

LOUISIANA USED MOTOR VEHICLE COMMISSION

STATE OF LOUISIANA

REGULAR MEETING

MONDAY,

JUNE 21, 2010

9:29 a.m.

3132 VALLEY CREEK

BATON ROUGE, LOUISIANA

REPORTED BY:

Angie Henning, CVR, CCR

Certified Court Reporter

In and for the State of Louisiana

A P P E A R A N C E S

CHAIRMAN:

Mr. John Poteet

COMMISSIONERS PRESENT:

Mr. George Brewer

Mr. Henry "Darty" Smith

Mr. Louis Bourgeois

Mr. John Poteet

Mr. George Floyd

Mr. Ron Duplessis

Mr. Douglas Turner

Mr. Tony Cormier

Mr. Kirby Roy

REPRESENTING THE LOUISIANA USED MOTOR VEHICLE
COMMISSION:

Sheri Morris, Esquire

Roedel, Parsons, Koch, Blache,

Balhoff, & McCollister

8440 Jefferson Highway, Suite 301

Baton Rouge, Louisiana 70809

1 ALSO PRESENT:

2 Ms. Kim Baron

3 Mr. Derek Parnell

4 Ms. Heather Ellis

5 Mr. Roy Hebert, CPA

6 Mr. Butch Wright

7 Mr. Frank Hileman

8 Terry G.

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1 MR. POTEET (CHAIRMAN):

2 Okay. As all you can see,
3 Mr. Robinson is not here today, so I will
4 be chairing the meeting. Let's start out
5 with the pledge of allegiance.

6 (Pledge of Allegiance.)

7 MR. POTEET (CHAIRMAN):

8 All right. Ms. Kim, do you want to do
9 the roll call for us?

10 MS. BARON:

11 Glen Robinson?

12 MR. ROBINSON:

13 (No response.)

14 MS. BARON:

15 George Brewer?

16 MR. BREWER:

17 Here.

18 MS. BARON:

19 Louis Bourgeois?

20 MR. BOURGEOIS:

21 Here.

22 MS. BARON:

23 Tony Cormier?

24 MR. CORMIER:

25 Here.

1 MS. BARON:
2 Ron Duplessis?

3 MR. DUPLESSIS:
4 Here.

5 MS. BARON:
6 George Floyd?

7 MR. FLOYD:
8 Here.

9 MS. BARON:
10 John Poteet?

11 MR. POTEET (CHAIRMAN):
12 Here.

13 MS. BARON:
14 Kirby Roy?

15 MR. ROY:
16 Here.

17 MS. BARON:
18 Darty Smith?

19 MR. SMITH:
20 Here.

21 MS. BARON:
22 And Douglas Turner?

23 MR. TURNER:
24 Here.

25 MS. BARON:

1 Mr. Chairman, we have a quorum.

2 MR. POTEET (CHAIRMAN):

3 All right. I don't think we have any
4 public comments today. Derek?

5 MR. PARNELL:

6 No.

7 MR. POTEET (CHAIRMAN):

8 Okay. So we will move onto the items
9 for discussion. The first is the approval
10 of the minutes from the previous meeting.
11 I guess, we need a motion for that.

12 MR. ROY:

13 I move. I move on that.

14 MR. BREWER:

15 Second.

16 MR. POTEET (CHAIRMAN):

17 All in favor?

18 (All "Aye" responses.)

19 MR. POTEET (CHAIRMAN):

20 Okay. The next thing is, of course,
21 the review of the financial report and the
22 budget. That is why Glen is not here
23 today. He said he didn't want to drive
24 all this way for a 30 minute meeting. So
25 to be honest, we need to get in and get

1 out of here.

2 I guess, what we will do here, Derek,
3 is I am going to kind of turn this over to
4 you and Heather to take, if you wouldn't
5 mind.

6 MR. PARNELL:

7 Okay. As we go over the review of the
8 financial report for May, Heather will go
9 ahead and get started. She will actually
10 review all of first two fiscal year-end
11 budget amendments as well.

12 MS. ELLIS:

13 Good morning.

14 MR. POTEET (CHAIRMAN):

15 Good morning.

16 MS. ELLIS:

17 I will start with the financial
18 statements first. We will go through May
19 31st, on Page 1. Our total revenues for
20 this year are at \$952,382.26, which leaves
21 a remaining balance of what we budgeted of
22 close to \$170,000.

23 We had on Page 2, a total year to date
24 balance for expenditures at \$886,873.64.

25 On Page 3, this shows our monthly

1 revenues for May of \$39,442.59. On
2 Page 4, our monthly expenditures were
3 \$61,462.56, which put us \$22,000 short of
4 what we took in for the month.

5 On Page 5 and Page 6 is our three-
6 month comparisons for March, April, and
7 May of 2010. And on May we took in a
8 little bit more than we took in for April
9 which is unusual but good, and our
10 expenditures are continuing to stay pretty
11 consistent.

12 On Page 7 and Page 8, our balance
13 sheet, on Page 7 is petty cash, cash in
14 the bank, CDs, all of the normal stuff is
15 on here. And on Page 8, all of our
16 liability accounts are still listed, and
17 these will fluctuate from month to month
18 depending on what has been paid out and
19 what hasn't been paid out so far that
20 month.

21 On Page 9, this again shows our
22 revenues for May at \$39,442.59, and our
23 expenditures of \$61,462.56. And as of the
24 end of May, we are in the black with a
25 total of \$65,508.62 to the good.

1 On Page 10, this is our CD summary
2 page and this is unchanged from last
3 month. And it will also be the same next
4 month, because nothing will change until
5 July 3rd.

6 On Page 11, our accounts receivable,
7 they have changed a little bit. We had
8 Washington Auto Sales, which was the first
9 on the list, hasn't paid leaving us with a
10 balance owed of \$8,250.

