

LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
FEBRUARY 15, 2016
BEGINNING AT 9:31 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 (ARRIVED LATE)

9 MR. RON DUPLESSIS (ARRIVED LATE)

10 MR. STEPHEN OLAVE

11 MR. KIRBY ROY

12 MR. HENRY "DARTY" SMITH

13 MR. DINO TAYLOR

14

15

16 REPRESENTING THE LOUISIANA USED MOTOR

17 VEHICLE COMMISSION:

18

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

20

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

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ALSO PRESENT:

MS. KIM BARON

MR. DEREK PARNELL

MS. MONA ANDERSON

MS. TONYA BURKS

MR. NESTOR GUILLORY

MR. ERIC STRODERT

1 (Pledge of Allegiance)

2 MR. POTEET:

3 Kim, roll call, please.

4 MS. BARON?

5 John Poteet?

6 MR. POTEET:

7 Here.

8 MS. BARON:

9 George Brewer?

10 MR. BREWER:

11 Here.

12 MS. BARON:

13 Dino Taylor?

14 MR. TAYLOR:

15 Here.

16 MS. BARON:

17 Tony Cormier.

18 MR. CORMIER:

19 (No response.)

20 MS. BARON:

21 Ron Duplessis?

22 MR. DUPLESSIS:

23 (No response.)

24 MS. BARON:

25 George Floyd?

1 MR. FLOYD:

2 (No response.)

3 MS. BARON:

4 Kirby Roy?

5 MR. ROY:

6 Here.

7 MS. BARON:

8 Darty Smith?

9 MR. SMITH:

10 Here.

11 MS. BARON:

12 Steve Olave?

13 MR. OLAVE:

14 Here.

15 MS. BARON:

16 Mr. Chairman, we have a quorum.

17 MR. POTEET:

18 That's good.

19 Is there anyone here for public comments

20 today?

21 MS. BARON:

22 There is not.

23 (Ron Duplessis comes in.)

24 MS. BARON:

25 And there is Mr. Duplessis.

1 MR. POTEET:

2 And we -- we have two months' worth of
3 minutes to adopt and approve. I hope everybody has
4 had a chance to read those by now.

5 MR. SMITH:

6 I make a motion.

7 MR. BREWER:

8 Second.

9 MR. POTEET:

10 All in favor -- it's to approve both
11 months?

12 MR. SMITH:

13 Both months.

14 MR. POTEET:

15 Okay. All in favor, say, "Aye."

16 (All "Aye" responses.)

17 MR. POTEET:

18 Any opposed?

19 (No response.)

20 MR. POTEET:

21 All right. So those two months' worth of
22 minutes are approved.

23 So we have the financial report, Mona.

24 MS. ANDERSON:

25 Turning in your binders to the financial

1 report for the month of December 2015, it was short
2 a month this meeting. So the January financials
3 will be presented next month.

4 The balance in the operating account at
5 end of December was \$1,934,738, which is up about
6 \$188,000 from last month. The accounts receivable
7 for hearings and fines increased to \$248,800.
8 Current liabilities were \$39,494.

9 On Page 2, the 2016 deferred license fees
10 were \$310,415, and the 2017 deferred license fees
11 were \$197,005.

12 On Page 3, the statement of revenues,
13 expenses, and changes in net position, the
14 year-to-date revenues at the bottom of the page were
15 \$662,037 compared to \$810,754 last year, and the
16 difference in that being primarily on the hearing
17 costs and fines.

18 Under expenses, salaries, and related
19 benefits, year to date decreased from last year and
20 the remainder of the expenses increased about
21 \$10,000 year to date for a net increase in
22 expenditures of approximately \$7,000 on Page 5.

23 There was a positive change in net position year to
24 date of \$175,911, and this is down from last year.
25 Again, the hearing fines were less.

1 On the following page the revenues,
2 expenses, and net position are shown month to month
3 and on Page 7 is the graph. You can see that the
4 revenues are -- were -- were slightly increasing in
5 December and expenses were remaining steady.

6 On Page 8, there's a graph of fee
7 revenue. Compared to last year, fees were
8 increasing in December and will continue to do so in
9 January. On Page 9, the certificate of deposit
10 report, in January, we have -- we had three CDs that
11 came up for renewal and they -- the -- the rates
12 increased. The Business First Bank increased its
13 rates slightly. We got a special deal on that.
14 Landmark went down.

15 On Page 10, the accounts receivable
16 hearings report, the total for December 31st, was
17 \$248,800. We assessed \$34,400 of that and \$15,200
18 were -- were fees that were recorded in escrow and
19 were moved to revenue, and those amounts had already
20 been collected.

21 Unless there are any other questions --
22 any questions, that concludes my report.

23 MR. POTEET:

24 Thank you. Does anyone have any
25 questions for Mona?

1 (No response.)

2 MR. POTEET:

3 I noticed the -- the used dealer licenses
4 are down a little bit. Is that because of the
5 different areas that are on the two year or is that
6 -- do we have less dealers or --

7 MS. ANDERSON:

8 I think that if we were to see it on a
9 moving average that it would balance out. It just
10 depends on, you know, when the fees come in at the
11 beginning. This was pretty much the first part of
12 the renewal period. So I think if you saw it over a
13 moving average, you'd see that it wasn't much
14 different than last year. It's just when it comes
15 in, so.

16 MR. POTEET:

17 Okay. No other questions?

18 MR. BREWER:

19 What's going on with Wego Auto sales?

20 MS. ANDERSON:

21 Kim, do you know anything?

22 MR. BREWER:

23 Are they out of business?

24 MS. BARON:

25 Yes. They're out of business and that

1 bond -- the bond payment has -- was made. Let me
2 make sure. The bond payment was paid. It was
3 \$35,000. The rest is what they owe and they've made
4 no attempt to make that. So it's one that we'll
5 have to send to collections. I think it's been
6 turned over to the Attorney General.

7 MS. ANDERSON:

8 It's been turned over. The minute we got
9 all of the money from the bond, we turned it over,
10 so.

11 MR. HALLACK:

12 Apparently, he's been sued, so.

13 MS. ANDERSON:

14 Right.

15 MS. BARON:

16 Apparently what?

17 MR. HALLACK:

18 He's been sued. They have filed suit
19 against him, the Attorney General's Office.

20 MR. POTEET:

21 The Attorney General's Office has?

22 MR. HALLACK:

23 Yes.

24 MR. POTEET:

25 All right. I need a motion to approve

1 that.

2 MR. TAYLOR:

3 I make a motion to approve the financial
4 statement.

5 MR. ROY:

6 Second.

7 MR. POTEET:

8 Second from Kirby.

9 All in favor, say, "Aye."

10 (All "Aye" responses.)

11 MR. POTEET:

12 Any opposed?

13 (No response.)

14 MR. POTEET:

15 Okay. That passes.

16 All right. Next on our agenda is
17 legislative report, revised legislation.

18 Derek, do you want to take this?

19 MR. PARNELL:

20 I'll start, but I'll -- I'll hand it over
21 to Sheri. I did -- I spoke with Representative
22 Price, who has been working with us for the last
23 three years. He said he would be more than happy to
24 author our bill this year. He is still on the
25 Commerce Committee. We always try to look for

1 someone who is on the Commerce Committee. So he
2 wants to have a meeting. Sheri and I will probably
3 go down and try to meet with him one day this week
4 and kind of explain exactly what we're looking to do
5 with our legislation this year. So with that said,
6 I'll go ahead and kind of hand it off.

7 MS. MORRIS:

8 I took the changes that Robert had
9 drafted that the Commission had approved and started
10 the process of putting it in bill format. And when
11 I did that, I noticed a couple of little technical
12 things that need to be corrected, and Robert and
13 Derek and I briefly met this morning with those.
14 There are two substantive things -- or three
15 substantive things that we might want to consider.
16 I noticed in the educational seminar, there is a
17 statute that allows a nonprofit or another entity to
18 do the educational seminar and I think that the
19 seminar became mandatory in 2002 and since that
20 time, the Commission has been doing the seminar and
21 we might want to pull that language out to make it
22 clear that the only seminar that qualifies is the
23 Commission training seminar.

24 MS. BARON:

25 What page is that on?

1 MS. MORRIS:

2 I don't know. It's not Robert's page.
3 It's in 791 and it's (B)(3)(b), capital B, 3, small
4 B. It looks like, you know, there might have been
5 some attempt to contract that out or allow a
6 third-party to do that.

7 MR. HALLACK:

8 Yes. That's what it's in there for.

9 MS. MORRIS:

10 Robert might have more information on the
11 background, but it doesn't seem like it's something
12 that's been used as long as I've been here. I don't
13 remember anybody applying to do the seminars. 791.

