

LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
JULY 18, 2011
BEGINNING AT 9:34 A.M.

3132 VALLEY CREEK
BATON ROUGE, LOUISIANA

REPORTED BY:
BETTY D. GLISSMAN, CCR

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

1 APPEARANCES:

2
3 CHAIRMAN:

4 MR. JOHN POTEET

5
6 COMMISSIONERS PRESENT:

7 MR. GEORGE BREWER

8 MR. RHETT BOURGEOIS

9 MR. RON DUPLESSIS

10 MR. GEORGE FLOYD

11 MR. KIRBY ROY

12 MR. HENRY "DARTY" SMITH

13
14
15 REPRESENTING THE LOUISIANA USED MOTOR
16 VEHICLE COMMISSION:

17
18 ROBERT W. HALLACK, ESQUIRE
19 HALLACK LAW OFFICE
20 13007 JUSTICE AVENUE
21 BATON ROUGE, LOUISIANA 70816
22
23
24
25

1 ALSO PRESENT:

2
3 MS. KIM BARON

4 MR. DEREK PARNELL

5 MS. MONA ANDERSON

6 MR. BUTCH WRIGHT
7
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1 MR. POTEET:

2 Mr. Roy, do you want to lead
3 us in the Pledge?

4 MR. ROY:

5 Yes, sir.

6 (Pledge of Allegiance)

7 MR. POTEET:

8 Ms. Baron, do you want to do
9 a roll call?

10 MS. BARON:

11 John Poteet?

12 MR. POTEET:

13 Here.

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 (No response.)

1 MS. BARON:

2 Ron Duplessis?

3 MR. DUPLLESSIS:

4 Here.

5 MS. BARON:

6 George Floyd?

7 MR. FLOYD:

8 Here.

9 MS. BARON:

10 Kirby Roy?

11 MR. ROY:

12 Here.

13 MS. BARON:

14 Darty Smith?

15 MR. SMITH:

16 Here.

17 MS. BARON:

18 Douglas Turner?

19 MR. TURNER:

20 (No response.)

21 MS. BARON:

22 Mr. Chairman, we have a

23 quorum.

24 MR. POTEET:

25 Thank you, Kim.

1 Do we anything for public
2 comment, Derek?

3 MR. PARNELL:

4 No.

5 MR. POTEET:

6 No public comment today.

7 Items for discussion, the
8 first thing is the approval of minutes from
9 the previous meeting. I'm assuming you all
10 have had a chance to read those.

11 Any comments? If not, we
12 need to get a motion to approve.

13 MR. ROY:

14 I so move.

15 MR. SMITH:

16 I second.

17 MR. POTEET:

18 Any opposed?

19 (No response.)

20 MR. POTEET:

21 I guess we are approved.

22 Financial matters, Ms. Mona,
23 are you ready to go?

24 MS. ANDERSON:

25 The statements that you have

1 in your packet are for the end of the fiscal
2 year. However, these are unaudited
3 financial statements. So there will be
4 additional entries that are made during the
5 audit and you will get a revised statement
6 after the audit is finished.

7 On Page 1 is the balance
8 sheet. The balance in the bank account for
9 June 30, 2011 was \$707,525. On the accounts
10 receivable hearings code, we had an increase
11 of \$15,000. There were some letters sent
12 out at the end of June that we will discuss
13 in a later report.

14 And on Page 2 of the balance
15 sheet, the end-of-year revenue over
16 expenditures was \$159,879.

17 On Pages 3 through 6, you
18 have your revenue and expenditure statement
19 for June -- ending June 30.

20 On Page 4 in the middle of
21 the page, the revenues year to date are
22 \$1,076,439, which was about \$63,700 higher
23 than in 2010. We ended with about four
24 percent down from budgeted revenues, but
25 those revenues were budgeted at the end of

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1 2009. So that's fairly good. In the
2 expenditures category under salaries,
3 salaries and related benefits were -- for
4 the year to date were \$636,875 and that
5 included an increase in premium in June. We
6 deducted premiums, which were remitted in
7 July, for July 1, and there was an increase
8 in group insurance premiums for this fiscal
9 year. Salaries were under budget 7.5
10 percent.

11 On Page 5, the operating
12 expenditures were 13.3 percent under budget
13 even though we have had some increases in
14 the utilities due to the weather. The
15 professional services year to date were
16 \$75,266. Under the other professional
17 services, we were a little bit over budget,
18 about \$1,200 over budget, because we had
19 some expenses that came in that were a
20 little higher. There were some -- I'm
21 sorry, some invoices that were lost in the
22 mail that we received in June, and so we
23 weren't able to amend our budget to, you
24 know, move that money around in that
25 category, but overall the professional

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1 services were still under budget.

2 On Page 6, the computer
3 system expenses, you see a negative there.
4 We had some reclassification. The servers
5 had been classified as an expense and they
6 were moved down into the capital outlay line
7 of the statement. So that -- it resulted
8 that month in a negative amount. The
9 capital outlays were 15.7 percent under
10 budget. We had a little bit over budget in
11 the office capital outlay and that was due
12 to we had to buy software licenses for the
13 CAVU program that we are going to be
14 installing and they were more than what we
15 had originally estimated. Overall, on your
16 statement, the unaudited revenue over
17 expenditures is \$159,879 compared to the
18 negative \$46,000 for 2010.

