

LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
JANUARY 28, 2013
BEGINNING AT 9:35 A.M.

3132 VALLEY CREEK
BATON ROUGE, LOUISIANA

REPORTED BY:
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1 APPEARANCES:

2

3 CHAIRMAN:

4 MR. JOHN POTEET

5

6 COMMISSIONERS PRESENT:

7 MR. GEORGE BREWER

8 MR. TONY CORMIER

9 MR. RON DUPLESSIS

10 MR. GEORGE FLOYD

11 MR. KIRBY ROY

12 MR. HENRY "DARTY" SMITH

13 MR. DINO TAYLOR

14 MR. DOUGLAS TURNER

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18 REPRESENTING THE LOUISIANA USED MOTOR
19 VEHICLE COMMISSION:

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

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

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1 ALSO PRESENT:

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3 MS. KIM BARON

4 MR. DEREK PARNELL

5 MS. MONA ANDERSON

6 MR. KEVIN REMBERT

7 MS. SHEILA JONES

8 MS. BECKY BERTRAND

9 MS. TONYA BURKS

10 MS. CHRYEL WALTON

11 MS. JUNE POWELL

12 MS. STACY GAUDIN

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1 MR. POTEET:
2 Pledge of Allegiance.

3 (Pledge of Allegiance)

4 MR. POTEET:
5 Roll call.

6 MS. BARON:
7 John Poteet?

8 MR. POTEET:
9 Here.

10 MS. BARON:
11 George Brewer?

12 MR. BREWER:
13 Here.

14 MS. BARON:
15 Dino Taylor?

16 MR. TAYLOR:
17 Here.

18 MS. BARON:
19 Tony Cormier?

20 MR. CORMIER:
21 Here.

22 MS. BARON:
23 Ron Duplessis?

24 MR. DUPLESSIS:
25 Here.

1 MS. BARON:
2 George Floyd?

3 MR. FLOYD:
4 Here.

5 MS. BARON:
6 Kirby Roy?

7 MR. ROY:
8 Here.

9 MS. BARON:
10 Darty Smith?

11 MR. SMITH:
12 Here.

13 MS. BARON:
14 Douglas Turner?

15 MR. TURNER:
16 Here.

17 MS. BARON:
18 Mr. Chairman, we have a
19 quorum.

20 MR. POTEET:
21 We have a full house.

22 MS. BARON:
23 Full house.

24 MR. POTEET:
25 Do we have anyone here for

1 public comments today?

2 MS. BARON:

3 We do not.

4 MR. POTEET:

5 All right. So items for
6 discussion. Hopefully, everyone had a
7 chance to read the minutes of the previous
8 meeting and if there's any -- not any
9 discussion, I will entertain a motion to
10 approve those minutes.

11 MR. SMITH:

12 I'll make a motion to
13 approve.

14 MR. BREWER:

15 Second it.

16 MR. POTEET:

17 We have a motion and a
18 second.

19 All in favor, say "Aye."

20 (All "Aye" responses.)

21 MR. POTEET:

22 Any opposed?

23 (No responses.)

24 MR. POTEET:

25 Okay. Next, we'll move on to

1 financial matters. We have our financial
2 expert, Mona, here today.

3 MS. ANDERSON:

4 If you'll turn in your packet
5 to the financial statements, the balance
6 sheet is on Pages 1 and 2. On Page 1, the
7 balance in the bank account at the end of
8 December was \$1,439,179. This is a gross
9 increase of about \$170,000 over last year
10 same time. Part of that was due to the
11 deferred revenue. The balance in the
12 hearings and fines account was \$91,900. If
13 you'll look under the property and
14 equipment, the -- we've added a line for
15 intangible assets and that's our website --
16 our new website design and we'll be
17 depreciating that asset over three years.

18 On Page 2 of the balance
19 sheet, our deferred revenues totaled
20 \$299,500 and that's the 2013 and '14
21 deferred revenues. Turning on to Pages 3
22 through 5 is our income statement. Midway
23 of Page 3 down at the bottom, our
24 year-to-date revenue was \$785,214. The
25 revenue last year was higher and that was

1 primarily due -- we received a refund -- we
2 received an overpayment last year from a
3 chain of national parts stores and we had to
4 refund that later in April. It was kind of
5 a confusion of the two year license for
6 multiple locations. So that was \$22,000 of
7 the difference between this year and last
8 year.

9 And on Pages 3 and 4, the
10 salaries and benefits were up about \$15,900
11 and that's due primarily to the increase in
12 the staff size that we made in our process,
13 the renewals. All of the other expenditures
14 on the statement were lower than last year
15 and the year-to-date expenditures were up
16 only \$2,170. So you can see our year to
17 date on -- year-to-date net income on Page 5
18 down at the bottom was \$337,561 compared to
19 \$377,448 last year and, again, that primary
20 difference is that overpayment in 2011.

21 Turning on to Page 6, that
22 report again shows our net revenue -- our
23 net income of \$337,561. You can see our
24 fund balance there.

25 If you turn on to Page 7, you

1 can see we have added a graph of our
2 revenues and expenditures and our fund
3 balance for the last two years. So you can
4 see graphically how we're doing.

5 Turning on to the accounts
6 receivable hearings and fines, our balance
7 again was \$91,900, and we are -- there are
8 three accounts really that we're waiting on
9 insurance, Knight Affordable, Car Boyz has
10 two balances and Affordable Imports. On the
11 other accounts, we're going to be pursuing
12 regular collection on the balances that are
13 due by those entities. And then we've got a
14 couple that are in legal -- that are tied up
15 legally.

16 So turning on to Page 9, the
17 certificates of deposit, this report is --
18 for December was basically the same.
19 However, at the beginning of January, these
20 two Concordia CDs, we rolled those over and
21 the rate dropped to .55. We were unable to
22 secure another bank that would take those
23 CDs at a higher rate.

24 So unless there are any
25 questions, that's concludes my report.

1 MR. POTEET:

2 No questions?

3 Doug?

4 MR. TURNER:

5 No questions.

6 MR. POTEET:

7 All right. I guess what --

8 we need to have a motion to approve the

9 financial report.

10 MR. TURNER:

11 Motion to approve the report.

12 MR. CORMIER:

13 Second.

14 MR. POTEET:

15 A second.

16 All in favor, say "Aye."

17 (All "Aye" responses.)

18 MR. POTEET:

19 Any opposed?

20 (No response.)

21 MR. POTEET:

22 All right. The next thing on
23 our agenda are the legal matters and pending
24 litigation. Mr. Hallack.

25 MR. HALLACK:

1 I think the first one on
2 there is Value Imports.

3 MR. POTEET:

4 Yes.

5 MR. HALLACK:

6 They've taken an appeal to
7 the First Circuit Court of Appeal.
8 Everybody has their briefs filed timely.
9 This case is to be heard by the Court of
10 Appeals in March, which generally means that
11 we can expect a decision from the First
12 Circuit probably six to eight weeks after
13 the time it's scheduled to be heard.

14 MR. POTEET:

15 Late April, maybe.

16 MR. HALLACK:

17 Late April, early May, yes.

18 The other matter is the A-1.
19 Everything has been filed on A-1. The court
20 has scheduled oral arguments in that matter
21 for March 18th. So we'll have a decision
22 from the 19th Judicial District Court on
23 March 18th, which I think might present a
24 scheduling problem. I may not make it to
25 the March 18th meeting.

1 MR. POTEET:

2 Yes. That's the date of the
3 March meeting.

4 MR. HALLACK:

5 Right. So I really don't
6 recommend trying to reschedule the hearing
7 before the court.

8 MR. POTEET:

9 We'll make sure you're
10 deployed at the most important meeting that
11 day.

12 MR. HALLACK:

13 Thank you.

14 MR. POTEET:

15 All right. Executive
16 Director's report.

17 MR. PARNELL:

18 The first item is review of
19 complaints totals. If you would turn with
20 me, if you will, to the alleged issue counts
21 report that we have here. For the month of
22 December, 2012, there were 78 alleged
23 issues, 24 of which were not non-delivery of
24 title. The next item is the case report,
25 which illustrates the number of cases of the

1 ones that were assigned. In the month of
2 December, 59 were assigned. Six of those
3 cases were closed, which leaves the
4 remaining open cases of 53. The department
5 summary report pretty much kind of gives you
6 what was actually closed for that month and
7 the month of December was 48.

