

**MINUTES OF THE MEETING  
OF THE  
LOUISIANA MOTOR VEHICLE COMMISSION  
MOTOR VEHICLE SALES FINANCE DIVISION  
3519 12<sup>th</sup> Street  
Metairie, Louisiana 70002  
Monday, March 8, 2010**

The meeting was called to order at 1:07 p.m. by Chairman Raymond J. Brandt.

Present were:

Chairman Raymond J. Brandt	Commissioner V. Price LeBlanc, Jr.
Commissioner John B. Fabre	Commissioner Thad J. Ryan, III
Commissioner Joseph W. "Bill" Westbrook	Commissioner Maurice C. Guidry
Commissioner Alexis D. Hocevar	Commissioner Don P. Hargroder

L. A. House, Executive Director  
Adrian F. LaPeyronnie, III, Counselor  
Gregory F. Reggie, Counselor  
Burgess E. McCranie, Jr., Counselor

Absent were:

Commissioner Troy J. Duhon	Commissioner Arthur W. Tait
Commissioner Philip E. Tarver	Commissioner Donna S. Corley

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Also, in attendance were Commission staff: Ingya Cattle, Assistant Executive Director and Commission Investigators, Bill Horaist, Perry Sponge, Joel Aguillard, Wayne Lee, and Amy Lawson.

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At this time Counselor McCranie presented the Commission with copies of proposed changes to the Motor Vehicle Sales Finance Act for the 2010 regular legislative session.

**§969.6**

(18.1) "Free Look Period" means the period of time from the effective date of the debt waiver or debt forgiveness agreement until the date the consumer may cancel the contract with a full refund. This period of time must not be shorter than 30 days.

(19.1) "Insurer" means an insurance company licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(23) (a) "Motor vehicle" means any new or used transportation device, including automobiles, motorcycles, trucks, and other vehicles that are operated over the public highways and the streets of this state, but does not include traction engines, boat trailers, road rollers, implements of husbandry, and other agricultural vehicles. A manufactured home is deemed to be a "motor vehicle" for purposes of this Chapter only if it is anticipated at the time of the transaction that the manufactured home will not be immobilized pursuant to R.S. 9: 1149.4.

(b) "Motor vehicle" for purposes of GAP coverage means self propelled or towed vehicles designed for personal use, including but not limited to automobiles, trucks, motorcycles, recreational vehicles, all terrain vehicles, snowmobiles, campers, boats, personal watercraft, and motorcycle, boat, camper and personal watercraft trailers.

(29) "Salesman" or "agent" means any person ~~employed by an administrator~~ licensed by the commission whose duties include the sale of a debt waiver or debt forgiveness agreements on behalf of ~~the an administrator to a licensee of the commission.~~

§969.35

(A)(1) . . .

(2) Unless a person has first obtained a license from the commission, or is a supervised financial organization, he shall not engage in business as an administrator or as a salesman or agent involving debt waiver or debt forgiveness agreements, ~~the making of consumer loans or the origination of a consumer credit sale subject to this Chapter.~~

**§ 969.42. Venue for litigation or arbitration; choice of law**

A. A provision contained in any document relating to a motor vehicle credit transaction or debt waiver or debt forgiveness agreement that was entered into in the state of Louisiana requiring that litigation or arbitration be conducted outside of this state is void and unenforceable.

B. Except as to a supervised financial organization, a provision contained in any document relating to a motor vehicle credit transaction or debt waiver or debt forgiveness agreement that was entered into in the state of Louisiana that seeks to apply any law other than Louisiana law to a dispute between the parties to such transaction is void and unenforceable.

**PART VIII. ~~UNIFORM RETAIL INSTALLMENT SALES CONTRACT~~**  
**GAP COVERAGE**

**§ 969.51. ~~Uniform retail installment sales contract~~**

~~A. The legislature finds that it is beneficial to extenders of credit, consumers, and new and used motor vehicle dealers to have uniform documents that can be used in the sale and financing of new and used motor vehicles. Uniform retail installment sales contracts benefit both parties to a contract by making transactions more understandable.~~

~~B. The commission shall create a uniform retail installment sales contract for motor vehicle credit transactions subject to this Chapter. The commission shall promulgate the contract and any rules for use of the form in accordance with the Administrative Procedure Act no later than January 1, 2007. When creating the form, the commission shall incorporate all consumer notice and disclosure requirements provided for in state and federal law.~~

~~C. Use of the uniform retail installment sales contract by a lender or seller shall constitute prima facie evidence of compliance with consumer notice and disclosure requirements of state and federal law.~~

**§969.51. Requirements for Offering GAP Coverage**

(A) Debt waiver or debt forgiveness agreements maybe offered, sold or provided to consumers in this state in compliance with this Chapter.