19 On the following page, you
20 have your comparison of the two fiscal
21 years, the revenue expenditure comparison,
22 and again it shows the net for this year
23 \$159,879. It does show in 2010 an unaudited
24 figure of 17. That probably was prior to
25 the journal entries for the audit and that's

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1 why the difference between that and the
2 prior report.

3 On the next page, your
4 certificate of deposit summary, the
5 Concordia Bank CD matured on July 3rd and we
6 had originally intended to renew the CDs on
7 a shorter period, so that we could spread
8 out our maturity dates across the year.
9 However, the rates have just plummeted. It
10 is a challenge to find any rate that's over
11 one percent. So we opted to go ahead and
12 just let those rollover. Possibly later in
13 the year, we may be able to -- if the rates
14 go back up, we can find a better home for
15 these, but you can probably expect the
16 Landmark CDs to go down, also.

17 On the following page, Page
18 9, is your accounts receivable hearings and
19 you can see down at the bottom there, we
20 sent out letters on the last four dealers
21 with fines totaling \$1,500. That was the
22 increase in your accounts receivable line
23 item. I think we've already begun to
24 receive some of those fines in the mail.

25 On the following page is a

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1 recap of the online renewal fee repayment
2 accounts. These are the accounts that are
3 still not paid. We started the year with
4 \$21,000 in accounts receivable on this line
5 item. We collected \$16,312. And this
6 report shows the accounts that make up the
7 remaining balance, which is \$4,691.15. The
8 majority of these accounts are either out of
9 business or some of them did not go back
10 into business even in 2010. As you can see,
11 some of them are 2009 fees and we are going
12 to ask that we write off this balance of
13 \$4,691 and not carry it into the new fiscal
14 year.

15 MR. POTEET:

16 I think that's a good idea.

17 MR. DUPLESSIS:

18 Done.

19 MR. POTEET:

20 All right.

21 MS. ANDERSON:

22 Unless there are any
23 questions, that concludes the financial
24 report.

25 MR. POTEET:

1 Any questions, anybody?

2 (No response.)

3 MR. POTEET:

4 We've done considerably
5 better than we did last year.

6 MR. DUPLESSIS:

7 Definitely.

8 MR. POTEET:

9 That's a good thing.

10 MR. BOURGEOIS:

11 Better accounting.

12 MR. DUPLESSIS:

13 Better everything.

14 MR. POTEET:

15 A lot of improvements in a
16 lot of areas.

17 MR. PARNELL:

18 Do we need to -- do we have
19 to -- do we need a motion to write off that
20 amount?

21 MR. POTEET:

22 I think we do, don't we?

23 MR. BOURGEOIS:

24 I think so.

25 MR. POTEET:

1 I think we do.

2 MR. BOURGEOIS:

3 I make a motion that we write
4 that balance off.

5 MR. POTEET:

6 The rest of it is online
7 fees. We have a motion to write off the
8 \$4,691.15.

9 MR. ROY:

10 Second.

11 MR. POTEET:

12 We have a second.

13 All in favor, say "Aye."

14 (All "Aye" responses.)

15 MR. POTEET:

16 Any opposed?

17 (No response.)

18 MR. POTEET:

19 Okay. We'll go ahead and
20 write that off. I guess we'll write that
21 off the next time -- well, I guess for the
22 year end --

23 MS. ANDERSON:

24 We'll carry that into the
25 year end, so we don't go into the new year

1 with it.

2 MR. POTEET:

3 Do we need a motion to
4 approve the financial statements?

5 MS. BARON:

6 Yes.

7 MR. POTEET:

8 I need a motion to approve
9 the financial statements.

10 MR. SMITH:

11 I make a motion.

12 MR. BOURGEOIS:

13 Second.

14 MR. POTEET:

15 All in favor, say "Aye."

16 (All "Aye" responses.)

17 MR. POTEET:

18 Any opposed?

19 (No response.)

20 MR. POTEET:

21 All right. Thank you, Mona.

22 MS. ANDERSON:

23 Thank you.

24 MR. POTEET:

25 As usual, good job. Well, I

1 say that. We'll see how audit comes out.

2 MS. ANDERSON:

3 That's not all my fiscal
4 year.

5 MR. POTEET:

6 Let's see, legal matters and
7 pending litigation.

8 Mr. Hallack, do you want to
9 talk to us about that?

10 MR. HALLACK:

11 In our last meeting, we
12 talked about the fact that we needed to get
13 outside -- out of state counsel to help us
14 collect the judgment that we have against
15 Sundance Boats. Sundance Boats is in a
16 small town in Georgia, about a population of
17 3,000. It's the county seat called Black
18 Shear, Georgia. If you look at it on a map,
19 it's one of the most isolated places in the
20 south. The closest city to Black Shear,
21 Georgia is Jacksonville, Florida. Black
22 Shear, Georgia is right on the edge of the
23 Okefenokee Swamp. The next town of any size
24 is a town called Waycross and Waycross is
25 considered to be the capital of the

1 Okefenokee Swamp and Waycross has 15,000
2 people. So finding a lawyer in that part of
3 Georgia to help us collect this debt is
4 going to be a little difficult.