8 I do want to take the
9 opportunity -- if you look back to the back
10 of room, our new employee is Chryel Walton.
11 She is going to be a field investigator
12 working in District 3 and District 4, which
13 is our Lake Charles and our Baton Rouge
14 area. She comes from Office of Motor
15 Vehicles, 26 years experience over there.
16 She's -- a lot of our dealers know her
17 already from going out and investigating on
18 the Office of Motor Vehicle side. So she
19 knows a lot about our dealers already and I
20 think she's going to be a great asset to us
21 here at the Commission. We just want to
22 welcome her and definitely -- do you have
23 anything that you would like say.

24 MS. WALTON:

25 I just want to say I'm

1 looking forward to working with y'all. I
2 know I come from Motor Vehicle and I've
3 worked with NMVTIS and the auto hulk
4 process. So I'm hoping that I'll bring some
5 value here. Also, and I'm looking forward
6 to it. Thank you.

7 MR. POTEET:

8 Thank you. We're glad to
9 have you aboard.

10 MR. PARNELL:

11 The next item is the
12 licensing update. Currently, we're on --
13 what is it, January 28th, and I think --
14 what date are we looking at?

15 MS. BARON:

16 The 22nd.

17 MR. HALLACK:

18 This licensing renewal
19 process this year has been the best one that
20 I've been -- experienced. I haven't had any
21 complaints at all. I don't know if you-all
22 have had any. Currently, like I said, we're
23 working on -- they're working on January
24 22nd date, the 28th. I mean, that's a huge
25 -- a serious turn around, you know, from

1 what we were doing in the past. Initially,
2 before we started, I told them I didn't want
3 to have anything in the office fourteen days
4 out, if we had everything in hand, if we had
5 all of the information, I wanted it
6 processed and out of the office in 14 days,
7 and they've done an excellent job at doing
8 that. And it's -- I'm just excited about
9 moving forward and trying to do some
10 different things, so we can streamline it a
11 little bit better in the future.

12 The next thing I really want
13 to work at, and it's something that we kind
14 of put on the back burner a little while,
15 but I'm really trying to gear up now to kind
16 of focus on that, which is our licensing
17 program. We didn't run into problems this
18 year, but we didn't get everything we were
19 looking for either. So, you know, they
20 didn't hinder us as they have in the past,
21 but it's just not moving in the direction we
22 need to go. And so I'm really trying to
23 concentrate now on trying to move forward
24 and finding us a different direction. That
25 kind of concludes my report.

1 MR. POTEET:

2 I don't know if any of the
3 other car dealers in the room have talked to
4 your brethren, but when we see them at the
5 auction, usually this time of year, I get a
6 lot of complaints. This year, I haven't had
7 one complaint. In fact, I've had a lot of
8 people compliment us on the two year
9 licenses. It seems like that's a big hit
10 with everybody. I mean, I've had quite a
11 few people talk about that. So, you know,
12 from my perspective, I haven't heard
13 anything negative this year.

14 MR. PARNELL:

15 I haven't had any Legislators
16 call me. Normally, around this time of
17 year, every other phone call I have is from
18 some State legislative or state -- somebody
19 trying to find out what's going on with this
20 person's license. I haven't had any at all.

21 MR. TURNER:

22 The only glitch that I've
23 come across is, personally, we sent in our
24 renewal for our dealer plates, probably the
25 end of November, beginning of December, and

1 we kept wondering, we didn't get them,
2 didn't get them. And, finally, we got it
3 returned wanting my current year dealer
4 license, which, of course, they already had.
5 And so they're not up to speed on the two
6 year deal. So -- of course, we made another
7 copy and sent it to them, again. But that's
8 the only thing I've personally experienced.
9 I never heard any complaints from anybody on
10 that.

11 MR. POTEET:

12 I agree with you. This is
13 the best since I've been on the Commission.

14 MR. PARNELL:

15 The least stress that I've
16 been dealing with.

17 MR. POTEET:

18 Okay. I guess the next thing
19 we would have is, Ron will talk a little bit
20 about the legislative session coming up.

21 MR. DUPLESSIS:

22 Okay. We've completed a lot
23 of our meetings and just about all of our
24 legislative plans for the year. This year,
25 Robert Hallack stepped up and tied up a

1 whole lot of loose ends, a lot of things we
2 uncovered. I think the issue, Dino, that
3 you were upset about where we couldn't
4 immediately put guys out of business, we've
5 addressed and we've moved that into
6 legislation. I think that's going to be an
7 easy one.

8 I'll tell you, before I let
9 Robert and Sheri talk about the legalese,
10 there are two issues that we're just
11 wrestling with and we're going to take a
12 little bit of a swipe at it this year, but
13 we're going to have to get more input. One
14 is curbstoning. It's just an ongoing
15 complex problem, and the other one is the
16 auctions, and this one is really intense. I
17 can't figure really out a way to do it, and
18 I think it's going to fall on the auctions,
19 which is to police their own activities.
20 But when you look at the broad sweeping
21 auctions smorgasbord, you have public
22 auctions, you have retail auctions, you have
23 the Barrett-Jackson, which is an antique
24 retail auction, and then you have the
25 standard wholesale auctions, you have the

1 scrap and the salvage auction, and then you
2 have the Internet auction, and those are two
3 forms.

4 There are immovable, like
5 cranes and boats and things that you can
6 pack up and drive through the lane and put
7 it on -- you know, it's got to be over the
8 Internet.

9 And the other aspect is, you
10 have eBay, you know, which is nationwide.
11 It's a wide open auction. It's an auction.
12 It's taking place in Louisiana. We can't
13 govern it. It would be a tough one to
14 undertake. And the other aspect of it is
15 bringing the retail customer into the
16 licensing. And then, you have the out of
17 state people. When you try to govern the
18 out of state people and interstate commerce,
19 man, that's an issue.

20 And I think John has come up
21 with an idea of a bid card, if you would, a
22 standardized nationwide auction card and
23 authorization. But at the end of the day,
24 the subject is so massive that I couldn't
25 begin to prepare something to put into

1 legislation that wasn't -- or just be a
2 quagmire. It would just be a tar baby. And
3 I don't think that anybody would be happy
4 with it. So next year, I think that we
5 really need to concentrate early and get the
6 help of the auction people and the dealers
7 and see how we can do it, but at the end of
8 the day, a lot of the curbstoning starts
9 from the elicited activity at the auctions
10 pairing up with the legitimate dealers and
11 give them a few bucks, and ya'll know how it
12 works, and then the cars show up on the curb
13 and that sort of thing. And the curbstoning
14 is going to be an enforcement issue, that
15 it's going to be dependent upon the
16 municipalities and how we write it.

17 Again, if you want a lot of
18 calls from Senators and Representatives,
19 it's going to be towing the car off the
20 grocery store and the landlord is
21 complaining, the customer is complaining, we
22 violated people's rights, and that's a
23 really tough issue for us. It's just not a
24 clear enforcement process that we see. So
25 it's going to take the same type writing,

1 the same kind of activity as kind of illegal
2 sales to the consumer direct and that's what
3 it has in common, but those are the
4 complications we face.

5 But Robert did an excellent
6 job this year, and Sheri always does a good
7 job, of making sure that we stay within the
8 scheme of the law and the guidelines and
9 everything is germane and that sort of
10 thing.

11 So, Robert, would you tell us
12 a little bit about the cleanup writing that
13 you have in cleaning up some of the appeal
14 process and that sort of thing?