11 And on Page 12, the main differences
12 for May are going to be the auto
13 maintenance. We paid about \$1,700 more in
14 previous months due to some repairs that
15 had to be made to a couple of the cars.
16 We paid \$844.36 less than the previous
17 month for a telephone due to a credit from
18 telecommunications.

19 Our miscellaneous fees are for night
20 deposit fees, bank service charges, and
21 criminal record checks. And our office
22 supplies were \$421.44 more than the
23 previous month due to replenishing
24 supplies that we used.

25 MR. POTEET (CHAIRMAN):

1 Does anyone have any comments or
2 questions about the May statements?

3 MR. TURNER:

4 I have a question on Page 5, and,
5 John, you might be able to answer this.
6 There is a big variance in the auction
7 transaction fees on April or through
8 March, April to May, double or tripled
9 from \$27,000.

10 MR. POTEET (CHAIRMAN):

11 Yes. Well, I can't answer it, because
12 I don't pay those.

13 MR. TURNER:

14 What is that?

15 MR. POTEET (CHAIRMAN):

16 That is money that we get from the
17 salvage, the \$5 dollars per transaction.
18 So maybe somebody in the office can
19 answer, but, obviously, the transactions,
20 I mean, just looking at this you would say
21 the transactions went up significantly in
22 May, or I don't know if they pay on a --

23 MR. TURNER:

24 Is this an accounting thing or
25 something; do you know?

1 MR. POTEET (CHAIRMAN):

2 No. Somehow --

3 MS. ELLIS:

4 Well, because of it being a per
5 transaction fee, what they pay is based on
6 what they sell. So Dusty goes over the
7 reports every month when he gets a check
8 to make sure that they are correct. The
9 amount they sent is correct to the sheet
10 that they send us on how many cars they
11 have sold. So, I mean, that's based on
12 what they send us is how we account for
13 what is coming in.

14 MR. TURNER:

15 So, we don't know why it's spiked like
16 that really, huh?

17 MS. ELLIS:

18 No. The only way to tell that would
19 be for a field person to go out and find
20 out why they sold so many more cars in
21 May, and some of the fees may be still
22 coming in from April and May --

23 MR. TURNER:

24 Right.

25 MS. ELLIS:

1 -- instead of them sending them in for
2 April.

3 MR. TURNER:

4 Okay.

5 MR. POTEET (CHAIRMAN):

6 Anything else? Any other questions?

7 (No response.)

8 MR. POTEET (CHAIRMAN):

9 Okay.

10 MR. PARNELL:

11 Number two, is the fiscal year end
12 budget amendments 2009 and 2010. Heather
13 is going to review all of these items. We
14 know that we must get this amended today,
15 actually, to move forward to the end of
16 our fiscal year.

17 I have had Roy Hebert, our CPA, he has
18 reviewed it as well. So if there are any
19 questions, please ask Heather and Roy,
20 they can answer any of those questions for
21 you. So, Heather, if you wouldn't mind?

22 MS. ELLIS:

23 Okay. On the budget, we will go over
24 the first three pages because that -- the
25 last pages are, basically, adding up to

1 the first three pages. The first three
2 pages is a basic summary of the rest of
3 it. So, for a total of license and
4 auction transaction fees on Page 1,
5 \$972,822.75.

6 Our enforcement actions are totaling
7 \$9,700 for the year. NSF fees of \$425.
8 Our interest on CDs, \$6,900. Interest on
9 operating account, \$1,950. Our copies,
10 labels, and lists that we run at
11 \$2,470.25, and our miscellaneous revenues
12 \$890.08, for a total of \$995,158.08.

13 On Page 2, this is a summary of each
14 of the categories that we have
15 expenditures in. Under our salaries on
16 line one, the regular salaries which also
17 includes termination pay is \$425,710.54.

18 Our other compensation which is per
19 diems for board members is \$6,000. Our
20 related benefits is \$216,724.55, and that
21 would include group benefits, retirement,
22 any kind of benefits that go along with
23 the salaries. And the total salaries
24 category is \$648,435.09. Under our
25 operating expenses for travel, which we

1 had no administration travel, so this is,
2 basically, field and board member travel,
3 it is \$9,800 for the year.

4 Our operating services, which includes
5 everything from printing, telephone, and
6 rental fees, everything we use day-to-day,
7 is a \$145,964.53; and our office supplies
8 and our gas for our vehicles \$22,700 for a
9 total operating expense account of
10 \$178,464.53.

11 For our professional services under
12 accounting, would be the CPA and our
13 legislative auditor \$17,100. Our legal at
14 \$70,016, and our other services which
15 would include the court reporter, our IT
16 services, anything that is not included in
17 our accounting and our legal, \$44,623.15,
18 for a total professional services of
19 \$131,739.15. And our other charges will
20 be computer charges, our Department of
21 Public Service fees, our CAVU fees, and
22 our microfilm fees for the year of
23 \$22,558.65.

24 We had no acquisitions or major
25 repairs, so we emptied that account out

1 since we won't be using it, which left us
2 with a total expenditures of \$981,197.42
3 for the year.

4 On Page 3, you will see our total
5 means of financing which is our total
6 license fees, revenues, a total for
7 \$995,158.08, and our total expenditures
8 \$981,197.42, so we came out to the good,
9 almost \$14,000 for the year.

10 If you have any specific questions, we
11 can go through the other pages.

12 MR. TURNER:

13 I have a question under projected
14 number of the specified employees
15 positions, current year '09, it was
16 projected 21.

17 MS. ELLIS:

18 We just haven't changed next years. I
19 can't change next year's total until we
20 amend that budget.

21 MR. TURNER:

22 Okay.

23 MS. ELLIS:

24 That is why those aren't different
25 from this year's yet.

1 MR. TURNER:

2 Okay.

3 MS. ELLIS:

4 Any questions?

5 (No response.)