14 MR. HALLACK:

15 They did apply for it when it was first
16 legislated.

17 MS. MORRIS:

18 It starts on January 1st. It's actually
19 in the next paragraph that the education seminar
20 shall be designed to develop and present educational
21 programs, but then the next sentence says, the
22 Commission may approve any nonprofit corporation
23 organized for the purpose of representing licensees
24 of this Commission to administer the educational
25 seminar program and may approve any nonprofit

1 corporation, association, or other entity that is
2 associated with the used car industry to conduct the
3 seminar and certify completion of required
4 attendance. However, the Commission shall
5 investigate the qualifications of and shall have the
6 authority to approve or deny approval of all
7 entities that desire to conduct an educational
8 seminar for motor vehicle dealer applicant and motor
9 vehicle dealers.

10 MR. POTEET:

11 Why would we want to remove it?

12 MR. HALLACK:

13 Because we've been doing it for 12 years.

14 MR. POTEET:

15 But why would we want to limit our -- I
16 mean, if it's in there and we're going to keep doing
17 it, we just keep doing it, but if we wanted to hire
18 somebody to do it, if you take that out, you're
19 going to have to go back in and get it changed
20 again. I mean, it seems to me it gives us more
21 flexibility.

22 MR. OLAVE:

23 And it has to be approved by the
24 Commission anyway.

25 MR. POTEET:

1 It has to be approved by the Commission
2 anyway. If you take it out, then you have no
3 choice.

4 MR. DUPLESSIS:

5 Who's wanting to -- Robert, are you
6 wanting to remove it?

7 MR. HALLACK:

8 Yes. I agree with Sheri that it needs to
9 be removed.

10 MR. POTEET:

11 But why?

12 MS. MORRIS:

13 Well, if the Commission contracted it out
14 to a third-party, it would still be the Commission's
15 course, but it would be a course that would be
16 taught by a third-party.

17 MR. POTEET:

18 And I know in -- in Mississippi that, you
19 know, their MIADA teaches the course and it's
20 approved by the -- by the Mississippi -- well, they
21 don't even have a used car -- they have a Commission
22 for all dealers in Mississippi. I -- I don't -- I
23 don't see the harm in leaving that in there. I -- I
24 guess to me it seems like if you take it out and
25 we're all gone in 10 or 15 years and somebody --

1 MR. TAYLOR:

2 I think it's a lot of effort to put it
3 back in there.

4 MR. POTEET:

5 A lot of -- yes. It's going to be a lot
6 of effort to put it back in. What harm is it doing?
7 Tell me what harm it's doing.

8 MR. HALLACK:

9 Well, it comes with a bad history. The
10 whole education seminar started off as being an
11 opportunity to cut a fat hog is what it was.

12 MR. DUPLESSIS:

13 To do what?

14 MR. HALLACK:

15 An opportunity to cut -- I'm sorry. I'm
16 losing my voice a little bit, an opportunity to cut
17 a fat hog. That's how it began. It was something
18 somebody wanted to do to make some money is what it
19 was.

20 MS. MORRIS:

21 The Commission doesn't charge.

22 MR. HALLACK:

23 Doesn't even charge for the materials for
24 the seminar and there's a reason for it, and the
25 reason was because somebody caught wind of what we

1 were trying to do at the time. And that's why we
2 don't charge today, even though we -- it's in our
3 law that we can charge, and we should charge and we
4 need to develop some rules and regulations with
5 regard to how much we should charge for it, but I
6 think initially when it started out, it was started
7 out as being a -- some -- for profit. Somebody was
8 going to make money off of it.

9 MR. TAYLOR:

10 I still don't see why we have to take it
11 out.

12 MR. POTEET:

13 I don't think we should take it out. If
14 it's not -- if it's not doing any harm, but it gives
15 us some flexibility further down the road to do
16 something like -- suppose we don't want to do the
17 seminar anymore, we want to hire somebody, maybe
18 there's somebody that could do it better or more
19 efficiently and instead of doing the seminar -- I
20 don't know how much work it is to do, but it's got
21 to be some work on the Commission. You know, if
22 I -- actually if I had my druthers, I'd farm it out.
23 I wouldn't do it in here.

24 MR. HALLACK:

25 Because it is part of the license,

1 though, and we issue the license and it's also part
2 of the penalty. So we have to keep up with who has
3 it and who doesn't and who needs it and who hasn't
4 gotten it. I mean, part of your penalty process is
5 they must get it done within a month.

6 MR. POTEET:

7 Okay.

8 MR. HALLACK:

9 It's so closely connected to what we do
10 in terms of licensing and in terms of fines and
11 penalties that we shouldn't let it go out to
12 somebody else. It should always be something that
13 we maintain. We also have two or three
14 investigators whose pay takes into consideration the
15 fact that they do this. Am I right?

16 MR. PARNELL:

17 That's right.

18 MR. DUPLESSIS:

19 Explain that.

20 MR. HALLACK:

21 If you take that away from the two or
22 three investigators that perform this
23 responsibility, they're going to lose their pay,
24 that part of the pay that's connected to what they
25 do.

1 MR. POTEET:

2 I'm not suggesting we -- we change it.

3 I'm suggesting we leave it in, so we have
4 flexibility later on down the road, because we
5 already know how hard it is to get things changed.
6 So until somebody can explain to me why it's causing
7 harm to us, I don't see any reason to take it out.

8 MS. BARON:

9 And nobody can come in and take it from
10 us without our approval?

11 MR. DUPLESSIS:

12 That's what it says.

13 MS. MORRIS:

14 It would be just an additional class.

15 MR. OLAVE:

16 Well, not to mention that a third party,
17 I guess, for profit would have to compete with the
18 Commission's training for free. So I don't even
19 know who would take up that kind of endeavor.

20 MR. HALLACK:

21 Well, it's because the law says that we
22 can charge for the education seminar. We can, but
23 nobody is going to do it for free. Somebody is
24 going to do it for profit.

25 MR. OLAVE:

1 And if they were to try to do that, they
2 would have to come and get approval on the criteria
3 and the course curriculum and -- and whatever. So I
4 think we would have the final say in anything to do
5 with that.

6 MR. HALLACK:

7 Yes. The first budget proposal that we
8 ever got for some outside source to do it was
9 \$350,000 a year. They needed \$350,000 a year from
10 the Commission.

11 MR. DUPLESSIS:

12 Well, I don't think we're going to
13 approve that one.

14 MR. HALLACK:

15 But that's the only one we had.

16 MR. DUPLESSIS:

17 I don't think the Commission will support
18 that.

19 MR. POTEET:

20 Does anybody support taking that out? I
21 know Dino doesn't. I know I don't. I don't think
22 we should take that out.

23 MR. DUPLESSIS:

24 Why don't we put it online?

25 MR. PARNELL:

1 We're moving in that direction.

2 MR. DUPLESSIS:

3 Okay. I mean, the one thing I see about
4 farming it out, if I lived in Shreveport or Monroe
5 or Lake Charles, especially the two northern cities,
6 I wouldn't want to swing down here for two hours if
7 I didn't have to and with my gas and my food and
8 everything else. I would pay 75 bucks to go to a
9 hotel and get it done. Now, in my opinion, if you
10 want these guys that are in the field to teach that
11 at Holiday Inn and get a room, I think we take it to
12 them. We put part of it online as part of the
13 certification. We also have to look at the aspects
14 financially, the financial -- the finance license,
15 how that's going to farm out, because that's going
16 to require education. That's going to require very
17 specific education where I think we're going to have
18 to get Sheri and -- and Robert and maybe hire
19 outside credit counsel to make sure that our seminar
20 is correct, and then that's a great way to take it
21 to other cities if you want to farm that out.

22 MR. HALLACK:

23 That's something I'm not aware of. There
24 is a movement to get us a license to regulate
25 financing?

1 MR. DUPLESSIS:

2 I think it's going to have to be cleared
3 up.

4 MR. POTEET:

5 It's going to have to be cleared up. Of
6 course, on the other hand, the Commission licenses
7 people now that doesn't have any training.

8 MR. HALLACK:

9 Sure.

10 MS. MORRIS:

11 But the statute says they're required to.

12 MR. DUPLESSIS:

13 If we're going to do it right, we've got
14 to do it.

15 MR. POTEET:

16 All right. Let's move on to the next
17 thing. We don't want that out. The Commission
18 doesn't want it out.

19 MS. MORRIS:

20 The other thing is, we are adding to the
21 statute the powers of the Commission to institute
22 legal action necessary to obtain certificates of
23 title. That would be a cost to the agency. So
24 should there be some place in that statute adding a
25 provision that allows us to recover costs for

1 instituting a lawsuit from whoever cannot deliver
2 the title, whoever has the responsibility, to try to
3 recoup some of that?

4 MR. DUPLESSIS:

5 Well, we already have restitution.

6 MR. HALLACK:

7 No. She's talking about something else.

8 MR. DUPLESSIS:

9 I understand. Can we modify restitution,
10 which would just be recover the cost of restitution?

11 MR. HALLACK:

12 Well, we kind of do that a little bit.
13 What she's talking about -- you have proposed
14 legislation in front of you. It is on Page 1. This
15 is what we talked about back in December about
16 helping the Commission do its job in recovering
17 titles, particularly from floor planners. The way
18 the law reads now is we're allowed to collect and
19 distribute titles, but we're only allowed to collect
20 them from dealers. We want the ability to collect
21 them from floor planners. That's where we're having
22 the biggest problem. We're having a huge problem
23 with NextGear.