5 MR. POTEET:

6 Savannah?

7 MR. HALLACK:

8 Savannah is about two to
9 three hours away. So it's not that far. I
10 mean, the next closest town is probably
11 Macon, and it's two or three hours away,
12 too. So we tried to find somebody locally,
13 so they wouldn't charge us a whole lot of
14 travel time, so -- but the other problem is,
15 there are a lot of boat manufacturers in
16 that area. In Waycross, Georgia, there's
17 another two or three boat manufacturers.
18 Carolina Skiff is in that area, so.

19 But we did find one lawyer in
20 Waycross, Georgia and his name is Dennis
21 Strickland. Dennis Strickland finally
22 called me back and said that he needs a
23 retainer of \$705, \$205 of which is the
24 filing fee, and he wants 25 percent
25 contingency on what he recovers. So he's

1 the only one that called me back.

2 I talked to another firm that
3 does collection work in that area and they
4 also -- they represent the president, Wally
5 Bell, on a personal level.

6 MR. POTEET:

7 I guess that wouldn't work.
8 Is 25 percent reasonable, is
9 that normally what they charge?

10 MR. HALLACK:

11 That's the only one that
12 called us back. I don't think it's very
13 reasonable. Originally, I thought it was
14 acceptable. Then, I called a couple of
15 attorneys in Baton Rouge that do collection
16 work and they said that's a little on the
17 high side for something you've already got.
18 I mean, it's not like you've got to go try a
19 case and do a lot of work. All you've got
20 to do is take our judgment and present it to
21 a judge and he makes it into a Georgia
22 judgment. I mean, it's just not a whole lot
23 of work, and we are not talking about
24 spending more than 15, 20 hours to make that
25 happen.

1 MR. PARNELL:

2 What percentage is a decent
3 contingency amount being that that one is
4 high?

5 MR. HALLACK:

6 Well, my friends tell me
7 around 15, 20 percent is acceptable, but, I
8 mean, we can go --

9 MR. POTEET:

10 What are our options?

11 MR. HALLACK:

12 None, unless we go to Atlanta
13 or -- I mean, Savannah is not that much
14 bigger. I mean, it's a little bit bigger
15 than Waycross. Black Shear is only 3,000
16 people.

17 MR. POTEET:

18 Well, Savannah is
19 considerably bigger than 15,000. I used to
20 live in Savannah.

21 MR. HALLACK:

22 Oh, really.

23 MR. POTEET:

24 I know where Waycross
25 is.

1 MR. HALLACK:

2 You do?

3 MR. POTEET:

4 I'm not sure where Black
5 Shear is.

6 MR. HALLACK:

7 It's 15 miles down the road.
8 They share the same circuit.

9 MR. POTEET:

10 Once you get south of
11 Savannah, there's really not much until you
12 get to Jacksonville and that's a long way
13 from Savannah to Jacksonville. So I know
14 the area you are talking about. It is very
15 isolated.

16 My personal opinion is that
17 if the guy is right there, we ought to go
18 ahead and take it, because you've got him,
19 he's willing to do it. You won't have to
20 spend any more time searching for an
21 attorney. You know, 25 percent of nothing
22 is nothing.

23 MR. BOURGEOIS:

24 Have you ever counteroffered
25 somebody like that?

1 MR. HALLACK:

2 Sir?

3 MR. BOURGEOIS:

4 Have you ever counteroffered
5 somebody like that or --

6 MR. HALLACK:

7 Well, we talked about it
8 before, that there really wasn't any point
9 in making a counteroffer.

10 MR. POTEET:

11 No. He's talking about the
12 attorney.

13 MR. HALLACK:

14 No, I haven't made a
15 counteroffer to him.

16 MR. POTEET:

17 You could ask him if he would
18 do it for 20 percent.

19 Does anybody have any -- I
20 mean, the idea here, in my opinion, is that
21 you have got -- how much time do you want to
22 spend searching for an attorney in Savannah
23 -- somebody in Savannah or Macon and they
24 say, you know, hey, you know, that's way
25 down there in the middle of the swamp, I

1 don't necessarily want to go down there for
2 less than 25 percent, anyway?

3 MR. HALLACK:

4 Right.

5 MR. DUPLESSIS:

6 He may well know where the
7 bones of the finances are buried.

8 MR. HALLACK:

9 Well, he's told me that he
10 had had previous dealings with him and the
11 family and that it was a real estate deal
12 about 21 years ago and he said, really, they
13 are very, very difficult people to deal
14 with.

15 MR. DUPLESSIS:

16 How much are we asking for in
17 the suit? Do we have a firm number or is it
18 a floating number and we will get a judgment
19 or what?

20 MR. HALLACK:

21 Well, he made a counteroffer
22 to them of 175.

23 MR. POTEET:

24 Yes, I was thinking about
25 175.

1 MR. HALLACK:

2 And he came back and said 20
3 for us to split with the dealer.

4 MR. DUPLESSIS:

5 But, I mean, that's a
6 counteroffer. In my opinion, counteroffers
7 are off the table when you don't have an
8 acceptance.