15 MR. HALLACK:

16 Okay. Well, looking at Page
17 1, a lot of this stuff is just cleanup
18 stuff. It's stuff that should have been
19 thought of years ago and, for whatever
20 reason, wasn't. To explain a little bit, if
21 it's underlined, that means that's a new
22 provision. If it's struck through, that's
23 existing law that's been deleted. So, like,
24 on the first one under definitions, we
25 included the definition of a dismantler, a

1 person who deals in usable parts of a used
2 motor vehicle. Obviously, that's something
3 that's always been understood. It just
4 hasn't been in the law. So we're putting it
5 in the law to make it clear. Place of
6 business, we're adding auctioning and
7 renting, again to make it clear that auction
8 people and people who rent are part of what
9 we do.

10 The next one, definition of a
11 used motor vehicle salesperson, this
12 actually adds something new to the law. It
13 adds people who are engaged in the
14 management of the dealership. We've talked
15 to some of our people who work out in the
16 field and Kim confirmed that a lot of times,
17 people who are general managers of the
18 dealership may not have a license, but they
19 may engage in some sale of a used car. So
20 we included management along with finance
21 and insurance. So I want to make sure
22 everybody understands that's a new provision
23 that we're putting in there to include
24 management.

25 The next provision is --

1 deals with jurisdiction authority of the
2 Commission. It takes -- it makes -- it's a
3 clarification. I think Ms. Morris had put
4 this into the law. Maybe she -- if you want
5 to explain that.

6 MS. MORRIS:

7 Well, we had -- you might
8 recall it. We had a -- kind of a joint
9 effort with the New Car Commission and we
10 sent our inspectors with their inspectors to
11 audit some books. The way that section
12 reads right now is, if you're licensed by
13 the New Car Commission, then you're exempt
14 from licensure of this Commission, and there
15 are some cases where I think you would be
16 required to have licenses by both, and I
17 think that's kind of left over, something we
18 didn't cleanup when recreational vehicles
19 were moved over. It should have been looked
20 at a little bit more.

21 Also, there's a possibility
22 that you would be required to have a sales
23 finance license from the New Car Commission,
24 but still be under our regulations. So it
25 kind of clarifies what the exemption is.

1 But I think we also have to clarify it's in
2 their law because they have several places
3 where they talk about our exemptions.
4 They're not consistent. So we would have to
5 work that out with Burgee and Lessie.

6 MR. HALLACK:

7 Years ago, I think it was
8 like 2008, the New Car Commission did a
9 total rewrite of its laws, completely threw
10 away everything and completely rewrote it
11 because, I mean, they found out then that
12 their laws were a little confusing and hard
13 to follow, and the same people that wrote
14 their laws actually wrote our laws. So
15 we're still suffering from some of the
16 problems that they realized in 2008.

17 When they rewrote their laws
18 in 2008, they said -- put in their law that
19 anybody that's licensed by them does not
20 have to get a license by us, which would
21 mean that we have a lot of used motor
22 vehicle dealers who have motor vehicle sales
23 finance licenses from the New Car
24 Commission. So there was always a question
25 as to whether or not dual licenses were

1 required, a license to do motor vehicle
2 sales finance from the New Car Commission
3 and a license to be a used motor vehicle
4 dealer by this Commission. We always worked
5 it out where they agreed that used motor
6 vehicle dealers must be licensed by y'all,
7 independent used motor vehicle dealers must
8 be licensed by you. They still need to get
9 the motor vehicle sales finance license, but
10 they didn't trump our license. So you have
11 to have dual licenses if you do motor
12 vehicle sales finance. So I guess that's --

13 MS. MORRIS:

14 Just to try to clarify from
15 it from our side because it looks like the
16 intent on their side is if you're not -- if
17 you don't have a franchise agreement and
18 you're not selling new cars that you do need
19 to be licensed by this Commission, but our
20 Commission -- our exception is a little bit'
21 broader.

22 MR. HALLACK:

23 Right. We used to have a lot
24 of fights with the New Car Commission when
25 we did recreational products. And you

1 remember Peak BMW, they didn't want to have
2 a motorcycle license from this Commission
3 and all of that's taken care of. So most of
4 that problem is gone.

5 784 at the bottom of Page 2
6 basically outlines the various licenses or
7 the various businesses to which we issue
8 licenses, and we made a change in the
9 definition of a rent-to-own dealer in 2012.
10 So we wanted to make sure that that was
11 clarified in the law.

12 And, then, we also wanted to
13 make sure that we also license as a separate
14 license anybody that rents on a daily basis.
15 So we put that in the law.

16 And also, too, #6, we're
17 making sure everyone understand that a
18 salesperson is a separate license.

19 32:785, which is on the next
20 page, is a total rewrite, but 90 percent of
21 it is the existing law. It's just extremely
22 confusing. We have two processes. We have
23 the application process and we have things
24 that may come up for hearing. One is an
25 application. The other are violations. The

1 first part of this statute deals with the
2 application process. We've had people in
3 the past say, well, only the Commission, you
4 guys, can actually issue a license because
5 it doesn't say in the law. Well, we'll make
6 it clear that the Executive Director is the
7 person who is responsible for issuing the
8 license, but it gives the process to appeal
9 his decision. If the Executive Director,
10 for some reason, should deny an application,
11 they have a right to appeal it to you.
12 That's in the law, but it's very confusing,
13 almost impossible to follow. So all of that
14 dealing with an application process is in
15 here. It's the same thing.

16 MR. DUPLESSIS:

17 This also addresses the issue
18 we have of the cases where we've seen where
19 the husband is trying to transfer the
20 license to the wife, spouse, brother,
21 children, whatever the case is. It gives us
22 the ability to reject that license and it
23 also gives us authorization over the
24 dealership, which is something we haven't
25 attacked before. We've only gone after the

1 person, but the actual LLC or the entity is
2 responsible as well. So now we're going to
3 start identifying the people, the location,
4 and tying that back to truly taking care of
5 business. I think that was part of the
6 problem, that you and I both saw, that we
7 all saw, in this particular write, but this
8 session addresses a lot of that.

9 MR. HALLACK:

10 Well, what Mr. Duplessis is
11 referring to, Subsection B at the bottom of
12 the page. We really don't have a process
13 that would handle what Mr. Duplessis is
14 talking about, when somebody have been
15 revoked and somebody else, either a relative
16 or a business associate is taking over the
17 business, but the other guy may be
18 continuing to run it.

19 So B allows the Executive
20 Director to conditionally grant a license.
21 Now, that's unusual because we don't have --
22 and that's new because it allows him to
23 conditionally grant a license. We don't
24 have a process for that right now. But he
25 could conditionally grant a license and put

1 conditions on it. If we see your husband on
2 the lot or if we see your brother-in-law on
3 the lot, there's been somebody that's been
4 previously revoked, we're going to shut you
5 down without a hearing, without notice.

6 Now, they still have the
7 right to appeal his denial in accordance
8 with Subsection A up here. So that's what B
9 is. B puts in a process by which the
10 Executive Director can conditionally grant a
11 license. Right now the process is if he
12 grants a license to someone and we have an
13 investigator that comes to us and says, you
14 know, I saw Joe Blow on the lot selling
15 cars, and he's the one the license was
16 revoked for, Derek has to bring them in for
17 a hearing, and that can take a little while
18 to get that set up. So this is kind of an
19 automatic process, but it still gives the
20 dealer an opportunity to appeal his decision
21 if they should want to do that.

22 Subsection C deals with the
23 -- when there's violations under the law and
24 the hearing process for that. So what we've
25 done is, we've created two different hearing

1 processes, one for the application and one
2 for the violation. And, again, it's all the
3 same law, except it's easier to follow and
4 understand. A lot of times when we're
5 setting up a hearing, Kim and I are just
6 guessing at what the provisions say. So I
7 can't imagine what a dealer -- you know, we
8 have a lot of dealers who represent
9 themselves before us. It would be very
10 difficult for a dealer to follow. So it
11 just sets up a process, notice is required,
12 hearing is required. It tells you what the
13 scheduling of the notice of hearing. It
14 tells you how to note the hearing is to be
15 served. Our law is a little confusing on
16 that, how it's supposed to be served. This
17 makes it clear that it should be served by
18 certified or registered mail or by serving
19 it on the dealer or the dealer -- one
20 dealer's employees. We've had that issue
21 come up recently where a dealer claimed that
22 service on an employee was not sufficient.
23 That is in our rules and regs. It does
24 definitely state that service on an employee
25 is service on that dealer, but we just went

1 ahead and just put it in the law.