24 Kim calls me at least once a week with
25 another problem with NextGear refusing to release a

1 title on a good faith purchase. So what we're
2 wanting to do is develop a very specific detailed
3 set of laws that will allow us to do that. And one
4 of the things that we're proposing is the ability to
5 file suit against the floor planner in order to get
6 a title for a good faith purchaser.

7 And Sheri had brought up a point, that we
8 need to be able to recover the Commission's cost for
9 doing that, and I agree that's a good point.

10 And, also, too, one of the concerns that
11 Mr. Duplessis had last time about enacting this
12 amendment was would we be stepping on any other
13 agency's toes and we talked to the Office of
14 Financial Institutions and NextGear and businesses
15 like them are not regulated by the Office of
16 Financial Institutions. They're not regulated by
17 any State agency whatsoever. Kim spoke with
18 somebody at the Office of Financial Institutions.

19 Kim, do you have anything you want to
20 add?

21 MS. BARON:

22 We called to see if there was anything
23 they could do to help us with the floor planners and
24 they weren't governed under the Office of Financial
25 Institutions. The Office of Financial Institutions

1 said that they do not regulate -- they only regulate
2 consumer financing and this is considered inventory.

3 MR. HALLACK:

4 Commercial?

5 MS. BARON:

6 Commercial inventory financing or
7 something and that they're regulated out of
8 Washington, DC.

9 MR. DUPLESSIS:

10 Are they regulated by the New Car
11 Commission?

12 MR. HALLACK:

13 No.

14 MS. MORRIS:

15 Because they're not lending to consumers.

16 MS. BARON:

17 They're not lending to consumers.
18 They're only lending to -- it's called -- it's
19 called commercial inventory financing or something.

20 MR. DUPLESSIS:

21 It sounds like to me, we have another
22 line in the legislation, Mr. Chairman.

23 MS. BARON:

24 And NextGear has gotten more difficult
25 and more difficult about giving over titles.

1 MR. POTEET:

2 I think that's a good idea. We should.

3 MR. DUPLESSIS:

4 Mr. Chair, I make that motion.

5 MR. POTEET:

6 Do we have any comments about that?

7 Should we be licensing floor planners?

8 MS. MORRIS:

9 Floor planners that are not licensed as a
10 bank or other institution.

11 MS. BARON:

12 Right, because they do have floor
13 planners that are banks and stuff like that, like
14 NextGear and AFC and places like this.

15 MR. POTEET:

16 Carbucks.

17 MR. GUILLORY:

18 Carbucks will give you a title if you
19 call them.

20 MR. POTEET:

21 NextGear is the problem.

22 MS. BARON:

23 NextGear is the only problem I have at
24 this point. AFC, I called him the other day and I
25 got about 16 titles I needed and he said, I'll send

1 them all to you next week. He said, I'll overnight
2 them.

3 MR. HALLACK:

4 I think we should get this passed first
5 before we consider licensing.

6 MR. POTEET:

7 Yes. We might look into that.

8 MR. HALLACK:

9 I mean, if we try to license them now,
10 that's going to throw up all kind of red flags.
11 It's not going to ruffle any feathers.

12 MR. POTEET:

13 Let's do this one step at a time, Ron.

14 MR. DUPLESSIS:

15 All right.

16 MR. TAYLOR:

17 We need to have this legislation if we're
18 -- if we're legislating those guys, because this
19 legislation goes out the door and does it start over
20 if we're regulating them?

21 MR. HALLACK:

22 No. I think we still need this. We need
23 the ability to force them to give us titles.

24 MR. TAYLOR:

25 Okay.

1 MR. DUPLESSIS:

2 If you don't -- if you don't license
3 them, do you have the authority?

4 MR. HALLACK:

5 Well, all we're trying to do is get
6 titles. They are required by law to give us the
7 title. They're required by 37:710(D) to give us the
8 titles, but there's no enforcement in 37:710(D).

9 MR. DUPLESSIS:

10 So this is your proposed enforcement for
11 this Commission?

12 MS. MORRIS:

13 Well, it's not really through the
14 Commission. It's through the court system, because
15 we don't have any jurisdiction over them basically.

16 MR. HALLACK:

17 That's correct.

18 MS. MORRIS:

19 Ron, our proposal was to allow the
20 Commission to have authority to institute legal
21 action to make the court make them comply with
22 turning over the titles, but it kind of occurred to
23 me when I was drafting it, I was like, well, that's
24 an expense to the Commission that is not really in
25 our budget, because we're not doing that now. So we

1 really need some way to recoup that cost to try and
2 make the revenue go to the Commission.

3 MR. POTEET:

4 I think --

5 MR. DUPLESSIS:

6 That will work.

7 MR. POTEET:

8 -- I think if you try to -- if you
9 attempt to regulate NextGear and all the other floor
10 planners -- NextGear is owned by a very large
11 corporation, Cox Enterprises, And Cox has lots of
12 lobbyists. I think it's going to be a big fight and
13 if we're going to do that, wouldn't it be better to
14 have our kind of administrative thing already taken
15 care of, and then do the title at another time, if
16 -- if we want to go after regulating them. And,
17 also, I can tell you that the -- the National Auto
18 Auction Association will jump on that legislation
19 and try to stop it, too, to regulate them. I'm not
20 saying it should or shouldn't, but they will. And
21 so I think it's better to get this, what we're
22 fighting for now, which we need now today as soon as
23 possible administratively, and then if we want to
24 look into regulating them, I -- I think they should
25 be regulated, and maybe we are the right people to

1 do it, but it will be a fight. So do we want to
2 take that fight and then lose this?

3 MR. HALLACK:

4 No. We've seen too many cases that come
5 through this Commission where NextGear -- a lot of
6 the dealers that we have, their problems are always
7 common and their common problem is actually Next
8 Gear.

9 MR. POTEET:

10 Yes.

11 MR. HALLACK:

12 And I understand that they contracted for
13 that problem, but it would really help to be able to
14 intervene and -- and try to work something between
15 them.

16 MR. POTEET:

17 Right. So I think this is a good idea,
18 and then we'll go into the other one next session.

19 MR. DUPLESSIS:

20 You sue them one time, they're going to
21 fall in line or they will scream bloody murder.

22 MR. HALLACK:

23 Sure, sure. And they won't have that
24 problem.

25 MS. MORRIS:

1 So I can add a provision to recover costs
2 and attorney fees if necessary to institute legal
3 action?

4 MR. HALLACK:

5 Yes. My only concern is it may throw up
6 a red flag and say, oh, they're trying to make money
7 here or something like that.

8 MS. MORRIS:

9 Well, if they turn over the titles before
10 we institute suit --

11 MR. POTEET:

12 There wouldn't be any costs.

13 MS. MORRIS:

14 Right, but at the same time, you would be
15 using revenue to file the suit and pay the costs and
16 pay for the attorneys' fees that we've not budgeted
17 in the past.

18 MR. HALLACK:

19 Yes. I think it's a good idea.

20 MR. POTEET:

21 Just out of curiosity, do you ever --
22 when you're talking to NextGear, do you mention that
23 the other floor planners have no problem?

24 MR. GUILLORY:

25 Every time.

1 MR. POTEET:

2 And do they ever -- what do they say to
3 that, well, we're not them?

4 MR. GUILLORY:

5 That's exactly what they say.

6 MS. BARON:

7 I have to get a signed affidavit from
8 every person that I'm trying to get a title from.
9 They have to show proof of payment and they have to
10 show -- and a lot of these people, if they pay cash
11 for the car, the only proof of payment they have is
12 that bill of sale, because these people, it's cash
13 they take out of their mattress, because they don't
14 use banks. They don't use finance companies. This
15 is money that they've had in their little cookie
16 jar. They have gotten it out and they've taken it
17 and there's no way to track that money.

18 MR. GUILLORY:

19 The best thing about the consumer is to
20 the point where I call them on two occasions, the
21 same person answered the phone and it's like, well,
22 they should have went and bought their car from a
23 different dealer. The lady was sitting on -- had a
24 car parked for nine months, because they want to
25 hold the title out.

1 MS. MORRIS:

2 So I can fix that?

3 MR. POTEET:

4 Yes.

5 MS. MORRIS:

6 Okay. Another thing that I noticed is
7 when dealers apply, they don't provide all the
8 necessary paperwork and their license gets denied,
9 because they don't meet all the requirements.
10 They've currently refund the entire fee. We don't
11 retain any portion as an application fee, but it
12 does cost the staff probably more time and energy to
13 deal with the ones that don't turn in their
14 paperwork than the ones that submit their paperwork,
15 because they're sending mail, they're calling them,
16 they're e-mailing them. So one way to maybe
17 discourage people from sending in applications that
18 are not complete, that they're never ever going to
19 complete, is to retain a portion of the fee as an
20 application fee.