9 MR. HALLACK:

10 Right, right.

11 MR. POTEET:

12 What's the original --

13 MR. DUPLESSIS:

14 What's the original, was it
15 three --

16 MR. BOURGEOIS:

17 Three something, wasn't it?

18 MR. HALLACK:

19 It was three something.

20 MR. PARNELL:

21 Yes, about 350.

22 MR. BOURGEOIS:

23 Is there a time limit on that
24 judgment?

25 MR. HALLACK:

1 Yes, sir, 10 years.

2 MR. POTEET:

3 So we've got to put up \$705
4 for a retainer.

5 MR. BOURGEOIS:

6 We go for the full amount,
7 then?

8 MR. BREWER:

9 Well, we are going to get 25
10 percent of whatever he collects.

11 MR. POTEET:

12 I think if he collects
13 \$10,000 -- once we've collected it, once
14 it's collected, that's the end of it,
15 anyway, right?

16 MR. HALLACK:

17 That's right.

18 MR. DUPLESSIS:

19 Well, I mean, you may collect
20 it in increments. I mean --

21 MR. HALLACK:

22 You can't settle it for
23 judgment.

24 MR. POTEET:

25 He's going to get a judgment.

1 MR. DUPLESSIS:

2 Right.

3 MR. HALLACK:

4 The courthouse is across the
5 street from his office.

6 MR. POTEET:

7 From the attorney?

8 MR. HALLACK:

9 From the attorney.

10 MR. POTEET:

11 Well, there won't be much
12 travel.

13 MR. HALLACK:

14 And, like I said, it's the
15 same circuit. So the judges in Waycross are
16 the same judges that operate in Black Shear.

17 MR. BREWER:

18 Whatever we collect, are we
19 obligated to take care of the dealer -- boat
20 dealer in Covington?

21 MR. DUPLESSIS:

22 We can.

23 MR. HALLACK:

24 Well, we are obligated to
25 collect whatever part of that judgment

1 belongs to him. One and a half percent
2 penalty per month is in the same judgment.
3 So that one and a half percent per month,
4 according to the order of this Commission,
5 goes to that dealer. So whatever we
6 collect, we have to account for that. Now,
7 he was also talking about damages for taking
8 a bad deal and all of that. We can't
9 collect that. That's up to him to collect.

10 MR. DUPLESSIS:

11 We can't reimburse that
12 dealer, can we?

13 MR. HALLACK:

14 We cannot reimbursement for
15 his damage, no, but the one and a half
16 penalty goes to the dealer by order of the
17 Commission. So we have to account for that.
18 We have to, you know, tell him we are
19 settling this thing for \$100,000, you know,
20 you have one and a half percent penalty, how
21 much of that do you want considering the
22 fact that you haven't done a thing to try to
23 collect it?

24 MR. BOURGEOIS:

25 Do we have to vote on the

1 motion?

2 MR. DUPLESSIS:

3 I'm good.

4 MR. HALLACK:

5 If that's acceptable, you
6 know, I think probably a motion to say that
7 we authorize Derek to hire an attorney out
8 of Waycross, Georgia at 25 percent
9 contingency with a retainer of \$705.

10 MR. POTEET:

11 Is that a motion?

12 MR. BREWER:

13 I make a motion.

14 MR. DUPLESSIS:

15 Let me ask a question.

16 Within that motion, are we going to
17 authorize Derek to negotiate with this guy?
18 I think he is going to be squalling and he
19 is going to be squalling to settle. You
20 know, to get the whole 300, it's going to be
21 multiple filings and suits to do the
22 collection.

23 MR. POTEET:

24 I think we should include
25 that in the motion, to allow Derek to

1 negotiate.

2 MR. BREWER:

3 Yes, I include that in the
4 motion, to allow Derek to negotiate.

5 MR. BOURGEOIS:

6 Second.

7 MR. POTEET:

8 Second.

9 All in favor, say "Aye."

10 (All "Aye" responses.)

11 MR. POTEET:

12 Any opposed?

13 (No response.)

14 MR. POTEET:

15 All right. So, Derek, let's
16 try it and see how it works.

17 MR. PARNELL:

18 All right.

19 MR. POTEET:

20 Any other legal matters, is
21 that the only thing that we've got hanging
22 out there?

23 (No response.)

24 MR. POTEET:

25 All right, Derek, Mr.

1 Parnell, you've got the Executive Director's
2 report.

3 MR. PARNELL:

4 All right. The first item is
5 a review of the complaint totals. If you
6 turn with me in your folders -- your packets
7 and look at it with me with the alleged
8 issue counts, the first report, there were
9 34 alleged issues in the month of June.
10 Fifteen are refund requests or non-delivery
11 of title. In most of these cases, it's
12 always the same, it's kind of interrelated.
13 Once they get their title, they don't worry
14 about the refund anymore. They just move
15 forward with that.

16 The second report is the case
17 report. The case report breaks out the
18 amount of cases per investigator that were
19 assigned for the month of June. If you
20 notice any assigned cases, we have 35
21 assigned cases. Completed cases were 21.
22 Fourteen are still open. The total percent
23 of complete cases assigned in the month of
24 June was 60 percent.

25 The next report, if you will,

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1 is the department summary report. It's
2 total cases for the entire department that
3 were closed. It is 44. Twenty cases were
4 closed in the month of June. As always,
5 this doesn't specifically isolate just June.
6 Some of these case were actually assigned in
7 prior months, but just were closed in June,
8 plus this number is typically higher than
9 the other reports that we have out there.

