the child
9 was -- the person was 17 years old, the
10 insurance company is not going to cover it.
11 They went outside of the parameter of what
12 their policy was.

13 MR. ROBINSON:

14 They need to read the policy.

15 MR. HALLACK:

16 Yes. Well, that's my
17 mistake. I thought it was because he was
18 using the vehicle for personal use.

19 MR. PARNELL:

20 He was using it for personal
21 use and he is under the age -- the age that
22 is allowed for him to actually have that.

23 MR. HALLACK:

24 You see, it's the policy of
25 this Commission that we don't sit down and

1 read an insurance policy to determine it
2 provides the coverage that's required by the
3 statute. Like I said, the statute requires
4 any vehicle offered for sale must be covered
5 under the garage liability policy. Any car
6 that's being driven on the highways for --
7 like you are test driving a car or
8 demonstrating it or you have a mechanic
9 that's test driving it.

10 MR. ROBINSON:

11 We can see if there is an
12 exception in the policy, any type of age or
13 minors or what-have-you.

14 MR. HALLACK:

15 Well, see, the investigator
16 was under the belief that we should issue a
17 violation ticket if this policy didn't
18 provide coverage for the particular
19 incident. Her thinking was that he doesn't
20 have it for this incident, but it's always
21 been our policy as long as the dealers have
22 garage liability --

23 MR. ROBINSON:

24 Mr. Hallack, you need to let
25 it run the course and come to the Commission

1 at the appropriate time.

2 MR. HALLACK:

3 I know. We were just under
4 the belief that there might have been some
5 exceptions under policies that wouldn't
6 provide coverage and we wanted to alert
7 everybody to that.

8 MR. DUPLESSIS:

9 There is -- the actual term
10 is just called open lot. That's the name of
11 the coverage that would cover a car for
12 demonstration, for use.

13 MR. ROBINSON:

14 Which is common for a new car
15 dealer, but not for used. I had open lot at
16 my new car dealership. Very few I think
17 have open lot coverage.

18 MR. HALLACK:

19 All right.

20 MR. ROBINSON:

21 All right. Executive
22 Director's report, Item 5.

23 MR. PARNELL:

24 The first item is the fleet
25 cars. On April 10, all six of the fleet

1 cars were auctioned off by Property
2 Assistance. Total money received was
3 \$15,900. Property Assistance receives 20
4 percent of that and we do receive 80 percent
5 of that. They are going through their
6 process right now of processing the check
7 before we can actually receive our 80
8 percent of that.

9 A little bit further, we were
10 just looking into -- as the Commissioner --
11 or I should say Chairman Robinson stated
12 last month that we just were looking into
13 purchasing a vehicle -- a used vehicle, one,
14 from somewhere that we don't regulate. I
15 spoke with a gentleman at the -- at Property
16 Assistance and he's looking into that and
17 he's going to give me much more information
18 on that in this coming week.

19 The second item on that is
20 review of March complaint totals. For the
21 month of March 1 through March 31, there was
22 a total of 58 assigned cases. Twenty were
23 completed. Thirty are still open, which
24 leaves us at a 34 percent completion rate.
25 The year to date, January 1 through March 31

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1 of 2010, total assigned cases were 158.
2 Total completed cases were 75 and 83 cases
3 still remain open and we are at 47.5 percent
4 of cases completed.

5 MR. ROBINSON:

6 You know, I would still like
7 to see us -- the sale of the cars is
8 unexpected revenue. We have a very old
9 fleet. You know, I still might desire that
10 we take that money and upgrade one unit,
11 because that's all we will have the money
12 for, and we talked about that several times.

13 So any questions or comments
14 for Director Parnell?

15 (No response.)

16 MR. ROBINSON:

17 Item 6, committee report,
18 Legislative Committee, Mr. Duplessis.

19 MR. DUPLESSIS:

20 Well, we are in the -- we are
21 starting the session.

22 Again, Ms. Morris, kind of
23 bring us up to speed on most of the bills.
24 You are more attuned with the re-writes than
25 I am and so forth.

1 MS. MORRIS:

2 Well, just to address the fee
3 bill. It got out of committee. We did have
4 several dissenting votes. We got the
5 dissenting votes out of the committee
6 members after we had enough to pass it. So
7 there were several on the committee that
8 didn't support it getting out of committee.
9 It goes to the floor for debate on the 21st
10 and the House is a difficult place -- the
11 House floor is a difficult place to get a
12 two-thirds passage, especially on a fee
13 bill. So we will have our chance on
14 Wednesday.