2 You know, the funny thing
3 under CF, C2F, which is close to the bottom
4 of Page 4, it is in our law that we are
5 required to send the notice to the -- to any
6 complainant because you remember, a lot of
7 times, the hearings that come before the
8 Commission come before us on a complaint.
9 So the law, as it exists now, requires us to
10 furnish that complainant with a copy of the
11 notice.

12 Part 3 talks about subpoenas
13 in the law as it exists now, but what we
14 included in the law is a requirement that
15 anybody who wants -- any party that we bring
16 before the Commission, if they want to issue
17 subpoenas to any witnesses, they've got to
18 do it 10 days prior to the hearing. We had
19 a situation last month where a dealer wanted
20 to issue 12 subpoenas and we're just days
21 out from the hearing, which would have
22 required us to bring Ronnie down from
23 Winnsboro to serve a subpoena in Mandeville.
24 Derek would have had to drive to New Iberia
25 to issue one. So this makes the requirement

1 that they must put in their request for
2 subpoenas 10 days prior to the hearing. It
3 also explains, and this is a new provision,
4 that they must pay for the witness fees,
5 which is a requirement under the law. We're
6 just putting it in our law, but it also says
7 that the delivery -- they must pay for the
8 delivery of the subpoena. So if Ronnie has
9 to come from Winnsboro to deliver a subpoena
10 in Mandeville and Derek has got to drive to
11 New Iberia, they've got to pay for the cost
12 of the delivery of the subpoena.

13 Number 4 is also a new
14 provision. It says any pleadings filed by
15 the licensee must be filed five days prior
16 to the hearing. A lot of times, Derek and
17 Kim are inundated with pleadings on the
18 Friday before a hearing that's coming up on
19 Monday. That puts pressure on Kim to make
20 sure all of y'all have copies of all of the
21 pleadings. So this requires them to file it
22 at least five days prior to the hearing, so
23 that it gives us an opportunity to let y'all
24 know what's going on.

25 MR. ROY:

1 Robert, is this working days,
2 the five days, is that working days or does
3 that include the weekend?

4 MR. HALLACK:

5 That includes the weekend.
6 So for five days, I guess it would have to
7 be filed by Thursday.

8 Number 6 -- I'm sorry, #5,
9 the Commission has the power to determine
10 who is guilty and what the violation should
11 be.

12 Number 6, I'll explain a
13 little bit. The Commission shall decide
14 what the penalty should be. The decision
15 shall be reduced in writing and served in a
16 manner consistent with 2(B) above.

17 Number 8 is in the law. Any
18 dealer found guilty of a violation is
19 required to pay all costs of the hearing,
20 which includes attorney's fees, court
21 reporter fees, and witness fees, and the
22 mileage and per diem of the Commissioners.
23 That's in the law as it is right now.

24 Number 9, part of the penalty
25 is that he's required to take the seminar,

1 again. That's in the law now. So that's
2 not a new provision.

3 D is what we've been talking
4 about the last couple of meetings. When the
5 Commission decides to revoke or suspend a
6 license or enjoin a licensee, that decision
7 becomes final and enforceable at that
8 moment. So right then and there when it's
9 rendered, he has to stop doing business.

10 Now, a decision where it's a
11 penalty only, a fine only, that is not
12 payable for 30 days following the decision.
13 So revocation -- this is a new provision.
14 Revocation, suspension and injunction is
15 immediately enforceable. A civil fine, a
16 civil penalty, is not payable for 30 days.
17 It says that the applicant or licensee may
18 appeal the decision to the 19th JDC within
19 30 days from the date the decision is
20 mailed. That's a new provision and I know
21 that's what we've always done by -- since
22 the inception of the Commission, but it's
23 not very well written out, the decision --
24 from the date the decision is mailed, and
25 that's the same for clerks of court for

1 district courts. It goes from the date of
2 mailing. So what Kim will do is, she will
3 put a certificate in the record saying that
4 she mailed it on a certain day because I
5 think what we've had lately are some people
6 that are ducking service of the decision.
7 So now it's from the date of mailing whether
8 you're ducking it or not.

9 Number 1 on the next page, #6
10 -- Page 6, just states the law that -- it's
11 not in our law, but it's basically in the
12 Administrative Procedures Act, that if the
13 decision -- that the decision to appeal our
14 decision, the appeal of our decision, does
15 not constitute a stay and no stay shall be
16 granted by the court without a contradictory
17 hearing. So you can't just automatically
18 get a stay. We had that happen recently in
19 A-1 where they requested the stay, the judge
20 automatically did it. So with this new
21 provision, they can't do that.

22 Okay. Number 2 is in our law
23 right now. The appeal shall be heard in
24 accordance with the Administrative
25 Procedures Act. Number 3, the complainant

1 may also appeal our decision. If we had
2 somebody who filed a complaint and they
3 didn't like how we ruled on an issue, they
4 can actually file an appeal. That's in our
5 law now.

6 Also, number -- Provision F,
7 we've had this issue come up from time to
8 time where people who aren't licensed by us
9 question our jurisdiction and authority over
10 them because they don't have a license. And
11 what this says is, the Executive Director
12 has the right to enforce 32:790, which is
13 the black market sales provision, which is
14 the curbstoning law. So even if you don't
15 have a license, the Executive Director can
16 prosecute you under 790 for not having a
17 license.

18 MR. BREWER:

19 That's a good one.

20 MR. HALLACK:

21 G is a little bit confusing.

22 Right now if an investigator goes out and
23 finds that a premises is abandoned, there's
24 nobody there or their number is disconnected
25 or there's no sign up, it's unclear whether

1 these -- all these factors have to be met at
2 one time for him to stick that notice of
3 abandonment up on the door, and this merely
4 says that if any one of these things happen,
5 that if nobody is on the premises, the
6 telephone has been disconnected and the sign
7 has been removed, any one of those three
8 things are in existence, then that place is
9 considered to be abandoned, he can put that
10 notice of abandonment on the door. The
11 dealer of that premises still has the right
12 to call in. He's got five days from the
13 date of that notice to call in and say, hey,
14 I'm still operating, I've just been in the
15 hospital, or whatever. That's in our law
16 now. It's just very confusing the way it's
17 written.

18 H is something that's new.
19 Noting herein shall limit the Executive
20 Director's authority to enter into any
21 stipulation regarding any application or
22 violation. This makes it clear that the
23 Director does have the authority to enter a
24 stipulation. One time a long time ago, we
25 had somebody complain that only the

1 Commission could actually make a
2 determination of guilt or whatever and the
3 Executive Director had no authority outside
4 of -- no authority to do that. This just
5 clarifies and says the Executive Director
6 has the right to enter into any stipulation
7 regarding any application or any violation.
8 So that's a bigger -- that's the biggest
9 overhaul in our law that we're doing is
10 we're cleaning up the hearing process. So
11 it's a big rewrite. There are a lot of
12 things in it that a lot of people have been
13 asking for.

14 Also, too, one of the things
15 I forgot to point out, there was a definite
16 change that people wanted -- that people
17 have been asking for is #6 at the top of
18 Page 5, the Commission shall have the
19 authority and power to determine a hearing,
20 the extent of penalties including
21 restriction, revocation or suspension of
22 license, civil fines, restitution or
23 injunction. So we included within your
24 ability to do what you can filing a decision
25 on a hearing, the ability to request

1 restitution. That is not in our law now.
2 It's in there now -- it will be with this
3 amendment.

4 So a couple of things that
5 we've been talking about, suspension and
6 revocation being immediate, the restitution
7 was something that people have been talking
8 about, but most of it is that we needed to
9 clean this law up and make it to where
10 everybody can understand what's going on,
11 particularly, the people that have to figure
12 out what it says.