(B) Debt waiver or debt forgiveness agreements may, at the option of the lender, be sold for a single payment or may be offered with a monthly or periodic payment option.

(C) Notwithstanding any other provision of law, any cost to the consumers for a debt waiver or debt forgiveness agreement entered into in compliance with The Truth in Lending Act (15 USC 1601 et. seq.) and its implementing regulations, as they may be amended from time to time, must be separately stated and is not to be considered a finance charge or interest.

(D) A seller must insure its debt waiver or debt forgiveness agreement's obligations under a contractual liability or other insurance policy issued by an insurer. A lender, other than a seller, may insure its debt waiver or debt forgiveness agreement's obligations under a contractual liability policy or other such policy issued by an insurer. Any such insurance policy may be directly obtained by a lender, seller, or may be procured by an administrator to cover a lender's or seller's obligations. However sellers that are lessors on motor vehicles are not required to insure obligations related to debt waiver or debt forgiveness agreements on such leased vehicles.

(E) The debt waiver or debt forgiveness agreement remains a part of the contract upon

the assignment, sale or transfer of such contract by the seller or lender.

(F) Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a debt waiver or debt forgiveness agreement.

(G) Any seller or lender that offers a debt waiver or debt forgiveness agreements must report the sale of, and forward funds received on all such waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy or other specified program documents.

#### **§969.52. Contractual Liability or Other Insurance Policies**

(A) Contractual liability or other insurance policies insuring debt waiver or debt forgiveness agreements must state the obligation of the insurer to reimburse or pay to the creditor any sums the lender is legally obligated to waive under the debt waiver or debt forgiveness agreements issued by the seller or lender and purchased or held by the consumer.

(B) Coverage under a contractual liability or other insurance policy insuring a debt waiver or debt forgiveness agreement must also cover any subsequent assignee upon the assignment, sale or transfer of the contract.

(C) Coverage under a contractual liability or other insurance policy insuring a debt waiver or debt forgiveness agreement must remain in effect unless cancelled or terminated in compliance with applicable insurance laws of this state.

(D) The cancellation or termination of a contractual liability or other insurance policy must not reduce the insurer's responsibility for debt waiver or debt forgiveness agreements issued by the seller or lender prior to the date of cancellation or termination and for which premium has been received by the insurer.

#### **§969.53. Disclosures**

Debt waiver or debt forgiveness agreements must disclose, as applicable, in writing and in clear, understandable language that is easy to read, the following:

(A) The name and address of the initial lender and the consumer of the time of sale, and the identity and address of any administrator if different from the lender.

(B) The purchase price and the terms of the debt waiver or debt forgiveness agreement, including without limitation, the requirements for protection, conditions, or exclusions with the debt waiver or debt forgiveness agreement.

(C) There shall be a clear statement in the debt waiver or debt forgiveness agreement given to the consumer that by its acceptance as an amendment to the contract upon assignment, the lender agrees to waive the consumers liability for the difference between the amount owed (excluding past due amounts, payment extensions, insurance or other charges) under the consumers contract and the amount paid by the consumer's primary insurer after a vehicle is deemed a total loss from a peril covered by the consumer's primary insurance company.

(D) That the consumer may cancel the debt waiver or debt forgiveness agreement within a Free Look Period as specified in the waiver, and will be entitled to a full refund of the purchase price, so long as no benefits have been provided; or in the event benefits have been provided, the consumer may receive a full or partial refund of the premium paid pursuant to the terms of the waiver.

(E) The procedure the consumer must follow, if any, to obtain debt waiver or debt forgiveness agreement benefits under the terms and conditions of the waiver, including a telephone number and address where the consumer may apply for waiver benefits.

(F) That in order to receive any refund due in the event of a debt waiver or debt forgiveness agreements 's cancellation of the debt waiver or debt forgiveness agreements or early

termination of the contract after the Free Look Period of the debt waiver or debt forgiveness waiver, the consumer, in accordance with terms of the waiver, must provide a written request to cancel to the lender, administrator or such other party, within ninety days of the occurrence of the event terminating the contract.

(G) Any refund of the unearned purchase price of the debt waiver or debt forgiveness agreement due, in the event of cancellation of the debt waiver or debt forgiveness agreement or early termination of the contract shall be on terms no less favorable to the consumer than the Rule of 78's or pro-rata.