15 MR. ROBINSON:

16 We actually need -- here's
17 how it works. We need 70 votes. If there's
18 only 90 Legislators in the room, you still
19 need 70. If there's 105 in the room, you
20 still need 70. So timing is a lot of it,
21 too, but the magic number is 70. It doesn't
22 matter how many are in attendance.

23 MS. MORRIS:

24 Correct. And sometimes it is
25 difficult if attendance isn't good.

1 Wednesday is good day usually, though, for
2 attendance. So that -- we have no changes
3 to it. We didn't have any questions. We
4 had a lot of questions, but no opposition.
5 So no known opposition at this time.

6 Our other bill 1189, which is
7 the revision, got out of committee. It is
8 without any testimony against it, without
9 any dissenting votes. There was a request
10 to place it on the local and consent
11 calendar, but it was not placed there. So
12 it will come up behind the fee bill at
13 sometime. I'm sorry, this one has not gone
14 to committee yet, because it was held.

15 We had two groups that
16 contacted us with issues regarding salvage
17 pool and I drafted some amendments --
18 proposed amendments to take the salvage
19 pool. Their complaint is about the 794
20 section where we make certain acts unlawful
21 at motor vehicle auctions. And there is one
22 group that's willing to work with us. The
23 other one just kind of wants the section
24 out. So insurance auto auctions did say
25 that they were somehow exempted from this

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1 provision and they would not be against the
2 bill.

3 I sent some amendments for
4 Mr. Poteet and Mr. Duplessis to review and
5 they were fine with the amendments. I
6 submitted them to insurance auto auctions if
7 they are still concerned about it. So they
8 sent me late Friday some language, which I
9 think was passed out to you all earlier, of
10 a Pennsylvania definition of a wholesale
11 vehicle auction, because we have a
12 definition of salvage pool, but we have no
13 definition of auction.

14 MR. ROBINSON:

15 So the concern is insurance
16 pool auctions?

17 MS. MORRIS:

18 It's salvage pools that hold
19 auctions, yes. And under the definition of
20 salvage pool, it allows an auction to be
21 held by a salvage pool. It becomes a little
22 bit more confusing because of the way our
23 licenses are. We license them as auctions
24 and motor vehicle dealers, is my
25 understanding. The definition of a salvage

1 -- we define in the Statute 78198, there is
2 a definition of salvage pool or salvage
3 disposal sale and it means a scheduled sale
4 at auction or by private bid of wrecked or
5 repairable motor vehicles by an insurance
6 company or by a used motor vehicle dealer or
7 automotive dismantler and parts dismantlers
8 licensed by the Commission. So they want to
9 be -- the salvage pool insurance auto
10 auctions is salvage pool and they want to be
11 exempted from the new provisions. And one
12 way to do that would be to define dealer
13 auctions.

14 MR. ROBINSON:

15 Are insurance pool auctions
16 the same auction?

17 MS. MORRIS:

18 The salvage pools like
19 insurance auto auctions have an auction
20 license and they have a motor vehicle
21 dealer's license. On your application for
22 an auction license, you are asked whether
23 it's a dealer auction, a salvage action or
24 open to the public action, I believe, and
25 that's noted on the upper right-hand corner

1 of the license, I understand. I haven't
2 seen it. So they check off, but we don't
3 have any separate -- I don't know where that
4 came from, because we don't really have
5 those separate categories in the law. Maybe
6 Mr. Hallack knows how the application was
7 developed from experience.

8 MR. PARNELL:

9 Well, COPART and IAA are
10 national chains that are salvage auctions,
11 and so when they fill out their form, when
12 they get their license from this Commission,
13 I'm assuming that they are checking salvage
14 only. If they're checking dealer auctions,
15 then that should be included, because they
16 are a dealer auction.

17 MS. MORRIS:

18 They sell -- they said that
19 they sell to dealers and the public.

20 MR. POTEET:

21 Then, check all three. Do
22 they check all three?

23 MS. BARON:

24 If it's the ones we looked at
25 Friday, they didn't.

1 MR. POTEET:

2 Well, they are in violation
3 of their --

4 MS. BARON:

5 They are regular salvage
6 market.

7 MS. MORRIS:

8 Well, we don't have any
9 statutes that really regulate that or define
10 what is a salvage auction, a public auction
11 or a dealer auction.