13 MR. DUPLESSIS:

14 Is there anything we left out
15 or anything that anybody would like to see
16 in addition? It tightens up the hearing
17 process considerably and it protects the
18 consumer who has been violated. I think in
19 the Sellers case, you know, we saw some
20 action to order restitution, but in a round
21 about way, we have it flagged and he's not
22 going to get a license until he pays
23 restitution, also. So please throw
24 something out there if y'all have anything
25 on your mind.

1 MR. HALLACK:

2 Moving on to Page 7 is the
3 32:790, our curbstoning law. We're
4 increasing the fine from \$1,000 to \$3,000.

5 792. 792(A) gives the reason
6 the Executive Director can deny someone's
7 application for a license. In it now --
8 there's no provision now that is with regard
9 to when someone is trying to give a license
10 to a relative that's been -- they've been
11 previously revoked and they're trying to
12 keep their business going in the name of
13 someone else, whether it's a relative,
14 business associate or an employee, and this
15 covers it. This says that the Director may
16 deny a license for each applicant who is
17 related to, a former employee of, or a
18 former business associate of a dealer whose
19 license was previously revoked or suspended
20 by the Commission and the applicant intends
21 to operate the same or substantially the
22 same business as operated by the revoked
23 licensee, or the revoked licensee would be
24 participating in the business with the
25 applicant. So that's a totally new

1 provision. It is Policy 40, but that's only
2 a Commission resolution. It doesn't have
3 the full force of law that this would.
4 Okay.

5 And the last provision,
6 wholesale motor vehicle auctions, bottom of
7 Page 7, right now, it is unlawful for an
8 auction to let any person other than a
9 licensed dealer or a salesperson who holds a
10 current authorization to bid for a licensed
11 dealer. We're removing the requirement that
12 the person be a salesperson and now he only
13 needs to be a person. That's the change
14 there.

15 And Mr. Duplessis hit on this
16 a minute ago, that -- the point he made was
17 95 percent -- curbstoning is getting 95
18 percent of their cars from the auction.
19 There's no doubt about it. But that's not
20 the auction's fault.

21 I remember years ago when we
22 had another Executive Director, we had
23 complaints that a Baton Rouge police officer
24 was buying cars at an auction. So we
25 brought him in and said, the last auction

1 you went to, you bought six cars, you meet
2 the definition of a used motor vehicle
3 dealer, how are you doing it? Well, I'm
4 doing it with another dealer, another dealer
5 is giving me the authorization to bid on
6 cars. Well, how are you selling them? I'm
7 selling them with his number -- his license
8 number and I'm selling them with his bill of
9 sale. And that's the practice. The
10 practice is, dealers are letting these
11 people come into the auctions and buy these
12 cars and dealers are giving them bills of
13 sale to sell these cars with. That's the
14 problem.

15 So, I mean, you could point
16 the finger either way. You could point the
17 finger at the auction for letting unlicensed
18 people in there and bidding and you can
19 point the finger at the dealer for allowing
20 the person to do it. So, I mean, it's a
21 problem, but I think it's -- I think 95
22 percent of the cars that a curbstoner sells
23 are cars that he bought at an auction, but
24 he's doing it with another dealer's
25 assistance. You can't do it otherwise. I

1 don't see how he could sell it without a
2 license number.

3 MR. POTEET:

4 Is there anything in the law
5 that actually prohibits a dealer from
6 participating in a curbstoning operation?

7 MR. HALLACK:

8 That would be a very good
9 thing to put in the law, yes.

10 MR. POTEET:

11 That's where you catch them.
12 If that's really happening the way you
13 describe it, then the dealer who is allowing
14 it to happen is a co-conspirator.

15 MR. DUPLESSIS:

16 Let's include it -- you just
17 talked yourself into --

18 MR. POTEET:

19 I think that's the partial
20 conclusion.

21 MR. TURNER:

22 I thing there is some law
23 about that. If you're a dealer and you are
24 licensed through us, you're supposed to sell
25 one from location. You don't have to sell

1 from a gas station or a corner or whatever.

2 MR. POTEET:

3 So you would have -- at that
4 point -- I don't know that you need another
5 law, but if you wanted something to clarify
6 it, if your friend buy cars at an auction or
7 any other way and he sells them at some gas
8 station or some Wal-Mart parking lot, well,
9 you've allowed that because he's acting as
10 your agent.

11 MR. TURNER:

12 Yes. He's using your bill of
13 sale.

14 MR. POTEET:

15 That's easy to tie that back.

16 MR. TURNER:

17 What I like is the \$3,000
18 fine. That may help stem that tie, I mean,
19 a \$3,000 fine and the license is revoked if
20 you get caught doing that. I mean, that
21 will stop it at the point. I don't agree
22 that all of these -- the majority is
23 happening at the auctions. A lot of these
24 people are hooked up with a franchise dealer
25 and are buying their cheap trades that come

1 in, and these dealers have arrangements.
2 They're paying them \$100, \$200 a car for
3 every car they buy and sell on the side. I
4 mean, that's been happening for 30 years.

5 MR. POTEET:

6 Yes. I mean, I don't know
7 whether they're coming from the auction or
8 not, but definitely anything that -- and you
9 can -- there's no law that says you can't go
10 to any dealership and buy five or 10 cars.
11 There's no guidelines.

12 MR. TURNER:

13 You have to bill them out to
14 the dealer, whatever dealer they're going
15 to, well, we're going to bill them out to
16 that dealer, you come pay for them with cash
17 or whatever. The dealer is just making
18 extra -- a way of making extra money on the
19 side is what it is.

20 MR. POTEET:

21 But back to the point that
22 Robert is making, if they're buying under
23 someone else's license, then you easily tie
24 that back to the person that authorized it.
25 You know, one of the things that we talk

1 about at the auction, people say, well, you
2 know, you can let anybody in there. Well,
3 that's not really necessarily true because
4 if you're a dealer and you bring somebody in
5 that you don't know and you say he can come
6 in here. Let's say George brought somebody
7 in, his neighbor, and then I call up George
8 and say, George, how are you going to pay
9 for this \$85,000 Mercedes? Oh, I didn't
10 tell him he could buy an \$85,000 car. Well,
11 you authorized it. You gave him your credit
12 card and you can't come back to me later and
13 say, well, I didn't tell him that he could
14 spend that much money. You've authorized
15 him. You've given him authorization to act
16 as your agent. So, you know, I think that
17 the perception that somebody can just sign
18 up a bunch of dealers and send them to the
19 auction is pretty rare. I mean, I don't
20 have -- if we go through and look at our
21 registered dealers, we have very few that
22 have more than four or five buyers -- four
23 or five authorized. I mean, CarMax has
24 hundreds, but you know, CarMax is a big
25 corporation with several locations across

1 the country. Drive Time has 40 or 50
2 representatives and we have -- sometimes
3 there's a Drive Time representative from
4 Atlanta and he's buying cars for the Dallas
5 location and there's a guy from San Antonio
6 buying for the Phoenix location. So, you
7 know, that kind of stuff goes on. But for
8 somebody to just bring somebody into the
9 auction and kind of let them -- you're --
10 it's kind of like handing them your credit
11 card or the key to your house. So I think
12 that that kind of thing is rarer than you
13 think, but if somebody allows somebody to
14 use their license, it should be very easy to
15 find out where the car came from. It's on
16 the title.

17 MS. GAUDIN:

18 What about private
19 individuals such as Co-Part?

20 MR. POTEET:

21 What do you mean?

22 MS. GAUDIN:

23 I spoke with Co-Part last
24 week and they verified that there was an
25 individual that sold a vehicle to a consumer

1 that was holding himself out as a used car
2 dealer and on the back of the title, he put
3 some numbers that did not correspond with
4 the new dealer number. When I spoke with
5 Co-Part, he said that he was a member, that
6 was his member number, and he was a private
7 individual.

8 MR. POTEET:

9 A member number of?

10 MS. GAUDIN:

11 Of Co-Part.

12 MR. POTEET:

13 I have to be honest, I don't
14 know really how Co-Part operates.

15 MS. GAUDIN:

16 And I did ask if they allow
17 private individuals, no authorized used car
18 dealers or they have to be a licensed
19 salesperson to bid on your vehicles, and she
20 said, yes.