6 MR. PARNELL:

7 Is that everything? No questions?

8 (No response.)

9 MR. PARNELL:

10 Do we need to amend the budget?

11 MR. POTEET (CHAIRMAN):

12 I think we do. I think we do. So let
13 me understand this. So that is -- what
14 she just went over is the current year
15 actual estimated --

16 MR. PARNELL:

17 Correct.

18 MR. POTEET (CHAIRMAN):

19 -- because we've got one more month.
20 And then what we have in the next column
21 is the projected year budgeted which is
22 what we need to amend the budget to;
23 right?

24 MS. ELLIS:

25 (Nodded head.)

1 MR. POTEET (CHAIRMAN):

2 No?

3 MS. ELLIS:

4 It is the current year actual.

5 MR. POTEET (CHAIRMAN):

6 Oh, that's what we have to --

7 MS. ELLIS:

8 7/1/09 to 6/30/2010.

9 MR. POTEET (CHAIRMAN):

10 All right. Well, I guess, somebody
11 needs to make a motion to amend that.

12 MR. ROY:

13 I so motion.

14 MR. SMITH:

15 I second.

16 MR. POTEET (CHAIRMAN):

17 You second. All in favor?

18 (All "Aye" responses.)

19 MR. POTEET (CHAIRMAN):

20 Any opposed?

21 (No response.)

22 MR. POTEET (CHAIRMAN):

23 Okay. That passes.

24 MR. PARNELL:

25 Okay. The third thing on the

1 financial matters is payment of invoices
2 which is Sheri Morris for legal services.
3 The reason why it shows two months on this
4 April and May is because someone in her
5 office submitted her an April bill after
6 the fifth of the month. And so we believe
7 that Chairman Robertson stated that
8 anything after the fifth, it must go onto
9 the next month. It wouldn't be on that
10 current agenda. Being that we are closing
11 the fiscal year, we need to actually move
12 forward in both April and May.

13 If you notice, this was -- the bulk of
14 the Legislative Session was in April.
15 There was a lot of work that was being
16 done as it relates to legislation. The
17 April bill was \$7,000, and the May bill
18 was \$3,893.75. I would like to ask Ms.
19 Morris if anyone has any questions, if she
20 would maybe go through the bill just to
21 talk about it if anyone has any questions
22 as it relates to it.

23 MS. MORRIS:

24 Mostly due to the legislation, we have
25 had a number of meetings Mr. Duplessis has

1 attended on. On House Bill 1189, we have
2 had inquires from people in three
3 different states. We work with two
4 different sets of lobbyists to try to come
5 up with some amendments to our original
6 proposal.

7 We also had an unemployment appeal in
8 this time period during the Session. We
9 prepared and got all the documents
10 together and prepared all the witnesses
11 and the plaintiff didn't show, so we won
12 by default, but we had to prepare as if
13 they would be there, because we didn't
14 know that they would not show. So we were
15 successful in avoiding a \$7,000
16 unemployment appeal as a result of the
17 work done in that month as well.

18 MR. POTEET (CHAIRMAN):

19 Derek and I have gone over the bill,
20 her invoice previously. I didn't have any
21 questions. Does anyone else have any
22 questions about that?

23 (No response.)

24 MR. POTEET (CHAIRMAN):

25 The time spent on the legislative

1 agenda is significant, and I appreciate
2 your help in that. All right. If they
3 are no questions, I guess, we need to have
4 a motion to pay Ms. Morris's bill for
5 April and May.

6 MR. BOURGEOIS:

7 I make a motion.

8 MR. FLOYD:

9 Second.

10 MR. POTEET (CHAIRMAN):

11 Motion, seconded. All in favor?

12 (All "Aye" responses.)

13 MR. POTEET (CHAIRMAN):

14 Any opposed?

15 (No response.)

16 MR. POTEET (CHAIRMAN):

17 Okay. Motion passes. Okay. The next
18 thing is legal matters and pending
19 litigation. Derek, are you going to
20 handle that for us?

21 MR. PARNELL:

22 Yes. I have asked Mr. Hileman to be
23 here today. Let me just briefly go over
24 it. The appeal with Atchafalaya R.V. and
25 Doubletree R.V., that's what has been

1 going on. It has been appealed by the
2 manufacturer in the First Circuit Court of
3 Appeals.

4 According to the Counsel, the original
5 brief had been filed in the Court of
6 Appeals but there has been no response as
7 of yet, but we are expecting to hear
8 something with it this week or next week.

9 LUNBC versus Sundance Boats, Attorney
10 Hileman has submitted a reply brief to the
11 First Circuit Court of Appeals, so we are
12 just waiting on that to hear what is going
13 on, what is going to happen with that. It
14 has been going on for a little while now
15 with both of these, but it is a process,
16 and, you know, it has to go through the
17 process in order for us to go forward with
18 it.

19 Claims against Surety Bond, it really
20 is two of them that has been out there.
21 Attorney Hileman, he presented me with two
22 releases. One for \$20,000 dollars which
23 was in May. We haven't received that as
24 of yet, which is taking a little bit
25 longer than it should, but he has also

1 sent a communication to the bond company
2 that if payment is not received by Friday,
3 June 25, he is going to take further
4 action against them to already get those
5 funds in. That would \$20,000 dollars.

6 Westside Wholesale is one that was on
7 that list as well. I believe, it is on
8 page 5 or page 11, I'm not for sure on
9 that. It is for \$5,850 dollars. This was
10 something that I just signed a release
11 this week, so we should be getting that
12 money in fairly quick.

13 Main Street Motors, that \$20,000
14 dollars, the bond company, they tend to
15 drag their feet a little bit, and it is
16 the same bond company that we dealt with
17 with the \$26,000 dollars, and it took
18 quite some time to come in. But, I mean,
19 that is just something that we have just
20 really got to try to work at.