10 The last report is our
11 comparison of June 2010 versus June 2011.
12 Of the assigned cases with June 2010, there
13 were 53 cases in 2010, and in June of 2011,
14 there were 33 cases assigned. Please notice
15 that the 33 total on the report in relation
16 to the second case report shows 35. The
17 discrepancy is due to the two cases assigned
18 to the claim against the bond and the
19 hearings that were out there.

20 Also, as a side note, during
21 the month of June 2011, Ms. Anderson, she
22 kind of mentioned it already, that four
23 licensees were fined a total of \$1,500. The
24 fines were from false and misleading
25 advertisement, non-delivery of title,

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1 selling from an unlicensed location and
2 selling -- employing unlicensed salesmen.
3 Some of those funds, about \$800, did come in
4 already for the month of July. That's not
5 going -- that didn't reflect on the
6 financials due to the fact that that was
7 specifically for that month.

8 The next item is the CAVU
9 update. It's kind of really an update for
10 you all. We're still going through the
11 process of updating, upgrading and our
12 training. Training is scheduled for August
13 8th, so we could spend that time that week.
14 It's probably a day and a half we will have
15 a representative come down and kind of work
16 with us on making sure that we are -- that
17 we understand the new upgrade and everything
18 that it's going to be able to do for us
19 moving with our renewals for this year.

20 So that kind of sums up
21 what's going on with the Executive
22 Director's report.

23 Do y'all have any questions
24 or concerns?

25 MR. POTEET:

1 The CAVU update, that's going
2 to be a complete new software?

3 MR. PARNELL:

4 Yes. It's going to be new
5 software -- well, it's updating what we
6 have. Like we said in the past, it's been
7 three years since we've had any updates on
8 that system completely. It's going to
9 update us as it relates to our dot-net
10 functionality and our online processing for
11 renewals, and that's the main thing that I'm
12 really kind of focusing right now on is
13 trying to ensure that our renewal process is
14 a little bit smoother than it has been in
15 the past.

16 Within the next probably 30
17 days or maybe right after we receive our
18 update, I'm going to kind of send out
19 communication to all of the dealers kind of
20 letting them know about what is going on as
21 it relates to your licensing, the districts
22 that are going to move there, which are four
23 and five, the Baton Rouge, New Orleans area
24 districts, and the -- one, two and three
25 will stay one year until next year.

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1 Just kind of inform everybody
2 this year, and I'm not -- I'm going to try
3 not to send out a packet as we did in the
4 past, because the cost, it was exorbitant.
5 I'm going to try to send out a communication
6 to let them know to go online and actually
7 print out their own packet versus us sending
8 out the whole packet, you know. So we'll
9 get there. The process is going to take a
10 little longer than I would like for us to
11 get totally automated in that fashion, but
12 we are working to get there.

13 MR. POTEET:

14 When are you going to make
15 the packets available online?

16 MR. PARNELL:

17 We are going to start working
18 on that this week, just getting them
19 together. Also, we need to go in and change
20 some of the applications to actually answer
21 questions that are more relevant now than
22 what we had in the past. So I want to have
23 it -- by the beginning of next month, I
24 would like to have it out there.

25 MR. POTEET:

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1 So we can make it available,
2 and then they can --

3 MR. PARNELL:

4 Yes.

5 MR. POTEET:

6 So you kind of know where you
7 are --

8 MR. PARNELL:

9 Right.

10 MR. POTEET:

11 -- as you go along, how many
12 people are getting online.

13 Do you have any idea what --
14 just based on your e-mail conversations have
15 been with dealers what might be the number,
16 30 percent, 40 percent?

17 MR. PARNELL:

18 That would get online?

19 MR. POTEET:

20 Yes.

21 MR. PARNELL:

22 I don't think it would be
23 that much, maybe 20 percent the first year.
24 You know, last year, we had quite a few
25 dealers. So it's possible, but, you know,

1 we had some hiccups last year online. So I
2 don't know if some of them may be afraid to
3 deal with it at all this year, but I'm going
4 to try to push it as much as possible to get
5 them to really start viewing the agency as
6 going more online with their renewal
7 processes and complaints and everything else
8 that we actually do here. So I hope that it
9 could be about 40 percent, but I don't know.

10 MR. POTEET:

11 And not to bring up a bad
12 subject, but do we have a procedure for
13 making sure that we get our collections --

14 MR. PARNELL:

15 No -- well, we do.

16 MR. POTEET:

17 -- for the credit card
18 collections?

19 MR. PARNELL:

20 Well, once we went through --
21 last year when we went through those issues,
22 we kind of put a procedure in place then
23 with a credit card company and they actually
24 moved to a newer credit card company and
25 kind of spoke with them, but it's kind of in

1 a good place now. This same situation
2 wouldn't take place, because we set it up to
3 automatically actually batch for us.

4 MR. POTEET:

5 So there is a way to follow
6 up?

7 MR. PARNELL:

8 Yes. Prior, you know, it
9 wasn't set up to do that, but at that time
10 is when we went ahead and set it up. So in
11 the future, we won't have those issues.