21 MR. POTEET:

22 I don't know right off the
23 top of my head. I don't know what the
24 private auction would require.

25 MS. GAUDIN:

1 I have no idea.

2 MR. POTEET:

3 Years ago, we had a bid card.

4 It was required that you have a bid card,

5 but at a wholesale auto auction --

6 MS. GAUDIN:

7 It was Co-Part in New

8 Orleans.

9 MR. POTEET:

10 -- at a wholesale auto
11 auction -- a salvage, you can call a whole
12 car auction. At a whole car auction, we
13 require -- every auction I know of, and
14 certainly by the NAAA, the National Auto
15 Auction Association, requires you to not
16 allow retail customers or public in. I
17 think our law says you can't have --

18 MS. GAUDIN:

19 That's the problem that I ran
20 into. I had a gentleman call me last week.
21 This person was advertising on Craig's List
22 as a used car dealer. Well, he didn't know.
23 He met this guy at his home, and he said
24 when he went into his home, he was actually
25 bidding live time on his computer through

1 Co-Part, live auctions. So he purchased the
2 vehicle thinking he was a used car dealer.
3 He didn't give him a temp tag or anything
4 like that. And now he's stuck with a double
5 transfer because he's not a used car dealer.
6 So those are the kind of things that I've
7 been kind of running into.

8 Another issue that I've had a
9 couple of times is a dealer gives a friend
10 authorization to buy at an auction and this
11 friend is buying cars without his knowledge
12 and selling them on the street and using his
13 bills of sale.

14 MR. POTEET:

15 That's easy. That's an easy
16 one. You go a buyer back and say the dealer
17 is participating in a curbstoning operation.

18 MS. GAUDIN:

19 The dealer that the --

20 MR. POTEET:

21 Does anybody here disagree
22 with that?

23 MR. HALLACK:

24 No.

25 MS. GAUDIN:

1 The dealer I'm talking about,
2 he had about 40 under his license and he
3 immediately went to the auction and voided
4 them all out because he forgot. Over the
5 years, he just forgot, you know, last year,
6 I gave my uncle authorization to buy a car
7 and I forgot about it. So he just voided
8 everybody else. So now it's just him and
9 his salesperson. Ever since then, the
10 complaints have pretty much ceased.

11 MR. HALLACK:

12 I think when we first started
13 looking at developing a set of laws with
14 regard to auctions, Mr. Duplessis was on the
15 forefront of trying to get that done just
16 before you got here. And then, we re-wrote
17 it and made a package of laws that would
18 work for everybody. But Mr. Floyd was here
19 and there was a dealer that sat by Mr. Floyd
20 and, of course, the two Baton Rouge dealers
21 were very much interested and involved in
22 trying to do something with the auctions
23 because the stories that we've heard about
24 the auctioneer in Baton Rouge, I can tell
25 you, we've had problems with that auction.

1 That Baton Rouge police officer that I
2 mentioned earlier was buying at the local
3 auction here. So, I mean, they were -- they
4 had a reputation and I think the people in
5 this area really wanted to do something
6 about auctions, primarily because of the
7 problems associated with that particular
8 auction. So, yes, an auction that's run
9 fairly and by law, we've got no problems
10 with. But when you've got somebody that's
11 letting illegal aliens from Mexico buying
12 and bid on cars, you know, that's a problem.
13 You know, it's a problem for used car
14 dealers because they're having to compete
15 with those people that are bidding on cars
16 that they wouldn't ordinarily --

17 MS. GAUDIN:

18 I've had dealers complaining
19 about that, too, they are being out bid by
20 these people.

21 MR. DUPLESSIS:

22 Let me tell you the contra to
23 that. When I introduced this legislation
24 and I was on the war path, I've got to tell
25 you, people came out of the woodwork on the

1 other side of the coin, and they said, these
2 aren't illegal aliens, that's international
3 trade, and how can you suppress the price of
4 a car at the auction? And when you start
5 looking at it, I think Co-Part really sent a
6 bunch of people down here from Washington
7 and Virginia, and they were some unusual
8 folks. I've got to tell you, they had an
9 unusual launching pad, but they said
10 immediately, our customers are
11 international.

12 Now, these are wrecked cars.
13 These are salvage cars. It's pieces and
14 parts. And just because we live in an
15 affluent part of the world doesn't mean that
16 affluence is across the globe. And our
17 people are buying and putting them in sea
18 cans to rebuild and, you know, what do you
19 do? Are you going to stop international
20 trade? Well, you know, I think that's a bit
21 of a stretch for them, but nevertheless
22 their story was holding water. So how do
23 you govern that? And I'm here to say, I'll
24 take that fight on again, so you can see it
25 directly, and they'll send the lawyers.

1 They send everybody down. At the end of the
2 day, number one, it's hard to control.
3 There's a logic down there that, you know,
4 where is our jurisdiction and what are we
5 here to do? We're here to govern this
6 business, but not to stop international
7 trade.

8 MS. GAUDIN:

9 Some of the problems that
10 I've seen, and this is really in the New
11 Orleans area, I would see a dealer give
12 authorization to a friend or a brother or
13 whomever, and they will buy a salvage
14 vehicle and fix it and sell it to someone
15 else and not knowing what the laws are, what
16 they should do as far as disclosing it to
17 this person. Well, the dealer is
18 responsible for refunding that money now
19 because he sold a salvage vehicle without a
20 disclosure. A lot of times, these dealers
21 are -- some say that, I have no knowledge of
22 this sale, I honestly did not know he was
23 doing this.

24 MR. POTEET:

25 But they're responsible -- by

1 law, they are responsible.

2 MR. DUPLESSIS:

3 They are.

4 MR. POTEET:

5 That's the people that we
6 should be going after. It's kind of like --
7 in a way, it's kind of like drug users and
8 drug dealers. I mean, you know, if you go
9 after the dealers, you cut off the supply.

10 MS. GAUDIN:

11 How do they -- they don't
12 know that they're doing it. That's my
13 problem.

14 MR. POTEET:

15 They'll know when they get
16 caught and have to pay a \$3,000 fine.

17 MR. CORMIER:

18 That's just bad management on
19 the dealer's part.

20 MR. TURNER:

21 I don't believe that they
22 don't know. I don't believe that.

23 MR. POTEET:

24 I would be skeptical.

25 MS. GAUDIN:

1 At the end of the day, the
2 dealer, I did not do that, I did not sell
3 the car, I'm not refunding that money to
4 that customer. So at the end of the day,
5 the customer is still stuck with a salvage
6 vehicle that they didn't know --

7 MR. CORMIER:

8 If he says that, the dealer
9 should be able to supply them with a copy
10 saying that this person was not authorized.

11 MR. POTEET:

12 Let's think about this for a
13 second. What you just described, you can
14 send somebody to the auction as an
15 authorized person or you can just buy the
16 car and sell the car to that person, and
17 then if that person sells it to another
18 person --

19 MS. GAUDIN:

20 That's the problem. They
21 don't want to pay the taxes.

22 MR. POTEET:

23 But what I'm saying is, when
24 they do those transactions, there is still a
25 paperwork flow. So no matter how you do it,

1 if you're trying to protect the consumer in
2 the end, it all still flows back to the
3 dealer, what did he say. So if I'm a dealer
4 and I do all of my disclosure -- anybody
5 here that's in the retail car business knows
6 all the laws they have to follow. So they
7 make all these disclosures and they sell it
8 to a retail customer. If that guy turns
9 around two weeks later and sells a frame
10 damaged car to his neighbor and doesn't tell
11 them it's frame damaged, what -- as long as
12 the retail dealer has done everything he's
13 suppose to do, what's the law that's been
14 broken?