21 What I am going to try to start doing
22 as it relates to those companies, I am
23 going to go to the commissioner of
24 insurance and try to maybe file a
25 complaint on some of them for not paying

1 in a timely fashion, because they are
2 taking too long on some of them when they
3 know -- well, they will constantly tell us
4 that it is coming, it's on the way, we
5 should get it next week or the next day
6 and they send it out, but that isn't the
7 case mainly. So I think I may go forward
8 and try to file a complaint against some
9 of those bond companies.

10 MR. POTEET (CHAIRMAN):

11 How long has that one been out?

12 MR. PARNELL:

13 Since May.

14 MR. POTEET (CHAIRMAN):

15 The \$20,000 --

16 MR. PARNELL:

17 Yes, the \$20,000 dollars.

18 MR. POTEET (CHAIRMAN):

19 What is the normal payment timeline?

20 MR. PARNELL:

21 It usually takes anywhere from three
22 weeks or so.

23 MR. POTEET (CHAIRMAN):

24 Okay. So they are --

25 MR. PARNELL:

1 Once everything is received, in about
2 three weeks we should get it back in. But
3 now it's taking a little bit longer than
4 it should. And if you recall, the \$26,000
5 that we received, it took -- what was it?
6 Almost six months.

7 MR. POTEET (CHAIRMAN):

8 Yeah, it took a long time.

9 MR. PARNELL:

10 And it finally didn't come from the
11 actual bond company, it came from -- where
12 was that?

13 MS. BARON:

14 The broker.

15 MR. PARNELL:

16 The broker actually just decided to go
17 ahead and cut a check and send it on over.

18 MS. BARON:

19 They didn't want to get the bond
20 company to repay them.

21 MR. PARNELL:

22 Yeah.

23 MR. POTEET (CHAIRMAN):

24 Okay. All right. Any questions or
25 comments on the legal matters and pending

1 litigation?

2 (No response.)

3 All right. Derek, I guess, you're up
4 again. The executive director's report.

5 MR. PARNELL:

6 Okay. The first item is a review of
7 monthly complaint totals. Looking in the
8 month of May 1 through May 31, 2010, the
9 total assigned cases were 63. The total
10 completed cases were 29. Total of open
11 cases currently are 34. The total percent
12 completed was 46 percent. As we know
13 these cases are ongoing as something that
14 we -- you know, some can be handled really
15 quick and some take a little bit more
16 time.

17 The majority of those cases that are
18 coming in, are non-delivery of title
19 though. We kind of know that that is
20 typically the large -- the bulk of where
21 our complaints come in from.

22 The second item on that list is House
23 Bill 589, rent with the option to purchase
24 status. As you recall, on our last
25 meeting, we had some testimony and we had

1 some representatives here just talking
2 about House Bill 589. This is the bill
3 that would change the complexion of how
4 our rent to own dealers would actually
5 acquire their insurance.

6 What we have done is -- after that
7 meeting that we had last commission
8 meeting, we had a phone conference with
9 representatives from that side as well as
10 Commissioner Duplessis and Hileman and I,
11 we had a phone conference where we just
12 kind of hashed it all out. You know,
13 according to the -- not the author, but
14 the creator of that Bill, their goal was
15 not to have a monopoly, but, you know, the
16 way everything was looking it was pointing
17 towards that. And that was one thing that
18 they assured us that they weren't trying
19 to do. So what we looked at doing -- we
20 looked at the numbers where we were as it
21 relates to who we had with admitted
22 coverage and who we did not. And we
23 reviewed those numbers.

24 I had Kim run these numbers for me,
25 and it came back at like 96 percent of all

1 our dealers are compliant with the law as
2 it is written right now. It is kind of --
3 it is really only like five or six dealers
4 out there that don't have the admitted
5 coverage. So that is a small number.
6 And, I guess, once we presented that to
7 them, they were relieved of that and they
8 just kind of let that bill die out, so.
9 They didn't move forward with it, so that
10 was the end of that bill.

11 The next item, item number three is
12 CAVU online renewals update. As we all
13 know, we have been working really hard
14 trying to make sure that we are in a
15 different position than we were last year
16 as it relates to renewals. And one of
17 those ways of maybe doing that is with
18 online processes.

19 We have been in close contact with the
20 CAVU representatives. This is something
21 that hadn't been done in the past. Weekly
22 we have been talking with them. They have
23 actually come in and they have developed a
24 test site for us right now for us to go on
25 and look at how the process is going to

1 work a little bit.

2 There is a new feature that is on the
3 upgrade that we were scheduled to get a
4 year and a half ago, but there is a new
5 feature on there. It's called ".net".
6 And this is what we have talked about in
7 the past.

8 It is going to be a great method for
9 us to actually have the dealers go ahead
10 and go online and renew their
11 applications. It will kind of take some
12 of the labor out for us here in the
13 office. We will still go in and control
14 it, but it will take out some of the --
15 due to the fact that we don't have the man
16 power as we used to have, it will help out
17 the process a great deal. So that has
18 been going really well.

19 Toward the end of this month, we are
20 supposed to have that upgrade. This
21 upgrade, typically when it happens -- we
22 have sometimes lost some information in
23 the past when it has happened. So I was
24 just trying to work with them and make
25 sure that we don't lose any information

1 and make sure everything goes pretty
2 smooth.

3 That is going to be done usually -- I
4 probably will have them shut us down
5 probably around 4:00 o'clock on a Friday
6 and go ahead and do the upgrade for us, so
7 we can have a little time for it to kind
8 of work a little bit. So on Monday when
9 we come back at the end of this month, we
10 will be already upgraded and ready to move
11 forward.

12 This is a huge concern right now for
13 me, because I can't see us functioning the
14 way we did in the last few years. It was
15 very antiquated and very slow, and it is
16 just not the direction we need to be going
17 in.