12 MR. DUPLESSIS:

13 I think that's necessary just
14 by what Director Parnell had to go through
15 with the trailers a couple of weeks ago.
16 You might want to explain that, and I think
17 the difference is if you take Manheim, they
18 will have a salvage day and they will run
19 on, say, Tuesday. General Motors and Ford
20 and Chrysler and Toyota may run on
21 Wednesday. Thursday may be the banks and
22 Friday may be the lower end wholesalers, but
23 they run a series of days different things.

24 The problem is, if you are
25 selling to the public, then are you

1 responsible for sales tax, license, title,
2 that sort of thing. And that's the great
3 art of having the dealer when he buys it.
4 He is responsible for the mechanical
5 condition, the re-conditioning, and the
6 licensing and title and proper handling of
7 the paperwork to the consumer, but when you
8 hold auctions and you let the consumer do
9 it, then we are going to run into to same
10 thing you ran into with the trailers and all
11 of that. You might want to speak to that
12 whole issue on the trailer side.

13 MR. ROBINSON:

14 Well, let's stay with our
15 bill here for right now.

16 MR. POTEET:

17 Well, I was going to say that
18 this definition from Pennsylvania is a good
19 -- I mean, it's brief, but it's a good
20 definition of a wholesale vehicle auction.
21 I mean, I have no argument with the way it's
22 worded, but I don't know how that -- you
23 said the IAA is still not happy with this.

24 MS. MORRIS:

25 No, the IAA sent the

1 Pennsylvania definition.

2 MR. POTEET:

3 Okay. They sent this.

4 MS. MORRIS:

5 They weren't happy with my
6 definition that I came up with, but -- so I
7 asked them would they -- do they have
8 another definition that they prefer and they
9 said the one -- they thought the State of
10 Pennsylvania had a good definition. I asked
11 them to send it to me and this is what they
12 sent, which is similar to the definition I
13 have. It's a little bit more specific.

14 MR. DUPLESSIS:

15 John, you're in this
16 business. Would you be willing to adopt
17 that definition? I think it's a fine
18 definition.

19 MR. POTEET:

20 Yes. I think the definition
21 is fine. I think the issues with the
22 COPARTs and IAAs of the world is something
23 that's beyond the scope of this right now,
24 but this definition, I would endorse this.
25 This is good.

1 MS. MORRIS:

2 Well, my proposal would be
3 then to adopt this language in 781, because
4 that's our definition section, and then
5 change 794 to say that wholesale vehicle
6 auctions shall not do this list of things.
7 It doesn't regulate those other groups, but
8 I don't know that that's something we can
9 take on without some further study of the
10 issue.

11 MR. ROBINSON:

12 I'm not in favor of taking
13 that on, absolutely not, not at this time.

14 MR. POTEET:

15 No. I agree with that 100
16 percent.

17 MR. ROBINSON:

18 And some of that goes back
19 to, you know, what we said just 10 minutes
20 ago. I mean, the Commission needs to get
21 away from taking on major decisions without
22 input from those that we represent, which
23 many times in the past has happened way too
24 often. So, no, I wouldn't be in favor of
25 taking that on at this particular time.

1 MS. MORRIS:

2 Well, insurance auto
3 auctions, I think it's okay if we adopt this
4 definition and make the provision applicable
5 to that. COPART, on the other hand, I'm not
6 sure whether they will accept that or not.
7 Their preference was to wipe out 794.

8 MR. ROBINSON:

9 I don't understand the
10 problem really whether it's what type of
11 auction. If you are there buying and you
12 don't have a UD license, it's a public
13 option. If you are -- where is the
14 confusion?

15 MR. DUPLESSIS:

16 Our law doesn't say that. We
17 have no provision.

18 MR. ROBINSON:

19 It's inclusive. You can't go
20 buy at an auction for dealers unless you
21 have a UD license.

22 MR. DUPLESSIS:

23 I think COPART would take you
24 to task on that one and they told us that.
25 They flat told us that.

1 MR. ROBINSON:

2 Take you to task how? I
3 mean, you are a licensed dealer or someone
4 from the public. It is pretty cut and dry.

5 MS. MORRIS:

6 Well, I guess our statute
7 doesn't say that if you have an auction
8 license from the Commission that it can't be
9 open to the public.

10 MR. HALLACK:

11 No, we don't. There's
12 nothing in our statutes right now that
13 prohibit the public from being a used motor
14 vehicle auction. That's just self-regulated
15 by the auctions.

16 MR. ROBINSON:

17 Well, that's different than
18 how I've always heard in the past. In the
19 past, we've always said that the public
20 cannot be at those auctions, that they have
21 to have a UD license or they have to be --
22 you know, there's provisions where you can
23 take a mechanic or, you know, things of that
24 nature in the auction with you. So that's a
25 whole different take on what we've already

1 said in the past.