12 MR. POTEET:

13 All right. Good.

14 Does anybody else have any
15 questions? George?

16 MR. BREWER:

17 Going back to Page 9 there,
18 have we done any -- what's been done about
19 Midcity Auto?

20 MR. PARNELL:

21 Midcity, that is -- the
22 bonding company is the one they gave us
23 little issues with their interpretation of
24 the law, how it's written and what we are
25 eligible to go after with the bond. So

1 right now we are still back and forth with
2 them trying to get them to look at it. We
3 have been missing them for like the last
4 four days. We call. They call. We e-mail.
5 We have just been missing each other. I
6 think once we really have a good
7 conversation about what our statute states
8 and what we can get from our bonds, I think
9 it's -- I think it will be okay. Right now,
10 I think it's more of an interpretation thing
11 on their part. They interpret it to mean
12 something else.

13 MR. BREWER:

14 Are they still in business?

15 MR. PARNELL:

16 Midcity is out of business.

17 They are out of business.

18 MR. POTEET:

19 We are just trying to collect
20 from the bond?

21 MR. PARNELL:

22 We are just trying to collect
23 now the \$22,000 that's out on their bond.

24 MR. BREWER:

25 Did they open up under some

1 other name, do you know?

2 MR. PARNELL:

3 Not that we know of. We have
4 been kind of monitoring -- I have the
5 investigator in that area kind of monitoring
6 that area as much as possible. To this
7 point -- to this date, we don't know of any
8 -- of them opening up anything else. If
9 they would have done that, I know
10 Commissioner Turner told me that he heard
11 that they had opened up with neither of the
12 parties that were involved in that lawsuit
13 -- well, not in the lawsuit, in the
14 judgment, but with another individual. But
15 we have tried to follow those leads, but we
16 didn't find anything else out about that.

17 MR. POTEET:

18 Any other questions for
19 Derek?

20 (No response.)

21 MR. POTEET:

22 All right. I think it's time
23 to hear from the Legislative Committee.

24 MR. DUPLESSIS:

25 House Bill 400 has turned

1 into Resolution 115?

2 MR. PARNELL:

3 Yes.

4 MR. DUPLESSIS:

5 And it's interesting. It was
6 -- the young man that brought 400 really did
7 a fabulous grassroots job of promoting the
8 bill and explaining it and getting it to a
9 resolution. And it's a Study Committee
10 resolution and it was ordered by the House
11 and I'll let you know what a resolution is
12 and I will explain it in a second.

13 The House has ordered that
14 the Used Car Commission and the Insurance
15 Commission come together and actually form a
16 committee to study the issue. In the order,
17 it was to see whether the contingent
18 liability was truly a necessary entity of
19 licensing to buy here/pay here, rent-to-own
20 lease for the dealers and if there was an
21 adequate market that was served, and I think
22 the question that has come up is membership,
23 which was urged in the action of the House
24 400 bill.

25 So, very basically, we are

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1 going to have to contact the Insurance
2 Commissioner. We are probably going to have
3 to get a hall and issue a public hearing to
4 all concerned parties, come together and
5 listen to it and form an opinion.

6 And, Robert, help me, the
7 conclusion -- I've never been a part on the
8 other side, you know, our side of the Study
9 Committee. Do we have to determine a joint
10 conclusion or an independent conclusion with
11 the Insurance -- I never brought one to
12 fruition. They've always kind of settled
13 out, you know, and we submit it to -- we
14 submit it back to Cortez and he is going to
15 carry a bill and report next year and
16 rewrite the bill. So I think we will see a
17 passage on this at some point in time, but I
18 think we are probably obligated to have a
19 public hearing with the insurance company
20 and hear all sides.

21 MR. HALLACK:

22 Sure. We did this before on
23 this particular statute with the Attorney
24 General's Office. So, I mean, it's -- this
25 bill -- I mean, this statute has been

1 through the ringer before and we did come up
2 with a resolution at that time. It's the
3 same resolution that the broker keeps saying
4 was defeated in the House Committee, it was
5 never presented. So I think we should also
6 get the Attorney General's Office involved
7 in this, too. The same lady that helped us
8 write an amendment to it five years ago is
9 still with the Attorney General's Office,
10 although she is claiming she may retire
11 soon. So I think we should get her involved
12 with it, too.

13 MR. DUPLESSIS:

14 What do you see timing-wise?

15 MR. HALLACK:

16 Well, you know, the
17 pre-filing is usually like mid February.
18 So, I mean, whatever comes up, we kind of
19 need to have something, a draft in place for
20 the Commission to review and consider and
21 vote on before we send it on to
22 Representative Cortez.

23 MR. DUPLESSIS:

24 Do we want to set a date
25 somewhere in October and let you guys --

1 Derek -- yourself and Derek and Sheri try to
2 get involved from the standpoint of setting
3 up the protocol and the events?

4 MR. HALLACK:

5 Yes. Somewhere between
6 October and January, yes. I think October
7 may be a little soon.

8 MR. DUPLESSIS:

9 Well, we can start running it
10 in November and Christmas, and then in
11 January, we have our Legislative Committee
12 meeting. We don't want to get clogged up in
13 that mess and we have to report by February.

14 MR. HALLACK:

15 And November is kind of hard,
16 too, because of Thanksgiving.

17 MR. DUPLESSIS:

18 Exactly.

19 MR. POTEET:

20 I think the sooner the
21 better. I mean, if Derek has been -- you've
22 talked to some people at the Commission --
23 at the Insurance Commission, right?