18 I think we are going to be moving
19 forward in a really great direction and we
20 need to get it going. We have timelines
21 here to try to meet as well as CAVU. I
22 have put a lot of demands on them because
23 in the past, we have been paying them and
24 they just haven't been providing us with
25 what we need. And I just really let them

1 know it needs to change. We need to do a
2 better job on both sides of insuring that
3 we have everything that we need. So that
4 is pretty much everything that has been
5 going on here this past month, the major
6 issues.

7 MR. POTEET (CHAIRMAN):

8 I have a question about that on the
9 online renewals. How are you going to
10 roll that out to the dealers?

11 MR. PARNELL:

12 Well, there are a couple of ways that
13 we can do it. One way that Commissioner
14 Robinson and I were talking about is
15 actually make it not optional, so to
16 speak. If it is up and available,
17 everyone who has a license currently and
18 they are renewing, basically send it out
19 to them via e-mail or let them know that
20 when they update, when they want to renew
21 their license, they must go to this site.
22 They must use their password and update
23 that way.

24 Now, is that going to happen? No. We
25 are not going to get that large of a

1 turnout, I know that, that first year.
2 The first two years, maybe not. But I
3 think by year three, I think, if we can
4 get up to like 70 percent online renewals,
5 it will be a great, great process. But
6 again, I know that there are a lot of
7 dealers that may not even use computers at
8 this moment.

9 And we will still, you know, be able
10 to do the hard paperwork for them. They
11 will still be able to send their documents
12 in, but we really want to try to move
13 forward in a different direction, because
14 I understand that once you use it online,
15 you are not going to want to do it the old
16 way, you know. It is a lot better,
17 because you really kind of take us more
18 out of the equation. You are just going
19 in and updating.

20 Yes, we are going to review the
21 insurances and make sure everything is
22 there, but other than that, you are pretty
23 much doing it and you can either print
24 your license out yourself or just save it
25 on your own. I think, it is going to be

1 very beneficial to all our dealers.

2 MR. TURNER:

3 Whatever came to possibly having two
4 renewal dates over the year for different
5 dealers?

6 MR. PARNELL:

7 We talked about that, and that was a
8 great thing that without legislation when
9 it went through we kind of were able to
10 take away that December 31st deadline, so
11 we will have some flexibility in doing
12 that.

13 This year I don't think we will be
14 able to do that. Next year moving
15 forward, we may try to implement some kind
16 of a break in the license renewal dates.
17 But that was one of the main points that
18 we needed to -- in House Bill 1189 to
19 change that December 31st date, so we can
20 kind of manipulate the way we want to do
21 that renewal period.

22 MR. POTEET (CHAIRMAN):

23 Didn't we also talk about maybe doing
24 a two-year renewal?

25 MR. PARNELL:

1 We did, yes. That was also something
2 that --

3 MR. POTEET (CHAIRMAN):

4 Is there an option maybe for people to
5 have a two-year renewal on this go around?

6 MR. PARNELL:

7 Not that -- we haven't really cemented
8 anything actually as of yet.

9 MR. POTEET (CHAIRMAN):

10 Okay.

11 MR. PARNELL:

12 This is the initial process. Again,
13 like I said, they are a little bit behind
14 on the deliverable that they said they
15 would have for us at this point. I
16 believe, it was early March or early May,
17 early April they were supposed to have
18 this already in place for us, so right now
19 we could be really working on trying to
20 implement different ideas and getting it
21 done, but they were late on that. So we
22 are right now at the beginning process of
23 trying to get all that information.

24 MR. POTEET (CHAIRMAN):

25 Any of the dealers in the room have

1 any comments on that, on the online
2 renewal? I mean, does that -- it seems
3 like a good idea to me.

4 MR. TURNER:

5 I think it's a great idea. I think
6 the idea of a two-year renewal is a pretty
7 good idea, too.

8 MR. PARNELL:

9 Initially, when -- I guess, a method
10 that could be used with that two-year
11 renewal -- it was kind of like if you had
12 been a dealer ten years or more, you had
13 that option of a two-year renewal. That
14 was something that we just threw around,
15 whereas you could go in and pay the two
16 years and go ahead and have your license
17 for two years. Under that, you know, it
18 just has a lot of things that we need to
19 play with and try to figure out exactly
20 how we want to deal with it and which way
21 would best to make it the smoothest
22 transition as possible.

23 MR. TURNER:

24 That will help eliminate the slam at
25 the end of the year.

1 MR. PARNELL:

2 Yeah.

3 MR. TURNER:

4 That's one way to do that.

5 MR. PARNELL:

6 Right.

7 MR. POTEET (CHAIRMAN):

8 Okay. Thank you, Derek. I guess, the
9 next thing here, we have our committee
10 reports. We've got one committee to
11 report. Mr. Duplessis, the legislative
12 committee. Are you glad it is over?

13 MR. DUPLESSIS:

14 We know this wasn't the toughest year
15 I've ever seen, but it was probably the
16 most successful. We got together early in
17 the process and we realized that we were
18 going to have to sacrifice our fee bill
19 right off the bat. I think maybe two or
20 three of them passed, you know, the rest
21 of them failed. So we knew if we attached
22 the fee bills, the grail, that we were
23 going to sacrifice everything else. So by
24 Ms. Morris's suggestion -- my observation
25 -- Mr. Parnell, who -- Derek did a good

1 job. He learned a lot, and he learned a
2 lot of things I think he didn't want to
3 learn.

4 MR. PARNELL:

5 Right.

6 MR. DUPLESSIS:

7 But, you know, nevertheless, it was
8 the process, and we spent a lot of time
9 with the industry. We still have a lot
10 more work to do in my opinion. What we
11 did get is we got the fee bill. We got
12 our fees restructured and we had the
13 abilities to do that.