(H) That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease, may be conditioned upon the purchase of the debt waiver or debt forgiveness agreements.

**§969.54. Cancellation.**

(A) Debt waiver or debt forgiveness agreements are cancellable. Debt waiver or debt forgiveness agreements must provide that if a consumer cancels a waiver within the Free Look Period, the consumer will be entitled to a full refund of the purchase price, so long as no benefits have been provided; or in the event benefits have been provided, the consumer may receive a full or partial refund pursuant to the terms of the waiver.

(B) In the event of a consumer cancellation of the debt waiver or debt forgiveness agreement or early termination of the contract, after the agreement has been in effect beyond the Free Look Period, the consumer is entitled to a refund of any unearned portion of the purchase price of the waiver on terms no less favorable to the consumer than the Rule of 78's or pro-rata. In order to receive a refund, the consumer, in accordance with any applicable terms of the waiver, must provide a written request to the lender, administrator or other party, within ninety days of the event terminating the finance agreement.

(C) If the cancellation of a debt waiver or debt forgiveness agreement occurs as a result of a default under the contract or the repossession of the motor vehicle associated with the contract, or any other termination of the contract, any refund due may be paid directly to the lender or administrator and applied as set forth in paragraph (D).

(D) Any cancellation refund under paragraphs (A), (B) or (C) above, may be applied by the lender as a reduction of the amount owed under the contract, unless the consumer can show that the contract has been paid in full.

(E) No consumer shall be charged a cancellation fee.

A brief discussion ensued regarding the proposed changes and the 2010 regular session of the Louisiana legislature.

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The Executive Director advised the Commission Members a pre-hearing had been on January 11, 2010, pursuant to LSA-R.S. 49:961C, regarding Hearing #2009-056, Automotive Warranty Services, Inc., 175 West Jackson Boulevard, 11<sup>th</sup> Floor, Chicago, Illinois 60604, for alleged violations of Title 6. BANKS AND BANKING. CHAPTER 10-B. PART VII. LICENSING PROVISIONS. § 969.35. Authority to make consumer loans; assignees; authority to issue debt waiver or debt forgiveness agreements. A.(2) and D.; and LSA-R.S. Title 46. Part V. Subpart 3. Chapter 77. GAP Coverage. §7713. Filing. A. In attendance representing Automotive Warranty Services, Inc. were: Glen Burns, Attorney for Automotive Warranty Services, Inc.; and Joseph Fagan; representing the Commission were: Chairman Raymond J. Brandt; Counselor Gregory F. Reggie; Commission Investigators, Joel Aguiard and Amy Lawson; Assistant Executive Director, Ingya Cattle; and the Executive Director. The Executive Director advised the Commission Members the following Consent Judgment had been recommended by Chairman Brandt and accepted by the representatives of Automotive Warranty Services, Inc., if accepted and ratified by the Commission. Commissioner Guidry made a motion to accept and ratify the Consent Judgment in this matter. Commissioner Hocevar seconded this motion and it was unanimously approved.

**IN RE:**

**Hearing #2009-056**

**Automotive Warranty Services, Inc.  
175 West Jackson Boulevard, 11<sup>th</sup> Floor  
Chicago, Illinois 60604**

**Alleged violations of Title 6. BANKS AND BANKING. CHAPTER 10-B. PART VII. LICENSING PROVISIONS. § 969.35. Authority to make consumer loans; assignees; authority to issue debt waiver or debt forgiveness agreements. A.(2) and D.; and LSA-R.S. Title 46. Part V. Subpart 3. Chapter 77. GAP Coverage. §7713. Filing. A.**

**CONSENT JUDGMENT**

After considering the entire record in this matter and the interest of the parties in amicably resolving it, the parties have consented to a judgment in favor of the Louisiana Motor Vehicle Commission based upon an alleged violation by Automotive Warranty Services, Inc. [AWSI] of Title 6. BANKS AND BANKING. CHAPTER 10-B. PART VII. LICENSING PROVISIONS. § 969.35. Authority to make consumer loans; assignees; authority to issue debt waiver or debt forgiveness agreements. A.(2) and D.; and LSA-R.S. Title 46. Part V. Subpart 3. Chapter 77. GAP Coverage. §7713. Filing. A. Therefore, based on the parties' mutual consent;