15 MS. GAUDIN:

16 Well, that's going to be
17 between the retail customer -- the last two
18 customers.

19 MR. POTEET:

20 Right, and that's my point.
21 If you're handling it through that manner,
22 you're still going to have somebody at the
23 end that's left holding the bag. If it's --
24 you know, in this country, if you ask me,
25 there's more fraud going on between person

1 to person dealers than there is between car
2 dealers selling cars to people. So if your
3 goal is to stop dealers from bringing cars
4 to the -- or bringing unauthorized people to
5 the auction, whether it's a salvage auction
6 or a whole car auction, the idea is to put
7 the owners back in that unit when something
8 goes wrong, provide them with the paperwork.
9 If you say this guy is -- was your
10 authorized person, then you are responsible
11 for everything he does. I can tell you
12 this, at the auction, if that happens and I
13 don't get paid for my car, guess who's in
14 trouble? I don't really care about the
15 buyer. The buyer, to me, is an irrelevant
16 party now. This is between me and the owner
17 of the business.

18 MS. GAUDIN:

19 So if the dealer says, I have
20 no knowledge, I didn't sell it, I don't know
21 what's going on, bring them in for a hearing
22 and let them explain.

23 MR. POTEET:

24 They should be brought here,
25 and then he will know -- if enough of them

1 get brought in and pay a \$3,000 fine --

2 MS. GAUDIN:

3 Yes, word gets out pretty
4 quick.

5 MR. POTEET:

6 Yes. That needs to be done.
7 We need to crack down on those guys.

8 MR. DUPLESSIS:

9 Let's write it.

10 MS. GAUDIN:

11 Well, what about this thing
12 with Co-Part that was a member?

13 MR. POTEET:

14 I don't know what that --

15 MR. DUPLESSIS:

16 Let me say this. If this is
17 going to end up in a complaint, don't tell
18 us about it.

19 MS. GAUDIN:

20 It was just a phone call.

21 MR. DUPLESSIS:

22 Well, why don't you do this.
23 Take the specifics up with Derek and y'all
24 get a point of attack because you're going
25 to impugn us from hearing that case if it

1 surfaces.

2 MS. BARON:

3 Can we bring that individual
4 in?

5 MR. HALLACK:

6 No. Salvage pools are a free
7 for all.

8 MR. POTEET:

9 Let me ask a question. As
10 Sheri just pulled -- is this the Co-Part
11 website?

12 MS. MORRIS:

13 Yes.

14 MS. POTEET:

15 Now, apparently, with
16 Co-Part, you don't have to be a registered
17 -- a licensed dealer to buy. Well, is that
18 legal in our state?

19 MR. HALLACK:

20 Yes.

21 MR. DUPLESSIS:

22 The question is salvage. I
23 mean --

24 MS. BARON:

25 Salvage is the issue.

1 MR. HALLACK:

2 Salvage --

3 MS. BARON:

4 Salvage is a free for all,
5 but she said this was a wholesale auction.

6 MR. POTEET:

7 Which auction was it?

8 MS. GAUDIN:

9 It was Co-Part in New
10 Orleans.

11 MR. POTEET:

12 Well, right here is Co-Part.

13 MR. SMITH:

14 Anybody can buy anything on
15 Co-Part.

16 MR. HALLACK:

17 Since they --

18 MS. BARON:

19 Whether it's wholesale or
20 salvage, It doesn't matter.

21 MR. SMITH:

22 Well, you can go on there and
23 buy one today, and you can fix it and turn
24 around and sell it tomorrow.

25 MR. POTEET:

1 So what would be the
2 complaint?

3 MS. GAUDIN:

4 That this person is holding
5 himself out as a used car dealer.

6 MR. POTEET:

7 So that follows what you're
8 saying.

9 MS. GAUDIN:

10 Yes. They're basically,
11 stuck with a double transfer, and I have no
12 recourse to help that consumer. It's more
13 of a civil issue because it's between --

14 MR. HALLACK:

15 Actually, no. That guy right
16 there is guilty of black market sales. So
17 he's holding himself out to be a dealer.

18 MR. POTEET:

19 That's true.

20 MS. BARON:

21 That's the thing, you can't
22 find him.

23 MR. DUPLESSIS:

24 What have you got?

25 MS. POWELL:

1 They did away with the bid
2 card because we did require that if you went
3 to a salvage auction, you had to be either a
4 licensed dismantler or a licensed employee
5 thereof. Well, they fought that and they
6 got away from the bid card. So now anybody
7 can go buy salvage. It's what they do
8 afterwards that has to determine if they
9 need a license with us or not, but we've
10 only dealt with people selling vehicles.
11 Should we not address people who buy
12 vehicles?

13 MR. HALLACK:

14 Well, that's --

15 MR. DUPLESSIS:

16 Well, that's the bid card.

17 MS. POWELL:

18 We should, I think, make a
19 bid card or a buyer's card in addition to
20 the salesman license and if you've got an
21 individual you are allowing to buy cars for
22 you, then you should have him licensed with
23 you. If he also sells for you, he should be
24 selling -- have a salesman license for you.
25 If you've got somebody -- a person out there

1 that's buying for five or six different
2 dealerships, he should have a buyer's
3 license for each one of these dealers, and
4 that would kind of keep us -- you know,
5 well, who is doing what.

6 MR. DUPLESSIS:

7 How do you police an Internet
8 auction and how do you do the international
9 sale? That's what we're faced with.

10 MR. POTEET:

11 If you do that, what would
12 you do -- so you would require a Mississippi
13 dealer to get a buyer's card?

14 MS. POWELL:

15 Get a buyer's license, not a
16 buyer's card, a buyer's license from us.

17 MR. POTEET:

18 We will be shutting down our
19 auctions in Louisiana because now what
20 you're going to do is, you're going to make
21 it more difficult for us because these guys
22 are going to say, why should I go over there
23 and buy from them when I have to go through
24 a licensing requirement, but I don't have to
25 do that in Mississippi or Alabama?

1 MS. GAUDIN:

2 If we have some reciprocity.

3 MR. DUPLESSIS:

4 Trust me, you're getting into
5 some areas of the law, that's a good idea,
6 but in practicality, it isn't worth a boot
7 because it's too expansive. You can't
8 control --

9 MR. POTEET:

10 Let me give you an example of
11 something that happened in Texas. My
12 partners and I have an auction in Texas.
13 About six or seven years ago, they passed a
14 law that said that you must have a Texas
15 dealer's license to do any kind of business
16 in Texas. You couldn't go to an auction.
17 And what they were trying to do was crack
18 down on Mexican dealers coming in and
19 buying.

20 MS. POWELL:

21 Right.

22 MR. POTEET:

23 So when they passed that law,
24 what we found was that the auction
25 attendance went down significantly and that

1 auctions in places like Louisiana, New
2 Mexico, Arkansas, they said say we don't
3 have to do business with you because we can
4 get these cars elsewhere. And our seller
5 said, you know what, you don't have as many
6 buyers, I'm going to stop sending my cars to
7 you, I'm going to send them to these other
8 places. So it took about six weeks for us
9 to get an injunction and stop that.

10 So these are good ideas, but
11 it's just like the title law. If you want
12 to have a title law that's very restrictive,
13 it's going to make things difficult on the
14 people in your state until you can find
15 someone to do this on a Federal level.
16 That's where something needs to be done, so
17 everybody has to follow the rules because if
18 you don't, everything we've talked about
19 penalizes the auctions in our state,
20 penalizes the dealers in our state, both
21 buyers and sellers, and it makes it easier
22 for people to do business elsewhere. If
23 that's our goal, that's the best way to do
24 it.

25 MS. POWELL:

1 No. We don't want to
2 restrict. We just want to have a system of
3 accountability.

4 MR. POTEET:

5 But we do actually do have a
6 system of accountability.

7 MS. POWELL:

8 Not for buying them. He can
9 buy 15 and if he don't sell them, he can own
10 them.

11 MR. DUPLESSIS:

12 There's harm to the public or
13 anything else.

14 MR. POTEET:

15 That's what I'm saying, there
16 is a system of accountability, which is that
17 the licensed dealer is responsible for
18 everything that's done by anybody that is
19 under his name.