14 Now, we've got to pass rules --
15 policies and rules to get a lot of these
16 things implemented, so in the future we
17 will have these things on the agenda. We
18 did get off-premises displays that is
19 going to be a little testy. We've got to
20 write the application. We've got to write
21 the policies and then promulgate the rules
22 eventually, and that is something for the
23 full Commission to be involved in.

24 I didn't -- I didn't want to take the
25 liberty of getting that deep in the Bill,

1 because we can manage that here in the
2 Commission, plus we can make it flexible
3 as things change. So something so
4 complicated is going to require you-all's
5 full attention to be able to make it a
6 moving living type of document.

7 We captured the auctions to a great
8 degree, and what we had to realize there
9 was that you are going to have online
10 auctions. We can't control eBay. We are
11 not going to be able to control Craig's
12 list. We have to manage it if we're going
13 to stay. We have to accommodate the FEMA
14 trailers. We have to accommodate every
15 industry as best we can.

16 We can't stay in the way of free
17 enterprise, but we have to make sure the
18 consumer gets a good deal, and we act
19 responsibly for all of our licensees and
20 our consumers. So I think overall, the
21 Session was continuous, it was tense. We
22 worked things out. It was a good Session.

23 I think you should be proud of your
24 executive director and your legal counsel,
25 both Mr. Hallack and Ms. Morris. They did

1 a great job in drafting and negotiating.
2 I think -- none of us came up with what we
3 wanted, but that is a sign of a good
4 political process at the end.

5 But, really, Sheri, I am going to let
6 you kind of handle 1189. If you will give
7 us a quick review, and I am going to ask
8 Mr. Hileman to make some comments about
9 his concerns here today, because when we
10 passed 1189, we passed the skeleton and
11 the framework. It is the Commission's
12 responsibility to flush out the rest of
13 the piece of work, so.

14 MS. MORRIS:

15 The Bill is pretty much as you-all
16 approved. We did have some adjustments.
17 It was amended in every step of the way,
18 and so we were constantly adjusting, plus
19 we had a lot of proposed amendments that
20 we didn't agree with, so you don't see
21 those in the Bill that we had to, you
22 know, conference about it and decide that
23 those were not in our best interest and
24 try to come up with other plans.

25 We did get the off-premise display

1 permit, and we did get it without a fee,
2 so if it becomes too cumbersome, you are
3 going to have to design your rules so that
4 it is not too cumbersome for your office,
5 but it will give you some history when you
6 go back to the legislature as to how
7 interested people are in this permit.

8 You did get the flexibility to review
9 the December 31st renewal date which will
10 allow you to stagger your licenses or to
11 have two-year period licenses. The only
12 thing with the two-year period, you would
13 want to, you know, stagger it so you are
14 not taking in more than one year's
15 revenue, because one of the things we also
16 paid a lot of attention to during the
17 Session was the Bill by Representative
18 Smiley which would have made you lower
19 your fees if you had a fund balance on a
20 certain date of a certain amount.

21 That Bill did not pass. Hopefully, it
22 won't be tacked on to something today.
23 But as far as we know, there is no such
24 measure that it was sent to the governor
25 at this point. But there was a lot of

1 attention paid to the agencies that have
2 fund balances. And for quite some time
3 arguments said that agencies shouldn't be
4 able to carry fund balances, but we all
5 know that we wouldn't be able to make our
6 July payment with that fund balance. So
7 we did spend quite a bit of time on that
8 as well.

9 There is also another Bill that is on
10 the Senate floor, and I don't know if it
11 is going to pass or not. It allows
12 licensing agencies to offer group
13 insurance policies to their licensees. I
14 don't know whether that will pass. But
15 that might be -- if it does pass that
16 might be the topic of some discussion
17 later on, but it is on the Senate floor
18 and they have until 6:00 o'clock today.

19 Other things you did get are your
20 volume increase for your dealers that sell
21 a higher volume of cars. And you did get
22 the language on your warranty that the
23 dealers wanted for clarification of what
24 it means for "as-is" and how to comply
25 with that and how to comply with that if

1 it is an online transaction.

2 You also got the clarification on the
3 definition of a dealer to try to prevent
4 curb stoning to limit it to the
5 transaction. If it has got five vehicles,
6 that it be your car or an immediate family
7 member or a car that belongs to a business
8 that you have an interest in rather than
9 just any car. That will give us a little
10 bit better re-enforcement mechanism, I
11 think, in defining those transactions.
12 But we did -- we did get the standards
13 that we wanted for the wholesale auctions,
14 and we did split out the definitions of
15 public auction and wholesale auctions. So
16 we can have separate regulations for those
17 two types of entities, because their
18 operations are very different.

19 And then in the process -- as people
20 send in amendments and evaluate them, we
21 realize that the language throughout this
22 Chapter is not -- it is not the same. It
23 is not consistent, so we had to make
24 adjustments to make sure that all dealers
25 were covered or all our licensees were

1 covered. Like in the place of -- an
2 established place of business, it really
3 only talked about salvage for some of your
4 licensees, so we made that apply to all
5 licensees. And we tried -- we have some
6 more work to get there to get consistency
7 throughout the Chapter, but I think your
8 lot has been patched so many times with
9 the recreational vehicles coming in and
10 then going out and the separate Chapters,
11 and it really needs to be more uniform now
12 that you are down to a lesser
13 classification of licensees, so that is
14 something that can continue to be worked
15 on. But the amendments that were proposed
16 kind of highlighted some inconsistencies
17 in the lobby. We made sure we had
18 consistent language for all licensees.

19 MR. POTEET (CHAIRMAN):

20 Thank you. I think there was -- we
21 had someone else that --

22 MR. DUPLESSIS:

23 Yes. I think that when we patch this
24 thing together, I think the only thing
25 that we came away with other than the

1 Commission is going to have to flush out
2 the rest, is the auctions vary in such
3 vast characteristics that we realize that
4 we couldn't control the Internet auction
5 by say the FEMA trailer auction.