21 MR. POTEET:

22 Does anybody have any comments on that?

23 It seems okay to me.

24 MR. HALLACK:

25 So what are you saying we should retain,

1 50 percent, 25 percent, all of it?

2 MR. POTEET:

3 I don't know. Anybody have any
4 suggestions there?

5 MR. OLAVE:

6 I think you'd have to have a flat fee. I
7 would -- I would guess it's an application fee, just
8 a line item fee. I don't know if it could be a
9 percentage of the application.

10 MR. POTEET:

11 Well, the fee ought to be the same for
12 everybody.

13 MS. BARON:

14 It would be the same.

15 MR. POTEET:

16 It's always the same, 25 percent.

17 MR. PARNELL:

18 I would suggest no more than 25 percent.

19 MR. BREWER:

20 25 percent sounds fair.

21 MR. DUPLESSIS:

22 You're not going to ask it in the fiscal
23 sessions, are you?

24 MS. MORRIS:

25 I'm not sure if that is required or not,

1 but it could. We can always drop it if we feel like
2 it is controversial, but it seems like the people
3 that are actually getting the licenses, it is the
4 applications that they get in, and then they're
5 holding them, they're trying to get paperwork, and
6 they're working on those. And so it does cost the
7 Commission time and money.

8 MR. DUPLESSIS:

9 Right. I agree with you, but is there a
10 way we can word it where --

11 MS. MORRIS:

12 I'm going to try.

13 MR. DUPLESSIS:

14 Yes. A lot of times you can --

15 MS. MORRIS:

16 Right. It -- it depends on how they
17 interpret it, but if it is a problem, we can pull
18 it.

19 MR. PARNELL:

20 We're saying all fees or just the dealer
21 license?

22 MS. MORRIS:

23 It's just asking for licenses or -- or
24 license or licenses shall be accompanied by an
25 appropriate fee according to the schedule and if the

1 application is denied and the license applied for is
2 not issued, the entirety shall be returned to
3 applicant. It doesn't distinguish which categories.
4 But a lot of the you're going to pay a minimum, so
5 -- but I think it's a way to deter people from
6 sending things that are not --

7 MR. GUILLORY:

8 Well, make it non-refundable. Then, only
9 serious people will actually get the license.

10 MS. MORRIS:

11 Well, the Legislature might argue that
12 part of the fee was the cost of issuing the license
13 and not issuing the license, but I think it's
14 definitely a cost to the agency --

15 MR. POTEET:

16 It is.

17 MS. MORRIS:

18 -- to process them and deal with the
19 paperwork and to send notices.

20 MR. DUPLESSIS:

21 Let's face it, it's going to be unopposed
22 in this Legislature. It's going to be knocked out
23 of committee and it will sail through, as long as
24 you don't raise any red flags.

25 MS. MORRIS:

1 Well, it's not going to affect any
2 dealers, because the dealers will submit --

3 MR. POTEET:

4 Do y'all agree with 25 percent? Okay. I
5 think that's something that makes a lot of sense.

6 MS. MORRIS:

7 It will kind of maybe deter some of the
8 applications that aren't complete.

9 MS. ANDERSON:

10 And that's all fees, including any change
11 fees or anything like that or just all license fees?

12 MS. BARON:

13 It's like an address change or -- and
14 sometimes they don't complete everything with the
15 address change.

16 MS. ANDERSON:

17 Or they do it like three times, they
18 don't know whether they have an ownership or -- or
19 an address or -- you know, we get that really often.

20 MS. BARON:

21 We have ownership changes.

22 MR. POTEET:

23 Well, I have that at the auction.

24 MS. BARON:

25 Should it apply for everything?

1 MR. PARNELL:

2 There's a section that says license fees.

3 MS. MORRIS:

4 It says license -- or applications for a
5 license.

6 MS. BARON:

7 Well, would that be considered an
8 application or a change?

9 MS. MORRIS:

10 We can amend a license or a change to the
11 license.

12 MR. POTEET:

13 Just write it -- as Ron said, just write
14 it, so it doesn't create red flags.

15 MS. MORRIS:

16 The other thing that I just kind of
17 noticed trying putting it in bill form, the other
18 issue is we received a call late last week and
19 Friday Derek and I met with some -- some lobbyists
20 that are considering some legislation on behalf of
21 one of their clients, and it would possibly make
22 this Commission part of the NMVTIS reporting --
23 NMVTIS reporting change. Some states have a state
24 agency that looks like handles the -- all the NMVTIS
25 reporting for the state and the state agency pushes

1 that to the federal data bank. It looks like there
2 could be some funds available to a state agency that
3 generates that data. Louisiana is one of the states
4 that doesn't have an agency that sends that
5 information directly to NMVTIS of course, there are
6 a lot of things that we would have to research and
7 make sure they're correct. We expressed some
8 concern that maybe that was more than a Department
9 of Public Safety area and they're scheduled to meet
10 with the Department of Public Safety. Do we want to
11 take on that task? I think they're going to be back
12 here and I don't know if that's something that you
13 all want the staff to spend time researching or is
14 it something you're totally not interested in? It
15 looks like -- I did some research on their Internet
16 site, but a lot of information really wasn't
17 available. It says -- they said that the dealers
18 pay and we pay NMVTIS and the State can get a
19 portion of that fee to offset the State's cost of
20 compiling the data. It would require a computer
21 program to be able to add the data and then send it
22 in.

23 MR. DUPLESSIS:

24 That would require a fiscal vote.

25 MS. MORRIS:

1 I'm not clear, because it's -- it's all a
2 federal program, and so the fee is already
3 established by the federal regulations and the
4 federal regulations allow the State to obtain a
5 portion of the fee. So it might not have to be in
6 the legislation as a fee. It could just make the
7 agency -- the department designated by NMVTIS to
8 handle the filing. So I'm not sure. I asked them
9 to supply us with the regulation, because I couldn't
10 immediately find them without more time, but I asked
11 them to supply us with the regulation that says that
12 the State could get a portion of the fee.

13 But I did see on the NMVTIS website that
14 there is available federal funding for the State to
15 be able to offset their cost, and then once the cost
16 is offset, we wouldn't get the fee anymore.

17 MR. POTEET:

18 Cost to initiate?

19 MS. MORRIS:

20 To initiate the report.

21 MS. BARON:

22 So you would have to have a database.

23 MR. POTEET:

24 So once you get all that, you will be
25 reimbursed a portion of that, and then after that,

1 we're on our own.

2 MS. MORRIS:

3 I think -- you can't charge the fee. I
4 think it said that you couldn't charge the fee once
5 you had recovered your cost. So I'm not sure,
6 because I didn't go through all the regulations. I
7 was just going through the questions and answers on
8 the website, which weren't that complete. There's
9 like 38 states that have state reporting agencies it
10 looks like, and Louisiana was not one of them.
11 Texas was not one of them, because I kind of -- I
12 look at Texas.

13 MR. POTEET:

14 You said Florida wasn't?

15 MS. MORRIS:

16 Florida wasn't. They said that Florida
17 and Oregon have legislation.

18 MS. BARON:

19 When you -- when you report to NMVTIS, do
20 you have to report to NMVTIS, do you have to report
21 Auto Hulk, too, do you have to report --

22 MR. SMITH:

23 We have to report to NMVTIS and Auto
24 Hulk.

25 MS. BARON:

1 If they propose --

2 MR. SMITH:

3 That was my next question. What was it,
4 10 years ago, 8 years ago, the Office of Motor
5 Vehicle was supposed to set it up where we do Auto
6 Hulk, and then it would automatically go to NMVTIS,
7 but they never finished it.

8 MS. BARON:

9 They never finished it. That's why I'm
10 wondering.

11 MR. GUILLORY:

12 They never paid for it, because my -- the
13 company I used to work for, wrote the program and
14 they just got --

15 MR. SMITH:

16 Yes, they just --

17 MR. GUILLORY:

18 Well, after the feds said, we're only
19 going to charge 20 percent and the fee at the time
20 was too low they were done with that and they --
21 they never finished it. So it's going to be -- it's
22 very involved, because with the way they want the
23 audit trail done, you've got to keep the repository
24 here in the State and you hand off the data to the
25 federal government and they keep it in their

1 database, but you're still required to maintain for
2 so many years.

3 MS. MORRIS:

4 There might be some reason why the State
5 didn't get involved in it, and so that's what we are
6 trying find, people in the Office of Motor Vehicles
7 to see why the State wasn't doing it, and then maybe
8 confer with other states that are doing it and see
9 if there's some advantage to the State to do it. So
10 I think it seems like a lot to deal with prior to
11 March.

12 (Tony Cormier comes in.)