2 MR. HALLACK:

3 That's pretty much
4 self-policed by the individual auctions.
5 You have some auctions that will do it and
6 you have some that totally disregard it, and
7 that's one of the important facets of this
8 bill is only dealers now. And with salvage
9 pool, the statute specifically says that's
10 open to the whole world. You do not have to
11 be a licensed dealer to bid at salvage.

12 MR. ROBINSON:

13 Right. That's because the
14 law changed.

15 MR. HALLACK:

16 Right.

17 MR. POTEET:

18 We eliminated the bid card,
19 right?

20 MR. HALLACK:

21 That's correct. In 2007, we
22 recognized that our statute says that for
23 each capacity in which a dealer does
24 business, he needs a license. So to
25 determine which capacities those were, this

1 was revenue generated. When we saw that and
2 recognized that we could charge for a
3 license fee for each capacity, we went and
4 looked to see what capacities there are and
5 784 laid out what capacities there are. And
6 784.4 says used motor vehicle auctions and
7 salvage pools that deal in used motor
8 vehicles, but that was considered to be one
9 capacity. It shouldn't have been that way.
10 Auctions should have been separated from
11 salvage pools, because they are so
12 different, but we don't have a salvage pool
13 license. Am I understanding correct?

14 MS. BARON:

15 We have an auction license
16 and you can mark salvage on it and that
17 would give you the right to have a salvage
18 auction.

19 MR. HALLACK:

20 But it's not a different
21 license than auction?

22 MS. BARON:

23 No. It's one license and
24 under the business you are engaged in, it
25 will say dealer, salvage or public,

1 whichever you mark.

2 MR. HALLACK:

3 So in 2007 when we separated
4 all of these capacities out, we gave them
5 their own place within the statute. We
6 didn't do that for auctions. I think
7 auctions eventually should have their own
8 place in terms of what is required for an
9 auction license. Should he be held to the
10 same requirements as a used motor vehicle
11 dealer? And I think with the statute, we
12 are actually giving auctions their own
13 place, but we're not still -- we don't have
14 any statutory requirement for what's
15 required for an auction license as opposed
16 to a salvage pool. Eventually, we need to
17 head in that direction. I know right now is
18 not the time.

19 MS. MORRIS:

20 I think, though, if we adopt
21 this definition of wholesale auctions, then
22 we possibly could issue a license to
23 wholesale auctions and one to salvage pools.
24 So if you have the salvage pool license, you
25 would not be following the 794 if you have a

1 wholesale dealers and that requires some
2 changes that we didn't really anticipate or
3 talk about, but helps create some operation,
4 but not totally.

5 MR. ROBINSON:

6 So you need a vote of the
7 Commission to adopt this definition?

8 MS. MORRIS:

9 Yes. The Commission did
10 approve the language of the bill that was
11 submitted to the staff. Also, it might be
12 necessary that we have some authority as
13 opposed to the technical changes and that's
14 why I brought it back and I knew you all
15 were meeting and I had time. I don't know
16 if throughout the session we will have that
17 ability to adjust.

18 MR. ROBINSON:

19 What are you asking for
20 there?

21 MS. MORRIS:

22 I'm asking that you give
23 somebody authority, whether it's Derek,
24 myself or Mr. Duplessis, you or whoever, to
25 look at amendments as the bill goes through

1 the process, because we might have a
2 different concern when it gets to the Senate
3 floor.

4 MR. ROBINSON:

5 All right. So what you are
6 asking for is we adopt this definition and
7 also wanted to make --

8 MS. MORRIS:

9 Decisions.

10 MR. ROBINSON:

11 -- minor changes, are we
12 talking about verbiage changes, you know?

13 MS. MORRIS:

14 I would think technical
15 changes, we probably wouldn't have to come
16 back for approval, but there might be some
17 other substantive changes that somebody
18 comes up with. When this piece of
19 legislation was discussed, we didn't really
20 specifically discuss salvage pool, and so I
21 don't know if there might be another issue
22 that comes up as we go through the process,
23 and then your next meeting wouldn't be for
24 another month.

25 MR. ROBINSON:

1 What is the Commissioners'
2 take on that, do you want to allow somebody
3 to make changes without it coming to the
4 Commission or does anyone have anything to
5 offer?