**IT IS ORDERED, ADJUDGED, AND DECREED** that Automotive Warranty Services, Inc., 175 West Jackson Boulevard, 11<sup>th</sup> Floor, Chicago, Illinois 60604, in complete satisfaction of all above-referenced violations, pay a fine to the Louisiana Motor Vehicle Commission in the amount of ONE HUNDRED ELEVEN THOUSAND (\$111,000.00) DOLLARS.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that ONE HUNDRED AND ONE THOUSAND (\$101,000.00) DOLLARS of the fine be suspended conditioned upon Automotive Warranty Services, of Florida, Inc. ("AWS/FL"), 175 West Jackson Boulevard, 11<sup>th</sup> Floor, Chicago, Illinois 60604, obtaining a GAP Administrator licenses for the years of 2009 and 2010 plus a \$100 late filing fee for each year which condition has already been satisfied by or on behalf of AWS or AWS/FL; and being placed on ONE (1) YEAR probation beginning the date this Consent Judgment is rendered and signed and adhering to all Rules and Regulations of this Commission and Louisiana laws applicable to this Commission during the probationary period. In the event of a violation during the probationary period, the suspended portion of the fine shall become due and payable in full.

**JUDGMENT RENDERED AND SIGNED** this 8th day of March, 2010.

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**Chairman Raymond J. Brandt**  
**LOUISIANA MOTOR VEHICLE COMMISSION**

**AGREED:**

**AUTOMOTIVE WARRANTY SERVICES, INC.**

By: \_\_\_\_\_  
W. Glenn Burns, Esq.

**LOUISIANA MOTOR VEHICLE COMMISSION**

By: \_\_\_\_\_  
Gregory F. Reggie, Esq.

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Chairman Brandt called for a reading of the minutes of the January 11, 2010 meeting. Commissioner Guidry made a motion to accept the minutes as read. Commissioner Hocevar seconded this motion and it was unanimously approved.

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The Executive Director was directed to include in these minutes the following excerpt from the Louisiana Motor Vehicle Commission meeting immediately preceding this meeting.

“Chairman Brandt asked for a review of the January and February Financial Statements of the

Louisiana Motor Vehicle Commission, Motor Vehicle Sales Finance Division, copies of which were before each Commission Member. Commissioner Hocevar made a motion to accept the January and February Financial Statements as presented and incorporate into these minutes. This motion was seconded by Commissioner Guidry and it was unanimously approved.”

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Chairman Brandt called for a review of the motor vehicle sales finance license issued:

<u>SALES FINANCE COMPANY</u>	<u>CITY</u>	<u>LIC. #</u>
Mutual of America Acceptance Company, LLC	Baton Rouge, Louisiana	#SF-2010-00847

The Executive Director reported the application and supporting documentation were in order for this motor vehicle sales finance applicant. Commissioner Fabre made a motion to ratify the motor vehicle sales finance license issued, #SF-2010-00847. Commissioner Guidry seconded this motion and it was unanimously approved.

<u>SALES FINANCE COMPANY</u>	<u>CITY</u>	<u>LIC. #</u>
One Source Auto Finance LLC	Metairie, Louisiana	#SF-2010-00854

The Executive Director reported the application and supporting documentation were in order for this motor vehicle sales finance applicant. Commissioner Ryan made a motion to ratify the motor vehicle sales finance license issued, #SF-2010-00854. Commissioner Hargroder seconded this motion and it was unanimously approved.

<u>SALES FINANCE COMPANY</u>	<u>CITY</u>	<u>LIC. #</u>
Fidelity Finance, Inc. Of Ponchatoula	Ponchatoula, Louisiana	#SF-2010-00857

The Executive Director reported the application and supporting documentation were in order for this motor vehicle sales finance applicant. Commissioner LeBlanc made a motion to ratify the motor vehicle sales finance license issued, #SF-2010-00857. Commissioner Westbrook seconded this motion and it was unanimously approved.

<u>SALES FINANCE COMPANY</u>	<u>CITY</u>	<u>LIC. #</u>
Fidelity Finance of Hammond, Inc.	Hammond, Louisiana	#SF-2010-00858

The Executive Director reported the application and supporting documentation were in order for this motor vehicle sales finance applicant. Commissioner LeBlanc made a motion to ratify the motor vehicle sales finance license issued, #SF-2010-00858. Commissioner Guidry seconded this motion and it was unanimously approved.