13 MS. MORRIS:

14 So I don't know if the Department of
15 Public Safety is going to handle it. If they're
16 going to handle it, there wouldn't really be any
17 reason for us to be involved.

18 MR. POTEET:

19 We'll know -- we'll know that later this
20 week or --

21 MS. MORRIS:

22 Hopefully, next week or the following
23 week.

24 MR. POTEET:

25 All right.

1 MS. MORRIS:

2 I guess what we're asking is, is it
3 something that you all want the staff to look
4 further at or -- or not, or is it just something you
5 don't want to be involved in?

6 MR. POTEET:

7 Well, if Oregon and Florida pass it, then
8 there will be 40 states out of 50 that are doing it.

9 MS. MORRIS:

10 We're looking --

11 MR. POTEET:

12 I'm wondering why 10 of us are holding
13 out.

14 MR. TAYLOR:

15 We are always last.

16 MR. POTEET:

17 We are waiting for 50. So -- okay.
18 Well, I guess we -- we can't really do much other
19 than wait to hear what the -- did -- did they say in
20 the other 38 states that already are doing it who
21 was doing it?

22 MS. MORRIS:

23 No. I couldn't tell that from the
24 website. So I think we would have to maybe go on
25 the other states' websites and do some further

1 research. We just met with them Friday.

2 MR. POTEET:

3 It sounds like something that the Office
4 of Motor Vehicles would be doing. It seems like a
5 situation --

6 MR. GUILLORY:

7 Because that -- the -- 99 percent of what
8 NMVTIS was put in place to track the Office of Motor
9 Vehicles, they cover that data right now, because
10 it's the only way to track ownership.

11 MS. BARON:

12 And title.

13 MS. MORRIS:

14 So we just wanted you all to be aware
15 that that is a possibility and it's a possibility
16 that they'll file the legislation with or without
17 our consent anyway.

18 MR. POTEET:

19 Well, it sounds like they -- that's
20 probably what they would do.

21 Anything else on the legislation?

22 MR. HALLACK:

23 I just want to go over the changes that
24 y'all voiced last December.

25 MR. POTEET:

1 Okay.

2 MR. HALLACK:

3 If you have the proposed legislation in
4 front of you, we talked about the one change on Page
5 1, 783, about having attorneys' fees and court cost
6 to any action against the floor planner to get the
7 title. If we go to Page 2, change in 791, we're
8 going to change the -- the bond statute, because, I
9 mean, it's really poorly written right now. We're
10 taking the substance of it, but we're changing it.
11 One of the things that y'all asked that we do is we
12 increase the amount of the bond, and we did that
13 under G1, A and B. We increased it from \$20,000 to
14 \$35,000 and for dealers selling more than 120 cars,
15 we changed it to \$50,000.

16 MR. TAYLOR:

17 I still personally think that it's been
18 too much work on our field officers to have to
19 relate whether they're doing 120 cars a year or if
20 they're doing 121 cars a year, and for the added
21 protection to the consumer for a small amount of
22 money, I'm still under the assumption that we should
23 take a -- have a \$50,000 bond across the board.
24 It's not a lot of money. What was it, \$10 for a
25 thousand, is that what the agent told me, unless

1 there's some type of -- and we're having more
2 problems out of our smaller dealers when they --
3 when they go under. It seems that they're in here
4 more often than our larger dealers anyway. They're
5 not funded well. They don't have the money to help
6 these consumers get out of the ditch that they're in
7 one. I think it should be \$50,000 across the board.

8 MS. BARON:

9 Haven't we tried that before and they
10 knocked it down and that's why we split it?

11 MR. DUPLESSIS:

12 You know, if they do that again, we're
13 back at \$35,000 and I'm -- I'm with Dino. One of
14 the biggest problems we see here is capitalization
15 and guys are going under and they're just so under
16 capitalized. They're scrambling for these
17 aggressive floor plan companies and they get out of
18 whack and we've got to deal with all the fall out.
19 I would have no problem going 50 across the board,
20 but, you know, you get in session and you've got to
21 bargain that down. You've got to bargain that down.
22 So if you don't lose the Bill, you find a way to get
23 that done.

24 MR. HALLACK:

25 And I understand the proposed change is

1 that it goes to \$50,000 across the board for every
2 dealer?

3 MR. BREWER:

4 I think that's a great idea. We
5 mentioned a couple dealers earlier for \$115,000 and
6 the bond was 35 or something.

7 MS. BARON:

8 Yes.

9 MR. HALLACK:

10 20.

11 MS. BARON:

12 Well, that was 35.

13 MR. CORMIER:

14 And the cost is maybe, what, 100 bucks or
15 more.

16 MR. TAYLOR:

17 Ten dollars per \$1,000.

18 MR. CORMIER:

19 It's not a lot of money for a lot of
20 protection. And that's how -- what I -- what I
21 don't know and that y'all would have to answer is,
22 are the bond companies going to have any problems
23 with us writing their -- their coverage, you know,
24 because we're basically saying, hey, we're going to
25 assume \$25,000, not \$20,000 of it now to go through

1 to -- to fines. Are -- are -- are they going to go
2 along with this, because we're telling them how
3 we're going to distribute money.

4 MS. MORRIS:

5 They distribute it all to us or the
6 Office of Motor Vehicles, right?

7 MS. BARON:

8 Us.

9 MR. TAYLOR:

10 We -- yes, that's right. That's right.

11 MS. BARON:

12 They distribute it directly to us.

13 MS. MORRIS:

14 I don't think it matters to them. They
15 just want to proof of the amount of the claim.

16 MR. POTEET:

17 Okay.

18 MS. BARON:

19 As long as I can show proof.

20 MS. MORRIS:

21 And a lot of our claims are over the bond
22 amount.

23 MR. HALLACK:

24 The next change in the proposed amendment
25 is on the third page. This is really a restatement

1 of the law. So we're just putting it in a better
2 more organized structure. But under C, we're
3 allowed to collect unpaid penalties, hearing costs,
4 or restitution imposed by the Commission in
5 accordance with 785(B)(6). Y'all wanted to make
6 sure that there was a limitation or restriction on
7 the amount that the Commission could recover against
8 the bond, to put a restriction of \$25,000 on that.
9 Okay. No changes to -- on Page 3, no changes. On
10 Page 4, that's it. That's all the changes.

11 MR. TAYLOR:

12 Let me go to 32:796 just real quick. The
13 majority of our dealers in the State are wonderful
14 people, but there are those few. And so right --
15 right here what it says, if a customer provides
16 fraudulent information or incorrect information to
17 the dealer, then if I'm reading this correct, and
18 please correct me if I'm wrong, is that the deal is
19 null and void and the dealer can -- can keep 100
20 percent of the down payment. Is that how that
21 reads?

22 MR. HALLACK:

23 That's correct.

24 MS. MORRIS:

25 And repossess the car.

1 MR. TAYLOR:

2 And repossess the car. I believe -- I
3 think almost every bit of this is good, but let's
4 get back to those few dealers I was talking about.
5 I took a \$6,500 down payment last week. I had to
6 give that money back because of the information that
7 customer provided.

8 MR. HALLACK:

9 Well, now under this proposed change, you
10 wouldn't have to.

11 MR. TAYLOR:

12 Correct. The information that customer
13 provided to me, he was gray whether they were trying
14 to do something fraudulent or they just didn't know.
15 So here you go. In -- in my opinion, we should be
16 able to charge mileage, damages, and depreciation
17 versus hammer, because, man, some of these dealers I
18 know would have just took all \$6,500 and put in
19 their pocket and call it profit, you know, you are
20 opening Pandora's box here. I think there needs to
21 be some type of -- some type of guidelines and I --
22 I think mileage, damages, and depreciation should --
23 should -- should be there. Consumers, I don't know
24 if maybe you signed your very first home mortgage
25 and you kind of walked out of that place, you're so

1 confused. You really don't know what's going on.
2 Well, every one of my customers walk out of my
3 office that way and we do a very good job of
4 explaining it to them, but they really don't
5 understand finance. They don't understand the
6 information that they give you, if they give gross
7 versus net. I mean, that's -- that's a very minimal
8 -- that's a very easy mistake for them to make. I
9 think we need some restrictions in there -- not some
10 restrictions, but some limitations of what you can
11 actually take if you want to protect the consumer.

12 MR. OLAVE:

13 I agree. I agree 100 percent.

14 MR. GUILLORY:

15 Dino, what that came from, the reason me
16 and Perry requested that and Stacy was we have --
17 last year, I had five. I think Perry when he
18 started, he ended up with three, and Stacy had 10 or
19 whatever. Consumers go in and they give a -- they
20 give W-2s or pay stubs. They just made their own
21 pay stubs. And so, you know, one dealer was out for
22 six months before he could track his vehicle down on
23 a \$1,000 down payment with 30,000 miles put on his
24 vehicle.