6 MR. HALLACK:

7 Historically, it was left up
8 to the Executive Director alone.

9 MR. DUPLESSIS:

10 Your legislative team --

11 MR. ROBINSON:

12 I don't have a problem with
13 that. I mean, we only meet once a month.
14 That's what the Executive Director is here
15 for. So if no one else wants to offer it,
16 I'll offer it. I mean, that's why we employ
17 him is to make daily decisions for the
18 Commission. So I don't have a problem with
19 allowing the Director to make, you know,
20 routine and minor changes to what it is that
21 we are trying to accomplish. That's why
22 he's here.

23 MR. POTEET:

24 I agree with that, and in the
25 past we have always had pretty good

1 communication with e-mails as to when things
2 were going to get changed and what does
3 somebody think about it. So I don't see any
4 problem with that.

5 MR. ROBINSON:

6 So does someone want to make
7 a motion to adopt this definition and allow
8 the Executive Director to handle the nuances
9 of the ongoing legislative process?

10 MR. ROY:

11 I will move on that.

12 MR. BREWER:

13 I'll second it.

14 MR. ROBINSON:

15 First and second.

16 Any other discussion?

17 (No response.)

18 MR. ROBINSON:

19 All in favor?

20 (All "Aye" responses.)

21 MR. ROBINSON:

22 Anyone opposed?

23 (No response.)

24 MR. ROBINSON:

25 The motion passes. That

1 takes care of that.

2 Anything else?

3 MS. MORRIS:

4 I just wanted to make you
5 aware of another bill that's out there that
6 would affect the Commission. It's not
7 scheduled for hearing, but there is a bill
8 that would -- that says -- and I made Derek
9 aware of it, but if you have a fund balance
10 in September, that you would have to lower
11 your licensing fees by rule. And I'm not
12 sure what the status of it is, but it would
13 affect this Commission, because you do have
14 a fund balance.

15 MR. PARNELL:

16 1227 is a house bill.

17 MR. ROBINSON:

18 We are aware of it.

19 The next item on the agenda,
20 hearings. We have no hearings today.

21 Any items for the next agenda
22 any Commissioners would like to see us take
23 up or address? You know, as always, just
24 contact me and we will get it on the agenda.
25 We just need to know like that Thursday

1 prior to the Monday meeting.

2 MR. ROY:

3 Glen, are you still sending
4 out e-mails?

5 MR. ROBINSON:

6 I have been letting the
7 Director do it. He and I communicate. It's
8 a lot easier. Either he has more expertise
9 in that, but I have -- we are discussing and
10 he is sending it out. So many of you have
11 said you weren't getting them and maybe I'm
12 not the world's greatest with this little
13 Blackberry, but, yes, most of I think what
14 you get from the Director is things that he
15 and I discussed or, you know, I've used --
16 we've gone through him to get disseminated
17 to the Commission.

18 We do have and we are asking
19 for the Commissioners to take a little time
20 and go down to the capital. We have some
21 handouts for you. We have been asked to put
22 together some bullet points, very -- kind of
23 short and concise as to what it is and the
24 reasoning behind our fee. Our fee bill is
25 going be heard Wednesday. The more personal

1 contact we can make with the representatives
2 and explain our position, the better off we
3 are, and that's -- so that's what the
4 handout is. It's the bullet points, the
5 talking points, if you would.

6 MR. PARNELL:

7 The second handout is
8 actually also a lot of the representatives
9 that are near your perspective areas.

10 MR. ROBINSON:

11 Well, as far as the
12 Commission meeting, if somebody wants to
13 make a motion, we are done.

14 MR. POTEET:

15 I make a motion that we
16 adjourn.

17 MR. CORMIER:

18 Second.

19 MR. ROBINSON:

20 All in favor?

21 (All "Aye" responses.)

22 MR. ROBINSON:

23 Any opposed?

24 (No response.)

25 MR. ROBINSON:

1 The meeting is adjourned.

2 (Whereupon, the meeting was
3 adjourned at 11:19 a.m.)
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Betty D. Glissman, CCR
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1 REPORTER'S CERTIFICATE
2

3 I, BETTY D. GLISSMAN, Certified
4 Court Reporter, Certificate No. 86150, in
5 and for the State of Louisiana, do hereby
6 certify that the Louisiana Used Motor
7 Vehicle Commission April 19, 2010 meeting
8 was reported by me in the stenotype
9 reporting method, was prepared and
10 transcribed by me or under my personal
11 direction and supervision, and is a true and
12 correct transcript to the best of my ability
13 and understanding.

14 This May 3, 2010, Baton Rouge,
15 Louisiana.
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17
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22

23 BETTY D. GLISSMAN, CCR
24 CERTIFIED COURT REPORTER
25

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