24 MR. PARNELL:

25 Yes, yes.

1 MR. POTEET:

2 So, I mean, we've kind of got
3 the ball rolling on that and, as I
4 understand it, what we do is, you guys sort
5 of get together and figure out what we all
6 want, and then from that point, then we set
7 a public hearing, right?

8 MS. BARON:

9 Yes.

10 MR. POTEET:

11 You kind of throw that out
12 there and say, here's what we are going to
13 do, unless thousands of people in the
14 audience don't want us to do it.

15 MR. DUPLESSIS:

16 Then, we will hear it in a
17 large venue and you guys set -- y'all set
18 the kind of the hearing protocol. I have no
19 experience on sitting on that side of the
20 table.

21 MR. HALLACK:

22 I think the key question is
23 when would the Commission want to look at a
24 draft of what we are proposing? Do you want
25 to look at it at the November meeting or do

1 you want to do it in late October?

2 MR. POTEET:

3 Is that -- when you say what
4 we are proposing, would that be after you
5 have talked to the other parties here and
6 before the hearing?

7 MR. HALLACK:

8 Yes. You've got to make
9 findings from a meeting.

10 MR. DUPLESSIS:

11 We'll do that in November.

12 MR. HALLACK:

13 You take the findings and you
14 bring them to the Commission and the
15 Commission votes on it and decides whether
16 or not they want to accept those or amend
17 those. Then, we need to send it on to
18 Representative Cortez and say, this is what
19 we came up with.

20 MR. POTEET:

21 I would say no later than
22 November.

23 MR. DUPLESSIS:

24 I agree.

25 MR. HALLACK:

1 So we probably need to do
2 this sometime in late October.

3 MR. POTEET:

4 I think we owe a lot to Mr.
5 Castille. Is that his name?

6 MR. PARNELL:

7 Yes.

8 MR. POTEET:

9 He's carried the ball, of
10 course, it's for his business, too.

11 MR. DUPLESSIS:

12 Right.

13 MR. POTEET:

14 But he's been a gadfly. He
15 hasn't given up on this.

16 MR. DUPLESSIS:

17 Why don't you set it if you
18 can for the afternoon after the Commission
19 hearing and we will do it maybe at the
20 Department -- at the State Archives, and
21 then if the Commissioners want to attend,
22 they certainly can. So that will be a
23 convenient time for everyone here at the
24 Commission.

25 MR. HALLACK:

1 Okay. In the meantime, we
2 still have three dealers that don't have
3 correct insurance.

4 MR. PARNELL:

5 That was going to be my next
6 point.

7 MR. HALLACK:

8 I'm sorry.

9 MR. POTEET:

10 It doesn't matter who brings
11 it up, we have to deal it.

12 MR. PARNELL:

13 We still three dealers out
14 there right now that either have incorrect
15 insurance or lapsed -- well, four really,
16 one with lapsed insurance, and we need to
17 kind of talk about what do we want to do
18 with them. I know in April when we kind of
19 talked about it in the past then, you know,
20 the Commissioners, kind of told me to kind
21 of stand down on it right then, because we
22 wanted to see what was going on with that
23 bill, but now we kind of see that 400 is not
24 in existence anymore.

25 I did talk with Deputy

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1 Commissioner Ron Henderson with the
2 Insurance Commission and I guess what the
3 whole thing was, was that we probably would
4 run into again is if available, that's in
5 the current statute. Last year, we said
6 that, you know, if it's available, if it's
7 out there, all of the dealers, they need to
8 have it, they need to go ahead and get their
9 insurance if it's out there. What we did
10 was we kind of contacted Deputy Commissioner
11 Henderson and -- just kind of to get his
12 opinion on what he thought if available
13 meant in that statute, and he kind of
14 brought it before other Commissioners --
15 other Deputy Commissioners and their chief
16 legal counsel and they basically stated --
17 he basically stated that if it means that
18 you have to purchase -- you have to join
19 that organization, if available is not
20 available for them. Thus, you go to the
21 surplus lines.

22 I know at that one point,
23 that's what this Commission was doing,
24 but last year when we were fighting with
25 them, we kind of went with that -- the fact

1 that if it's out there -- the insurance is
2 out there, then we would have to have our
3 dealers go with them. So I guess I want to
4 get a little direction from you all which
5 way should I take that? What should I do
6 with those dealers out there right now that
7 either don't have the proper insurance, what
8 we said last year, or that have lapsed and
9 don't have any insurance right now? I know
10 of one in particular.

11 MR. POTEET:

12 So we are in the position of
13 interpreting if available?

14 MR. HALLACK:

15 That's correct. Last year,
16 we had a fight with the broker, this
17 Commission did, and when I say last year, I
18 mean 2010. They wanted to remove the phrase
19 if available. The statute reads that you
20 have to get this insurance from an admitted
21 carrier if available. We have a Policy #78,
22 which is a resolution of this Commission,
23 interpreting that to say that if available
24 meant that if there was not an admitted
25 carrier, then you could -- and there was

1 only one admitted carrier -- I'm sorry, if
2 there was only one admitted carrier, you
3 could go to the non-admitted approved white
4 list and get your insurance through them.