25 MR. TAYLOR:

1 And I agree. I want every -- I want
2 every dime back that I am due. I don't want to take
3 one dime that's not mine.

4 MR. OLAVE:

5 Why -- why -- why aren't we requiring the
6 dealers to do their due diligence? I -- I deal with
7 that paper all -- all the time and part of my due
8 diligence is if I'm questionable on something, I'll
9 send it to the lender before I deliver the vehicle.

10 I agree with Dino. I think it -- I think
11 it provides an unfair kind of advantage for a dealer
12 that may be unscrupulous. I mean, who's going to
13 decide where fraud exists and where -- where it
14 doesn't? Are we going to have hearings, you know,
15 and then in the meantime, the consumer is going to
16 be affected by that until the hearing comes up to
17 decide if there's a fraudulent case?

18 MR. POTEET:

19 I think that the things that you
20 mentioned in there are good ideas and maybe to your
21 point, Nestor, that it would be -- you know, the
22 cost -- any cost incurred to repossess a car or
23 something like that. The idea is just to get
24 damages back as opposed to making it a profit
25 center.

1 MR. GUILLORY:

2 No. I agree with that.

3 MR. POTEET:

4 So I -- I do think that would make sure
5 that it includes any cost involved.

6 MR. DUPLESSIS:

7 It's in the new car statutes now and you
8 can use the guideline. You can modify that from it
9 and it has -- it has damages, it has mileage, you
10 know, fiscal damage to the car. It just kind of
11 parallels that. I think if you make the updated
12 changes, I think you'll be in good shape.

13 MR. OLAVE:

14 They changed the new car legislation to
15 include mileage, because it never had before that?

16 MR. DUPLESSIS:

17 I believe so.

18 MR. OLAVE:

19 You couldn't -- you couldn't retain any
20 portion of the -- I have the -- I have the
21 legislation on my desk, but you couldn't retain any
22 portion of -- of the down payment money on a -- on a
23 spot delivery form is what they call it, because
24 you're -- you're -- you're assuming the risk as well
25 when you spot deliver something. So that's why it

1 was -- it was -- you know, I -- I do think that
2 damages and mileage and any -- any -- any affect to
3 the value of the vehicle should be recovered.

4 MR. DUPLESSIS:

5 I agree.

6 MR. OLAVE:

7 Yes.

8 MR. DUPLESSIS:

9 Yes. We're on the same page.

10 MR. OLAVE:

11 I just didn't know new cars had changed
12 that, because for a long time, you couldn't retain
13 any portion of it at all.

14 MR. DUPLESSIS:

15 We did a spot delivery law a few years
16 ago.

17 MR. HALLACK:

18 I -- I agree with Steve. The law -- the
19 way that law reads, the dealer lets that car go at
20 his complete risk.

21 MR. DUPLESSIS:

22 Well, then -- then take a look at the
23 spot delivery law and if we need to put in those
24 appropriate changes, the mileage, fiscal damage
25 recovery --

1 MR. HALLACK:

2 It's actually -- what Mr. Taylor is
3 concerned about is actually there. It says a
4 statement -- if the customer withdraws from the
5 agreement to purchase, the customer shall be
6 responsible not only for damages occurring during
7 the customer's use of the vehicle, but also for the
8 usage of the vehicle on a day rate not to exceed \$25
9 per day and 35 cents per mile, which shall be
10 deducted from the deposit or down payment. So it's
11 in there already. We're just making it -- we're
12 making it clear that if a customer provides a dealer
13 with fraudulent information that that's the same
14 thing as the customer withdrawing.

15 MS. MORRIS:

16 We need to clean that up.

17 MR. HALLACK:

18 I don't think we need to clean it up. I
19 think it's already in there. All we're doing is
20 paying -- if the customer provides a dealer with
21 fraudulent information, that's the same thing as a
22 customer withdrawing. When a customer withdraws
23 from a deal, that's taken care of in the statute
24 already.

25 MR. TAYLOR:

1 Do we need to parallel this better, do we
2 need to reference the other statute with this
3 statute? Because right now, this -- this reads one
4 way, and then another part of our statute says that
5 we can collect mileage, damage, and depreciation,
6 and this right here reads that I can take 100
7 percent of it. What am I not understanding? What
8 did I miss?

9 MR. OLAVE:

10 I guess I've got to add to that. I can't
11 wrap my head around the fraudulent part. Who's
12 going to decide that and what -- fraudulent in terms
13 -- in legal terms is pretty clear cut, but in terms
14 of putting the contract and everything together it's
15 not.

16 MR. HALLACK:

17 I think we have to leave that in the
18 hands of the investigators. When we have a customer
19 that would complain, I didn't get back my deposit,
20 he can say, file a complaint. The investigator goes
21 and looks and says, why didn't you give this back?
22 Well, they lied to me and gave me fraudulent
23 information, they gave me false income information.

24 MR. GUILLORY:

25 Normally, we'll call them -- in these

1 cases, we call and just wanted to verify employment
2 and every one of them we were told has never been
3 employed.

4 MR. HALLACK:

5 All right. So we kind of leave that to
6 these guys based on complaints, you know. It may
7 not come to a complaint. It may not ever get to an
8 investigator, but once it -- somebody complains --
9 because like he said, Stacy had to deal with 10 of
10 them. He has had to deal with a few. And like Mr.
11 Taylor said, he gave back all the money.

12 MR. PARNELL:

13 So this will just add to it.

14 MR. TAYLOR:

15 So it's there and it should stand like it
16 is, because it's already there. The reg -- I mean,
17 the -- the restrictions I want are already there in
18 that 3A; is that what you're saying?

19 MR. HALLACK:

20 Right, right.

21 MR. TAYLOR:

22 Are y'all good with that?

23 MS. BARON:

24 Should it reiterate it there?

25 MR. POTEET:

1 I think it should be.

2 MS. BARON:

3 Yes, because it's not -- because that --
4 if the customer withdraws -- if the customer -- if
5 the customer withdraws from the agreed purchase, the
6 customer shall be responsible, but this is saying a
7 customer shall be considered as having withdrawn
8 from the transaction.

9 MS. MORRIS:

10 Well, it seems like maybe that -- the new
11 language in 6 needs to be put in 3.

12 MS. BARON:

13 Right. That's what I'm saying, and then
14 it will all be in the same paragraph.

15 MR. HALLACK:

16 That's a good idea.

17 MS. BARON:

18 That could happen, too.

19 MR. HALLACK:

20 Right. Just add that sentence to --

21 MS. BARON:

22 To 3 and there won't be any confusion.

23 MR. POTEET:

24 Thank you for bringing that up.

25 All right. The next thing we have are

1 ratifications of imposed penalties.

2 MR. PARNELL:

3 Commissioners, please find in your packet
4 a chart that illustrates the dealers that have
5 imposed penalties. The chart is a compilation of
6 December and January information. I have determined
7 that the public interest can be served without
8 further administrative hearing. What I will do is,
9 as usual, I'll -- I'll give the dealership name and
10 fine amount.

11 Is there anyone -- do we have anyone here
12 that's representing any of these dealers?

13 MS. BARON:

14 I don't think so. Let me check.

15 MR. PARNELL:

16 All right. First on the list is Classic
17 Car Sales and Services, LLC, The fine amount was
18 \$500. Deals On Wheels, LLC, fine amount was \$700.
19 Ched's Golf Cars of American, fine amount, \$900.
20 River Parish Auto Brokers, fine amount was \$500.
21 ServiceKing Auto Sales, fine amount, \$200.
22 Plaquemine Wholesales, fine amount, \$150. Metairie
23 Wholesale, fine amount is \$1,000. Redemption Auto
24 Sales, fine amount is \$800. Southern Auto Group,
25 LLC, fine amount is \$2,000. I-49 Truck and Auto

1 Sales, the fine amount is \$3,000. Scoop's Auto,
2 LLC, fine amount is \$700. DCP Automotive, LLC, fine
3 amount is \$150. Simple Auto Sales, LLC, fine
4 amount, \$150. Auto Plus of Baton Rouge, fine
5 amount, \$150. Eagle Auto Sales, fine amount, \$200.
6 Cat Auction Services, fine amount is \$150. Momentum
7 Moto, fine amount is \$150. Les Bellamy Wholesale,
8 fine amount is \$150. LeBlanc's Auto Sales, fine
9 amount is \$500. Kar City, fine amount is \$700.
10 ECCS Auto Sales, fine amount is \$900. John Brodnax,
11 fine amount is \$250. Sunrise Auto Store, fine
12 amount is \$800. Motor City, fine amount is \$500.
13 Mid-Town Auto Sales, fine amount is \$700. Devillier
14 Auto Sales, fine amount is \$150. Ni Yink Ventures,
15 fine amount is \$150. Home Direct Sales, fine amount
16 is \$250. Auto Brokers of America, fine amount is
17 \$150. Capitol -- Capitol Auto Sales, fine amount is
18 \$2,400. Up Front Auto Sales, fine amount is \$250.
19 Charlie's Tire and Auto Sales, fine amount is \$800.
20 Kajun Classic, fine amount is \$800. Kent's Auto
21 Sales, fine amount is \$800. Affordable Motors, LLC,
22 fine amount is \$800. West Landry Auto Sale -- Auto
23 Center, excuse me, fine amount is \$500. Boutte's
24 Wholesale, fine amount is \$250. Bayou Brothers Auto
25 Sales, fine amount is \$500. The total amount --

1 Commissioners, I do ask that you ratify the amount
2 of fines and penalties imposed. The total is amount
3 \$23,700.

4 MR. POTEET:

5 I need a motion to ratify.

6 MR. OLAVE:

7 I make a motion, Mr. Chairman.

8 MR. POTEET:

9 Steve.

10 MR. ROY:

11 Second.

12 MR. POTEET:

13 Second, Kirby.

14 All in favor, say, "Aye."

15 (All "Aye" responses.)