<u>SALES FINANCE COMPANY</u>	<u>CITY</u>	<u>LIC. #</u>
Fidelity Finance, Inc. of Zachary	Zachary, Louisiana	#SF-2010-00859

The Executive Director reported the application and supporting documentation were in order for this motor vehicle sales finance applicant. Commissioner Fabre made a motion to ratify the motor vehicle sales finance license issued, #SF-2010-00859. Commissioner LeBlanc seconded this motion and it was unanimously approved.

<u>SALES FINANCE COMPANY</u>	<u>CITY</u>	<u>LIC. #</u>
US Acceptance Company, LLC	Baton Rouge, Louisiana	#SF-2010-00860

The Executive Director reported the application and supporting documentation were in order for this motor vehicle sales finance applicant. Commissioner Fabre made a motion to ratify the motor vehicle sales finance license issued, #SF-2010-00860. Commissioner Ryan seconded this motion and it was unanimously approved.

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Chairman Brandt called for a review of the GAP administrator license issued:

<u>GAP ADMINISTRATOR</u>	<u>CITY</u>	<u>LIC. #</u>
Express Systems, Inc.	Irvine, California	#GA-2010-00117

The Executive Director reported the application and supporting documentation were in order for this GAP administrator applicant. Commissioner Guidry made a motion to ratify the motor vehicle sales finance license issued, #GA-2010-00117. Commissioner Hocevar seconded this motion and it was unanimously approved.

<u>GAP ADMINISTRATOR</u>	<u>CITY</u>	<u>LIC. #</u>
Universal Underwriters Services Corporation	Overland Park, Kansas	#GA-2010-00118

The Executive Director reported the application and supporting documentation were in order for this GAP administrator applicant. Commissioner Hocevar made a motion to ratify the motor vehicle sales finance license issued, #GA-2010-00118. Commissioner LeBlanc seconded this motion and it was unanimously approved.

<u>GAP ADMINISTRATOR</u>	<u>CITY</u>	<u>LIC. #</u>
Toyota Motor Insurance Services, Inc	Torrance, California	#GA-2010-00119

The Executive Director reported the application and supporting documentation were in order for this GAP administrator applicant. Commissioner Hargroder made a motion to ratify the motor vehicle sales finance license issued, #GA-2010-00119. Commissioner Fabre seconded this motion and it was unanimously approved.

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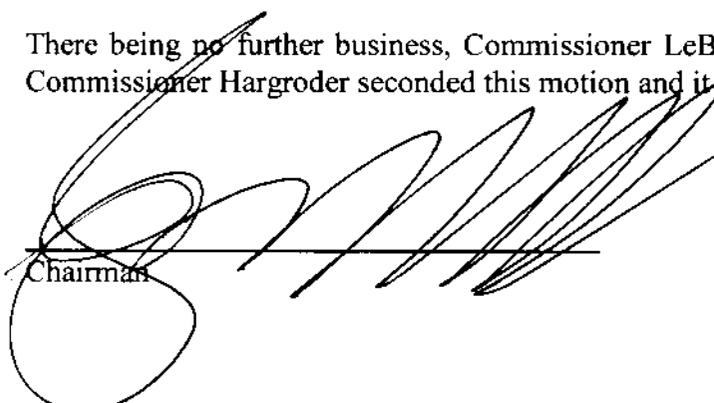
The Chairman called for a review of the licenses issued. Commissioner Hocevar made a motion to ratify the licenses issued: sales finance, #SF-2010-00800 through #SF-2010-00861; GAP administrators, #GA-2009-00118 through #GA-2009-00119 and #GA-2010-00113 through #GA-2010-00120; GAP administrator agents, #GAA-2009-00038 through #GAA-2009-00042 and #GAA-2010-00020 through #GAA-2010-00044.

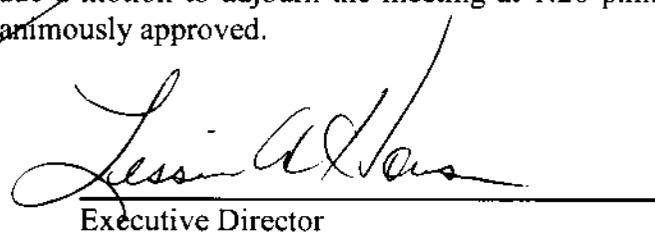
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The Executive Director reported on routine matters being handled by the staff and not requiring action by the Commission at this time.

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There being no further business, Commissioner LeBlanc made a motion to adjourn the meeting at 1:20 p.m. Commissioner Hargroder seconded this motion and it was unanimously approved.

  
Chairman

  
Executive Director