6 We have to try to accommodate all
7 auctions, but while they are different,
8 that doesn't mean that we can't have
9 different provisions for different things.
10 And one of the things that was
11 interesting, after the session, I don't
12 want to throw anybody under the bus
13 because we came to some agreements, but I
14 do think that Mr. Hileman has some
15 comments about his industry and they are
16 very valid.

17 What I told Mr. Hileman is very
18 simply, we have the ability -- we have to
19 accept the application, be it prior to
20 your initial work and then we have to look
21 at our policies which then will become
22 rules. So we just can't write one blanket
23 bill that covers everything. We have got
24 so many different various entities, so now
25 it's a process to start that we're going

1 to have to control some of this stuff.

2 I think, he has got a few things that
3 he wants to speak to. And I'm fine with
4 hearing everything he has to say, because
5 he's got some good points.

6 MR. HILEMAN:

7 I would like to just thank
8 Commissioner Duplessis for working with us
9 throughout the process and along with
10 Derek and along with Sheri. I will tell
11 you, at the end we weren't happy with the
12 LKQ Corporation.

13 We are very, very concerned about the
14 language that ultimately went in Bill 1189
15 on your public auctions. You do have a
16 scenario at this point, as I reviewed it
17 and Commissioner Duplessis and I have
18 agreed to disagree, and that's fine. We
19 certainly can continue to work together on
20 it.

21 I am very concerned that you will have
22 a situation where you are going to have a
23 public auction where I can sell a vehicle
24 from any state to any person in any state.
25 And I think that is a very dangerous,

1 dangerous thing.

2 You know, we deal with this language
3 all across the country. Three weeks
4 before I came up here, I was in Missouri,
5 and the exact same language -- I will just
6 tell you -- you are going to have the
7 opportunity to (inaudible). You are just
8 going to need to be very, very careful
9 with what you've got. That language in
10 there, in my opinion, it is extremely
11 dangerous.

12 I can tell you that in Missouri, we
13 had the Attorney General's Office, we had
14 the State Police, and we had the
15 Department of Revenue all objecting to
16 that language. They were all concerned
17 about it.

18 The concern is you now have an auction
19 that -- hopefully, there will be rules and
20 regs, and I understand that. And,
21 ultimately, maybe those will be able to
22 control that at auction to the extent that
23 you need to -- I am concerned that those
24 folks who have pushed that language, they
25 have a very serious investment in the

1 agenda that they are pushing. And that
2 agenda is to end up to where they can
3 auction a vehicle anywhere in any state to
4 anybody, and that is the language they
5 have right now.

6 I recognize you are going to be doing
7 rules and regs, but you're going to have
8 to be really, really careful. They are --
9 they have a business model that they're
10 pushing, and they are doing it all across
11 the country. There are a lot of folks
12 that are concerned about it.

13 We are seeing salvaged vehicles. I
14 just saw, I think, it is car fashion in a
15 recent report that the number of salvage
16 vehicles that are showing up in public
17 sales doubled last year. And it is a
18 problem. And, you know, one of the things
19 that we try is to keep salvage sales
20 limited to licensed salvage dealers.

21 It has really been something we have
22 always pushed hard on. You-all had a big
23 car dealer at one time, that no longer
24 exists. That is our primary concern. It
25 is a primary concern for law enforcement.

1 I can tell you that we have worked fairly
2 close with the Department of Justice. We
3 have worked with the folks that are
4 managing the NVIS Program. They are very
5 concerned about it.

6 And I will tell you and Commissioner
7 Duplessis will tell you, we fought hard
8 against that language. We did not want to
9 see that language end up in Louisiana, but
10 you've got it. And I would just recommend
11 strongly that you take the rules and
12 regulations process extremely seriously,
13 and do everything you can to regulate that
14 in that industry, because otherwise you
15 are going to have a wide open shot where
16 vehicles are being moved from any state in
17 the Union, any country in the world, and
18 buyers in any state in any country.

19 I mean, if folks didn't want that
20 language -- you can go to their website
21 right now, they have sites that say we can
22 sell you -- we can get your vehicle -- if
23 you buy, we can get your vehicle to
24 anywhere, that is the business model, but
25 that is a good business model. You know,

1 if they were -- if they get where they
2 want to be, they are not even going to
3 have any physical locations. That is the
4 real scary thing.

5 As I read the language that you now
6 have, you don't have to have a physical
7 location. I mean, yes, you have to have
8 the minimum physical location, but the
9 language allows me as a public auction
10 house to sell a vehicle in the possession
11 of a third party, wherever it may be, I
12 don't have to have an off-premises permit
13 to do it, that is the language that is in
14 there, and I can sell that vehicle. All I
15 have to do is comply with the other
16 licensing requirements here in Louisiana,
17 so it is a concern. I think, you-all
18 should take it very seriously and just
19 know that going in that that is what
20 you're looking at.

21 MR. POTEET (CHAIRMAN):

22 I have two comments about that. One
23 is what you just described. I know what
24 you're talking about, but you also
25 described eBay, and I don't know how, you

1 know, what we're going to do about eBay or
2 how anyone is going to control eBay and
3 the way they conduct auctions.

4 And then the second thing is, I think
5 you're right. I think that we have enough
6 latitude in the language that we can come
7 up with some regulations that can make
8 sure that your concerns and our concerns
9 as a Commission and the concerns of our
10 dealers, can be addressed. It is just
11 going to have to take some careful
12 wording, and, you know, paying attention
13 to what we're doing, but I agree with your
14 concerns. I think there are some things
15 there.