16 MR. POTEET:

17 Any opposed?

18 (No response.)

19 MR. POTEET:

20 So those are all ratified.

21 MR. TAYLOR:

22 Guys, I promise this is the last time
23 you'll hear from me today.

24 MR. POTEET:

25 I wouldn't make a promise.

1 MR. TAYLOR:

2 Guys, I'm getting a lot of push back in
3 my part of the state, not just my part of the state,
4 actually, I'm getting it from I-10, what-have-you,
5 also in the Shreveport area. The first thing is, I
6 got a compliment the other day that finally our
7 print advertising is better than it's ever been.
8 You know, I've had like two or three people tell me
9 that. And I was like, wow, this is the first time
10 somebody is talking to me and not beating us up.

11 Now, I'm getting a lot of feedback from
12 people. When we started this campaign to hold
13 dealers liable about a year ago, two years ago, year
14 and a half ago, when we really started writing
15 fines, we discussed writing warnings. I'm not
16 seeing any warnings. I'm seeing a lot of fines and
17 I see a lot of fines that are written that are not
18 hurting the public, that are not -- that are not
19 hurting the lenders, but these are -- let's just use
20 one, the -- what is it, reporting the -- the amount
21 of vehicles you sell every month. This law has been
22 on the books for many, many, many years. Many
23 dealers didn't know that it was out there. That is
24 true, Tiger.

25 Anyway, long story short, I think some of

1 these fines that we're writing could be a little
2 less. I think they're a little bit extreme. The
3 ones that are not affecting and hurting our
4 consumers, the ones that are not hurting our
5 consumers, the ones that are not hurting our bank.
6 I think some of our -- some of them might be little
7 bit harsh. I think we've been a little bit quick to
8 write a -- a citation or a violation from what I'm
9 hearing around the State.

10 MR. PARNELL:

11 What I ask of all the investigators when
12 they go out and they do -- they find a violation, I
13 say write everybody. I want them consistent across
14 the board, everything that they're doing. I don't
15 want to pick and choose who gets what. I ask them
16 to let me decide whether it says a warning or not.
17 So typically what happens, when they send us -- they
18 send us the fine documents in, myself, Kim, and that
19 investigator will sit down and talk about the
20 circumstances that goes around whatever that
21 violation is. And I think the fine amounts are not
22 large, they're small. But when -- it builds up when
23 you have so many of them. We -- initially when we
24 started pushing, making sure that these dealers are
25 submitting a monthly sales report, it was all

1 warnings. I wasn't really finding anybody. It has
2 been as of late, within the last three or four
3 months or so, when I started finding them more so
4 now moving forward. Now, I -- I think the dealers
5 themselves, because they didn't know about it -- I
6 mean, it's been in the law. It hasn't change.

7 MR. TAYLOR:

8 That's right.

9 MR. PARNELL:

10 So I don't think it's beneficial not to
11 fine them for it, because only a dealer who is
12 responsible for understanding the law, that they're
13 -- they're licensed with. We send the information
14 out there. Just because they don't read it, doesn't
15 mean --

16 MR. TAYLOR:

17 I agree, somewhat.

18 MR. PARNELL:

19 Okay.

20 MR. TAYLOR:

21 Once again, the dealers that I'm talking
22 to that are getting fines written on some of these
23 bookkeeping, clerical errors, mistakes in
24 advertising, small mistake. You know, there's a
25 lot, a lot of citations being issued out there right

1 now, much more than it has ever been. I think that
2 we just might be just a little bit too quick with
3 them right now, all of the things that are not
4 hurting consumers. That's what I'm saying.

5 MR. PARNELL:

6 So to be clear, what -- what you're
7 suggesting is -- is only administrative reasons,
8 don't issue a fine.

9 MR. TAYLOR:

10 I did not recommend that. What I did say
11 is that these are the people -- people are getting
12 fined and where a warning on a good dealer that's
13 never received fines before might be more palatable
14 than going out there and writing dealers fines, you
15 know, up to \$1,000 to \$1,200 on fines. And they've
16 been good dealers, good to their consumers, don't
17 know what they're supposed to do and they're not
18 hurting people. These are the people that I'm
19 hearing a lot of push back from. I'm telling you
20 what I'm hearing sitting in my seat.

21 MR. PARNELL:

22 Right, right.

23 MR. TAYLOR:

24 I'm relaying to you what I'm hearing from
25 my dealers. I care about the consumer a lot more

1 than I care about myself. I think I've proved that
2 over the last couple of years. There's my opinion.

3 Are any of the other members hearing from
4 around the State, am I right or wrong?

5 MR. ROY:

6 You're just saying let's take care of the
7 people that are doing the right thing and all of a
8 sudden, they make a mistake?

9 MR. TAYLOR:

10 I'm saying clerical errors and
11 bookkeeping errors and there is a fine and I'm
12 hearing a lot of -- a lot of push back and a lot of
13 noise and I'm scared that all the steps that we've
14 made as a Commission to be a positive Commission,
15 I'm scared that we're going to had egg on our face.
16 And threats are threats and we're going to get
17 plenty of them, but I would not be surprised if I
18 didn't hear some -- some push back coming from some
19 of our reps and representatives here.

20 MR. GUILLORY:

21 If I could make a recommendation. As far
22 as the -- because I know a lot of them and they tell
23 me about the monthly sales reports. What I would
24 suggest to the Commission is that you take that
25 enforcement action away from the Commission, from

1 us, and put it back on the Department of Revenue,
2 who ultimately receives them and requires that
3 information to happen.

4 What I will point out is that I wrote
5 those tickets at the direction of the Director for
6 eight months, the ones that you're looking today,
7 when they should have got one according to the law
8 for 36 months, because I verified that they came
9 through the training. It's a training seminar that
10 they received back then. It was a booklet. They
11 told me that they stopped doing it, because nobody
12 was checking on it. Every one that I wrote, that
13 was the same, well, we just -- we didn't do it,
14 because nobody is coming around and asking to see
15 them. That's -- that's why they got wrote. And so
16 we only wrote eight months. We went from the first
17 of the year to the eighth month, because what
18 happened is, one of the investigators with Revenue
19 that said that they're getting ready to make a visit
20 to a bunch of our clients, because we weren't
21 enforcing that part of law. And so we tried to jump
22 out in front of it, because what these dealers don't
23 understand is that if Revenue decides to push the
24 issue, we can go back 36 months and charge them a
25 criminally, it is a misdemeanor offense.

1 MR. OLAVE:

2 I think I would like to add this. I
3 agree with you, Dino, but being part of this
4 Commission for as many years as I have and seeing
5 the controversial stuff, when there's any type of
6 room for, you know, negotiations, I think the
7 Commission, in itself, has to be consistent -- you
8 know, has to be consistent across the board. I
9 think we face as much scrutiny if we're not
10 consistent. As you're saying, the push back may
11 come from being consistent, albeit, maybe in your
12 opinion a little too strict, but -- but I think we
13 face more scrutiny from not -- from not having the
14 consistency, because then you open a can of worms of
15 why did he get a warning and I didn't, why -- you
16 know, I -- I think that's -- I think -- I'm -- I'm
17 with Derek on that, that maybe -- if it's a little
18 too strict, I can't answer for that, because it's
19 some of our rules and regs and part of the
20 consequence -- part of the effectiveness of
21 consequences is actually dealing with consequence
22 when the action is -- is -- is not appropriate. So,
23 personally, I don't disagree with you, but I don't
24 have a problem with the -- the Commission's actions
25 at this point.

1 MR. PARNELL:

2 I just want to reiterate something that
3 Nestor just said. You know, our laws say that we go
4 back three years and we do not do that. I mean, we
5 sat down and talked about it. I said, these guys
6 didn't know -- or some of them stated they didn't
7 know, but they're still responsible for it and at
8 that point, I made the decision, let's just go back
9 from the beginning of '15 and -- and move forward
10 from there.