5 We had to fight with them
6 last year and we agreed that if there were
7 two admitted carriers available, that the
8 dealer had to get insurance from one or
9 the other. And that's if there weren't two
10 available and if it went back to just one,
11 then you could go to the approved list --
12 the non-admitted approved list. I think the
13 way the bill ended up, and then it died its
14 own natural death was, they were trying to
15 write a statute to the effect that if you
16 had to be a member of an organization in
17 order to achieve this insurance, then that
18 meant that it was not available. And that's
19 what Derek was saying about the opinion from
20 Mr. Henderson at the insurance office, that
21 if you have to be a member of an
22 organization, then that insurance is not
23 available to you. And right now, both
24 admitted insurance -- you have to be a
25 member of an organization whether it's

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1 SEADRA or Rent-T-Own.

2 MR. POTEET:

3 Well, if I remember from the
4 last couple of meetings, we sort of
5 interpreted that in this group to be that
6 you shouldn't have to join an organization
7 to buy the insurance. So that would tell me
8 that we are saying it's not available; am I
9 right?

10 MR. HALLACK:

11 That would be in keeping with
12 the way the Department of Insurance is
13 interpreting it, too.

14 MR. POTEET:

15 So how do we follow up with
16 these guys that are -- you know, let their
17 insurance lapse or do we just say to them,
18 you need to stay on top of this and find out
19 when it's available or do we have to find
20 out when something becomes available or --

21 MR. HALLACK:

22 You need to amend Policy #78
23 to interpret what this Commission believes
24 if available means. If your interpretation
25 is that if you have to be a member of an

1 organization in order to acquire the
2 insurance, then that means it's not
3 available.

4 MR. PARNELL:

5 And the policy needs to state
6 that specifically.

7 MR. POTEET:

8 Okay. I have a question
9 about that. I think that's a good idea, but
10 since these guys at SEADRA and Rent-T-Own
11 are so dead set against all of this to begin
12 with, would it be a good idea for us to
13 throw something out there for all of the
14 world to see?

15 MR. HALLACK:

16 Absolutely, you have to. So
17 I mean, that's something we can't really
18 deal with today. So we'll have to put it on
19 the agenda for next month.

20 MR. DUPLESSIS:

21 Why don't you get a letter
22 from the Department of Insurance with their
23 interpretation and we will just simply
24 ratify them?

25 MR. POTEET:

1 That's kind of what we are
2 working on.

3 MR. DUPLESSIS:

4 Okay.

5 MR. POTEET:

6 And we can talk about
7 that at the next meeting, right? So for the
8 next 30 days, we leave these guys alone.

9 MR. HALLACK:

10 Yes, sir.

11 MR. DUPLESSIS:

12 Well, don't you have two
13 different issues? You have groups deemed
14 not to have the proper --

15 MR. HALLACK:

16 Correct.

17 MR. DUPLESSIS:

18 -- because of the
19 organization, which we won't worry about,
20 but the guy that lapsed, there is no excuse
21 for that. We will have to enforce that one.

22 MR. PARNELL:

23 Now, with him, what do I do,
24 I make him get the insurance that the other
25 guys have?

1 MR. DUPLESSIS:

2 I don't think that you can
3 direct him. He will find his own way. He
4 will find his on way.

5 MR. PARNELL:

6 His first question is going
7 to be, can he go with the --

8 MS. BARON:

9 With the surplus company.

10 MR. PARNELL:

11 -- surplus company, because
12 he's been the crux in the whole thing.

13 MR. HALLACK:

14 That's the problem, because
15 he is going to have to pay a premium.

16 MR. DUPLESSIS:

17 Well, call the Deputy
18 Commissioner of Insurance and see how they
19 interpret it. I'm not sure.

20 MR. HALLACK:

21 Well, we have it in writing
22 from them.

23 MR. PARNELL:

24 I have an e-mail from him.

25 MR. DUPLESSIS:

1 In that case, you can forward
2 it on.

3 MR. BOURGEOIS:

4 You can give him a certain
5 amount of days to get it, once you give him
6 that opinion?

7 MR. DUPLESSIS:

8 Yes.

9 MR. POTEET:

10 Thirty days what we give him?

11 MR. BOURGEOIS:

12 No. I'd give him three.

13 MR. PARNELL:

14 I would give him five days
15 max.

16 MR. BOURGEOIS:

17 Insurance is a big issue.

18 MR. PARNELL:

19 Because doesn't have any
20 insurance.

21 MR. POTEET:

22 He let everything lapse.

23 MR. PARNELL:

24 We have a fee for lapsed
25 insurance. He is going to pay that, too.

1 MR. POTEET:

2 I misunderstood. I thought
3 you were talking about just the contingent
4 liability.

5 MR. PARNELL:

6 No. He's out right now. So
7 I will give him a max of five days.

8 MR. POTEET:

9 So we know what we are doing
10 with all of this? And in conclusion --

11 MR. DUPLESSIS:

12 That concludes my report, Mr.
13 Chairman.

14 MR. POTEET:

15 Thank you.

16 We've got some hearing
17 matters for us.

18 How do we handle this?

19 MR. BOURGEOIS:

20 Motion to adjourn.

21 MR. POTEET:

22 Motion to adjoin.

23 Do I have a second?

24 MR. SMITH:

25 Second.

1 MR. POTEET:

2 All right. This meeting will
3 be adjourned until after the hearings.
4

5 (Meeting adjourned at 10:18 a.m.)
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2

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