16 But I -- again, I -- what concerns me
17 is you've got somebody like eBay that is
18 doing the very same thing. And I know
19 that there are other Internet auctions
20 that are involved in the same type of
21 thing where they are selling things with
22 no physical business location. So I think
23 it gets back to what Ron said, we're going
24 to have to be very careful about how we
25 craft the language and how we put together

1 the rules and regulations.

2 MR. BOURGEOIS:

3 I have seen the other Bills in prior
4 years drafted -- just -- they look for
5 another state that already did all the
6 homework. I mean, are there -- what is
7 the best state or some deals that we can
8 look at that has been passed in other
9 states?

10 MR. HILEMAN:

11 You know, Alabama has done a good job,
12 and they have been fighting this fight for
13 years.

14 MR. BOURGEOIS:

15 Copy their bill of lading and maybe
16 modify it to fit?

17 MR. HILEMAN:

18 That wouldn't be a bad start. Let's
19 see -- I am trying to think of who is
20 probably the toughest. You know, Michigan
21 is in a fight right now. Michigan has
22 some pretty good stuff in there. They
23 have got some -- they have actual agent
24 requirement which is good. It is
25 effective. And they are trying to wipe

1 that out this year as a matter of fact.
2 There is a Bill pending to try and kill
3 that. I'll be happy to provide you with
4 that.

5 MR. BOURGEOIS:

6 Yeah, if you can e-mail Derek. If you
7 can e-mail Derek some of the Bills, and
8 then he can bring it to us and Ron won't
9 have to do as much homework, I don't
10 think.

11 MR. DUPLESSIS:

12 I will say -- and, Frank, I don't know
13 if we disagree about it actually. We
14 agree on the concept. What we probably
15 disagree on is the methodology. But, you
16 know -- and we both agreed at the Capitol
17 that we currently have nothing.

18 MR. BOURGEOIS:

19 Yes.

20 MR. DUPLESSIS:

21 So if we would have passed nothing, we
22 would have had less control than what we
23 have. But let me tell you, you're not --
24 the public outcry, I don't want to sit at
25 the table and listen to everybody cry to

1 me about eBay. eBay ain't going away.

2 MR. POTEET (CHAIRMAN):

3 No, it ain't going away.

4 MR. DUPLESSIS:

5 I don't want eBay to go away because
6 -- but we have to find -- and they will
7 always have bricks and mortar. They will
8 always have agents, and we can require
9 that and what we do in the states. So,
10 you know, I thought I put together the
11 best skeleton that I could to have the
12 commissioners come together and give me
13 input from every end.

14 We can't address one business. We
15 have obligations to promote free
16 enterprise, to promote transactions in an
17 ethical manner. So that was the job I did
18 and now we've got to finish it up. We
19 will welcome your testimony and anything
20 you want to submit to us, we will read, we
21 will listen to, we will consider it, and
22 we will look at all the evidence.

23 MR. HILEMAN:

24 Thank you. I appreciate it.

25 MR. POTEET (CHAIRMAN):

1 All right. Is that all you have, Ron?

2 MR. DUPLESSIS:

3 I am done. It was a good Session.

4 MR. POTEET (CHAIRMAN):

5 Did you have a comment?

6 MR. BOURGEOIS:

7 No, I am all in favor.

8 MR. POTEET (CHAIRMAN):

9 All right. Well, it looks like we
10 have no hearings for June.

11 MR. BOURGEOIS:

12 Motion to adjourn?

13 MR. POTEET (CHAIRMAN):

14 Just about. Any items for next
15 agenda? Does anybody have anything they
16 want to --

17 (No responses.)

18 MR. POTEET (CHAIRMAN):

19 Okay. I guess, we need a motion to
20 adjourn.

21 MR. BOURGEOIS:

22 I motion.

23 MR. POTEET (CHAIRMAN):

24 A motion right here.

25 MR. ROY:

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I second.

MR. POTEET (CHAIRMAN):

A second. All right. We're done.

(Whereupon, the taking of the
Louisiana Used Motor Vehicle
Commission Monthly Meeting was
concluded at 10:17 a.m.)

R E P O R T E R ' S P A G E

1
2
3 I, Angie Henning, Certified Court Reporter, in
4 and for the State of Louisiana, the officer, as
5 defined in Rule 28 of the Federal Rules of Civil
6 Procedure and/or Article 1434(b) of the Louisiana
7 Code of Civil Procedure, before whom this meeting
8 with the Louisiana Used Motor Vehicle Commission
9 was taken, do hereby state on the record:

10 That due to the interaction in the spontaneous
11 discourse of this hearing/proceeding, dashes (--)
12 have been used to indicate pauses, changes in
13 thought, and/or talkovers; that same is the proper
14 method for a court reporter's transcription of
15 proceeding; that the dashes (--) do not indicate
16 that words or phrases have been left out of this
17 transcript; and that any words and/or names which
18 could not be verified through reference material
19 have been denoted with the phrase "(phonetic)."
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1 STATE OF LOUISIANA:

2 PARISH OF EAST BATON ROUGE:

3 I, Angie Henning, Certified Court Reporter in
4 and for the State of Louisiana, as the officer
5 before whom this meeting was taken, do hereby
6 certify that the foregoing pages, constitute a
7 true and correct transcription to the best of my
8 ability of the evidence adduced on the taking of
9 the meeting of the

10 LOUISIANA USED MOTOR VEHICLE

11 COMMISSION MONTHLY MEETING,

12 on Monday, the 21st day of June 2010, 3132
13 Valley Creek, Baton Rouge, Louisiana; that the
14 statements for this hearing was reported by me in
15 the voicewriting reporting method and thereafter
16 reduced to typewriting by me; that I am not
17 related to counsel or to the parties herein, nor
18 am I otherwise interested in the outcome of this
19 matter.

20
21
22
23 ANGIE HENNING, CVR, CCR #23023
24
25