11 MS. BARON:

12 There is also a provision in the -- in
13 the letter that says if they do not agree with the
14 fine, they can always contact me and I can set them
15 up with an appointment to meet with the Director.
16 And I can tell you, the -- the majority of the
17 people that come in here and meet with the Director,
18 if they live in Shreveport or if they live in
19 Monroe, a lot of times, we do phone conferences,
20 because we don't want them to have to drive all the
21 way down here just to talk to him about a fine. And
22 a lot of times -- I don't recall hardly anybody
23 that's come in that we've had a phone conference
24 with and Derek not take into consideration and even
25 maybe reducing the fine a little bit or maybe

1 saying, okay, we'll -- we'll just charge you for
2 this many or whatever, you know. He does take it
3 into consideration when they call, but -- and that
4 is on the stipulated -- I'm sorry, it's on the
5 violation letter. If they don't agree, they need to
6 call the office and we can set them up with an
7 appointment to meet with the Director and discuss
8 that violation.

9 MR. POTEET:

10 I'll say this, too. You know, I've had
11 -- you know, at the auction, I talk to a lot of
12 dealers and any time -- they're always -- because --
13 because I'm on the Commission just like in your
14 case, can you help me with this? I go, well, this
15 is what you need to do, you need to -- to call -- if
16 you have a problem, call the Commission, talk to --
17 and I always say one of you two, and I always follow
18 up to see if they were happy with what -- what their
19 discussions were. And it's always been -- a couple
20 of times, they're like, I had to pay a fine, but
21 couldn't disagree with what they were saying, or at
22 least they listened to me, at least they -- so I --
23 you know, I -- and my -- my experience might be a
24 little bit different than yours is, that -- that --
25 that the people I've talked to have always been okay

1 with what happened, but they did like the idea that
2 -- you know, that they could talk. So I think that
3 -- that -- to your point, the office is willing to
4 talk to people about situations. And then there are
5 a couple of people that Derek said, yes, we can let
6 this go this time, because.

7 MR. TAYLOR:

8 Guys, thank you for hearing me.

9 MR. BREWER:

10 If you send an e-mail or post it on your
11 site, tell them how important it is, the way the
12 State checks to see if they're getting taxes on all
13 of the sales, right?

14 MS. ANDERSON:

15 And it's not a victimless crime -- you
16 know, with the way the -- the State is needing
17 revenue right now, that's not a victimless crime and
18 that affects all consumers, all people in the State
19 of Louisiana if those things are not paid.

20 MR. POTEET:

21 Okay. Let's move on to the Executive
22 Director's report.

23 MR. PARNELL:

24 Commissioners, you'll find -- in your
25 packets, you'll find one report, the alleged issue

1 counts. For the months of December and January,
2 there were 402 alleged issues. During the months of
3 December and January, the five-day notices, there
4 were 10 five-day notices that were issued.
5 Forty-four physical inspections were conducted. The
6 agency helping out consumers receive title and
7 registration, there were 31. There were 218 site
8 visits conducted. There are six audits being
9 conducted and 34 violations have been conducted.
10 And the assisted consumers receiving money back was
11 \$2,880.

12 We're having our internal enforcement
13 meetings, which have proved to be very beneficial to
14 the staff in the office and in the field.

15 One thing I always noticed when I first
16 came on here was always a division between what was
17 going on with the staff and what was going -- I'm
18 sorry, the administrative staff in the building
19 versus what's going on with the field investigators
20 and I always try to be as transparent as possible
21 and get input from everyone. One thing I've noticed
22 that we've started doing is -- last year in
23 legislation, we put some language in there about the
24 certification process and we've been seeing some --
25 some things come in. Chairman Taylor, one of his

1 views -- one of the first ones that submitted his
2 certification process, which is very comprehensive.
3 I'm seeing that -- I see such extremes on those,
4 it's -- I received another one that was very
5 comprehensive. They covered their car in it's
6 entirety, a little more comprehensive than yours.
7 And then I received another one just a paragraph,
8 and they were expecting me to approve that. So it's
9 just some different things that's going on. We're
10 just trying to continue to be consistent and grow in
11 how we're conducting our business. With that said,
12 that's all I really have to discuss with you all.

13 Are there any other questions or comments
14 about it?

15 MR. POTEET:

16 On the certifications, I've had some
17 dealers ask me about that, too, and -- and I told
18 them that, you should call Dino Taylor, because he
19 knows all about it. But, no, what I said is that
20 there are some -- some very -- if you're unsure,
21 call the Commission, because they'll give you some
22 names of companies and some ideas that you can use.
23 It's not that hard. You don't have to re-invent the
24 wheel. It's all right out there for you. You just
25 have to choose one, and then get that approved. So

1 I haven't heard back from anybody that said that
2 they weren't happy with that process.

3 All right. Is there anything else before
4 we -- I guess we need to adjourn to have the
5 administrative hearings.

6 MR. STRODERD:

7 Can we address the certification process?
8 I think I missed where that was going and what the
9 purpose of the whole conversation was, the
10 certification aspect of it and why there's issues
11 with certification of the vehicles.

12 MR. POTEET:

13 The only issue that we -- we had
14 legislation that said you had to have your
15 certification approved by this Commission.

16 MR. STRODERD:

17 For purposes of -- it's for advertising
18 purposes?

19 MR. POTEET:

20 Yes. It says cars being certified or how
21 they're being certified. So what -- what we have
22 now is we have -- we can approve that and it's
23 pretty simple, because -- you know, I don't have to
24 worry about this, but people that are car dealers in
25 this room say that there are all kinds of things

1 that you can -- you have to buy this, you have to
2 sign up for it or whatever. Dino knows more than
3 me. And then we just approve it and -- and as you
4 write that paragraph I certify the car by saying it
5 is certified. I mean, you know, that's what we're
6 trying to avoid.

7 MR. STRODERD:

8 So, basically, the Commission is capable
9 of approving a dealer --

10 MR. POTEET:

11 Yes.

12 MR. STRODERD:

13 -- based upon the certification process
14 --

15 MR. POTEET:

16 Yes.

17 MR. STRODERD:

18 -- and with that approval should come any
19 sort of lending adds?

20 MR. TAYLOR:

21 My -- my banks wouldn't let me add. My
22 credit unions will.

23 MR. STRODERD:

24 Our bank will let us add, but the
25 information that we're giving them that pertains to

1 the certification process has to be very detailed
2 and has to be very legit. And so if you're saying
3 that the Commission is capable of giving the
4 approval, then that --

5 MR. GUILLORY:

6 Certify your --

7 MR. OLAVE:

8 Process?

9 MR. GUILLORY:

10 Yes.

11 MR. HALLACK:

12 Only if you advertise it.

13 MR. POTEET:

14 Yes, only if you advertise. If it's
15 something that's internal to your dealership, we
16 don't care.

17 MR. STRODERD:

18 Well, the reason why I'm bringing this up
19 and saying something about it is, right now the
20 lenders are -- are potentially giving us as dealers
21 add-ons for the certification process. So when we
22 talk to them, we go, hey, other -- you're -- you're
23 saying lender and other parts of the country have
24 done it for specific dealers and we want it done as
25 well. And when we say, hey, what -- what

1 certification process are you using, well, I'm using
2 this certification process. They're -- that doesn't
3 really mean a whole bunch to them, but if we could
4 say that the Commission in the State of Louisiana
5 approves the certification process --

6 MR. POTEET:

7 I think --

8 MR. STRODERD:

9 -- those are things that we can do to go
10 through lenders to get lenders to give us ours. A
11 company like ours -- a lot of the dealers I'm aware
12 of, \$1,000 or \$2,000 per on the back end of the
13 contract which turns into significant income.

14 MR. HALLACK:

15 We only get involved if -- if the dealer
16 advertises.

17 MR. STRODERD:

18 Surely, advising related only.

19 MR. POTEET:

20 That's what it's for, but if you -- if
21 you tell them that, that it's been approved, I don't
22 what the -- then, if the -- if the bank says, do you
23 have a dealer's license, they say, yes, we got it
24 from the Used Motor Vehicle Commission. You have a
25 certification program. That's the one we use and by

1 the way, our State, you know, says that we can't
2 advertise it unless it's approved by them. So it
3 gives them a little bit of grievance. We're not
4 telling the bank that they have to accept it.

5 MR. TAYLOR:

6 The only difference is, is the Used Car
7 Commission is not going to ensure and back up your
8 certification process whereas if you use LAIDA'S
9 program or GMAC's program and that dealer went
10 caput, well, they are going to stand behind that
11 program and stand behind it. So I think the best we
12 can do is push back from the lender.

13 MR. POTEET:

14 Okay. So motion to adjourn.

15 MR. OLAVE:

16 I make the motion.

17 MR. CORMIER:

18 Second.

19 MR. POTEET:

20 All in favor, say, "Aye."

21 (All "Aye" responses.)

22 MR. POTEET:

23 Let's take a 10-minute break.

24

25 (Meeting adjourned at 10:43 a.m.)

REPORTER'S CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 February 15, 2016, 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 February 23, 2016, Baton Rouge, Louisiana.

BETTY D. GLISSMAN, CCR
CERTIFIED COURT REPORTER