20 MS. POWELL:

21 Hold them both responsible.

22 MR. POTEET:

23 That's where we've really got
24 to get back to this. If we run the
25 Commission the way auctions run their

1 business, which is to say, you can bring
2 somebody in here, but you're responsible for
3 everything they do, from vandalism on the
4 lot to standing in the lane, bidding on the
5 wrong cars and all these things, you're
6 responsible. So if you bring somebody in
7 here who's inexperienced or doesn't
8 understand or is trying to get -- skirt
9 around the law, go ahead and do it, but keep
10 in mind, anything they do, you're going to
11 be responsible for. So now -- and back to
12 the curbstoning example, if I allow somebody
13 to come in and do this under my license, I
14 should be responsible. I should be a
15 co-conspirator in a curbstoning violation.

16 MS. GAUDIN:

17 So if I use your license and
18 I set up shop in a Wal-Mart parking lot and
19 put it up for sale, you should be
20 responsible.

21 MS. POWELL:

22 I always do both of them.

23 MR. POTEET:

24 Yes. You're part of it. You
25 are part of it.

1 MS. POWELL:

2 Even if he didn't know what
3 he was doing, he first gave him
4 authorization to do it, but if he's never
5 revoked that authorization, he's responsible
6 for everything that one does.

7 MR. CORMIER:

8 It's simple. They're one
9 hundred percent responsible.

10 MR. DUPLESSIS:

11 Robert, why don't you put
12 that in writing.

13 MR. CORMIER:

14 John, let me ask you a
15 question. I know at the auction, you have
16 to sign a form saying this particular person
17 is authorized. Is there another form that
18 they sign to unauthorize them?

19 MR. POTEET:

20 Yes, yes.

21 MS. GAUDIN:

22 Do they renew this
23 authorization or is this lifetime?

24 MR. POTEET:

25 Actually, what they do -- we

1 use a thing called Auction Access, which is
2 owned by a company called Auto Tech, which
3 they work very closely with all of the
4 commissions across the country, and they do
5 pretty much all of our paperwork for us, but
6 if somebody brings in a new buyer here --
7 let's say Ron goes to the auction and he
8 sends a new buyer, he has to sign a document
9 and it has to be -- I think it has to be --

10 MR. DUPLESSIS:

11 Faxed in.

12 MR. POTEET:

13 Yes. It has to be sent in
14 and it's got to be on company letterhead,
15 and then the person has to come in with
16 their driver's license. Then, we put that
17 information into Auction Access, and then
18 Auction Access also does a check on it. So
19 that person basically gets renewed every
20 year when they get their license renewed.
21 So we don't make them take them on and take
22 them off.

23 But I can tell you something
24 that happened a few years ago when I was
25 managing another auction in Louisiana. We

1 had a dealer -- a Pontiac dealer in
2 Covington, he failed to take his buyer off.
3 He fired him on Monday. He came to our
4 auction on Wednesday and bought 21 cars.
5 And he called me up, and he said, hey, I
6 just want to let you know, we're not paying
7 for those cars. I said, I just want you to
8 know that you are paying for those cars,
9 and, you know, it didn't take long, it took
10 him until the next afternoon and he said,
11 boy, I didn't realize that. I said, you
12 know, it's just like your credit card. If
13 you authorize somebody to use your credit
14 card and you don't tell MasterCard or
15 whoever it is that they're not authorized
16 anymore, they can keep going, they can keep
17 using it. So if somebody is authorized to
18 come to the auction, we need it in writing.

19 MS. GAUDIN:

20 And the new dealers that are
21 coming in, I go out and visit with them and
22 I do stress that. That's one of the things
23 I stress, that and temp tags, who you let
24 buy under your license. I do tell them that
25 they're responsible.

1 MR. POTEET:

2 I think all of this comes
3 under the umbrella of what is the dealer
4 responsible for. He is responsible for
5 everything that's done in his name.

6 Am I right, George?

7 MR. BREWER:

8 Right. Also, there's kind of
9 a loophole, a licensed dealer is not
10 required -- when he sells a car, he's not
11 required to collect the taxes. He can give
12 the customer the title and they're
13 responsible for paying their own taxes and a
14 lot of those taxes are not being paid.
15 That's why there are so many double
16 transfers. Some of those dealers that have
17 other people selling their product, they
18 sell it to that dealer and they don't care
19 if he pays his taxes or transfers that title
20 at all, until it's retailed down the line
21 somewhere because we have people that come
22 back to us, like the second or third buyer,
23 and say, can you help us straighten this out
24 because the retail customer you sold it to
25 didn't transfer the thing over, and it comes

1 all the way back. There's not a heck of a
2 thing that you can do.

3 MR. POTEET:

4 That's not under our
5 jurisdiction.

6 MR. DUPLESSIS:

7 No. That's correct, under
8 Revenue.

9 MR. BREWER:

10 It's kind of a loophole,
11 though. When we're talking about
12 curbstoning. That's one of the things
13 involved in some of this curbstoning.

14 MR. DUPLESSIS:

15 Do we want to have a meeting
16 with the Department of Revenue?

17 MR. HALLACK:

18 We can try.

19 MR. DUPLESSIS:

20 You know, we are obligate
21 under our law to meet with New Car and with
22 Motor Vehicle, and I don't know if we've
23 done that.

24 Derek, we probably need to
25 have one because I think now you see how

1 complex it is and how hot it is and how many
2 tentacles it has. It ain't an easy deal,
3 dude.

4 MR. POTEET:

5 But that's one of the -- you
6 know, curbstoning, that's one of the big
7 complaints about curbstoning anyway, the
8 State loses revenue and, you know, that's
9 where -- if you go to the Legislators and
10 talk about trying to get something down, you
11 know, you've got two things that we can rely
12 on that they're going to respond to, which
13 is the consumers, you know, getting shafted
14 in a lot cases, and the State is not
15 collecting its revenue.

16 MS. GAUDIN:

17 You can run those VINs and
18 that's not going to tell you where that car
19 -- what auction the car came from. It's
20 like trying to find a needle in a haystack.

21 MS. POWELL:

22 Only once the transaction has
23 gone forward and you process it at Motor
24 Vehicle, that we can go back and kind of
25 determine how --

1 MS. GAUDIN:

2 Look at microfilm maybe or
3 something like that.

4 MR. POTEET:

5 I hear George. That's a
6 loophole, but that's not something we can
7 fix by ourselves.

8 MR. DUPLESSIS:

9 Can we meet with Revenue?
10 I'm going to tell you after all of this, I
11 mean, we finally found the end of the ball
12 of string. It was a couple of years ago. I
13 don't think -- you may have been here,
14 Derek. I think Mr. Hallack was and maybe
15 Sheri was. It was when we were having
16 meetings with Homeland Security and it's
17 really a national scope of Homeland. That's
18 -- right there is where it's going to start
19 and end. And I don't think they want to
20 undertake the fight with the State.

21 So that's the answer. When
22 you finally get to the end of rainbow, it
23 ain't the pot of gold. It's just another
24 ball of string. So that's where it can only
25 happen at the national level. If you want

1 to go that deep into it. That's the fight
2 we have.

3 Locally, it's revenue, and we
4 had meetings with Nick Gautreaux. You may
5 have even been in those meetings with Nick
6 when we had these complex meetings about
7 NCIS and all of this automated -- all of the
8 automated titling, which is now starting to
9 roll out. It was a headache at the end. So
10 you're starting to see technology catch up,
11 but it's going to be national in the scope.
12 But we'll meet with Revenue. New motor
13 vehicle with these things, we can do that.
14 You can pursue that right and writing that
15 that particular amendment because I think
16 we're onto something here.

17 Mr. Chairman, that's my
18 report.

19 MR. POTEET:

20 Okay. Does anybody else have
21 any other comments?

22 MR. TURNER:

23 Let me just throw this out
24 there as something to discuss maybe as far
25 as this curbstoning problem. If we could

1 enlighten the consumer, so he could be aware
2 that if he goes to look at a car at
3 Wal-Mart, what might really be really going
4 on. If we took X number of dollars for a
5 PSA producing a spot, run through PSAs
6 across the state on TV, so that people can
7 understand -- and stop it right there. I
8 don't think -- the average consumer has no
9 idea what's going on at the Wal-Mart lot.

10 MS. GAUDIN:

11 He should have the paperwork,
12 but they don't know what they're looking at.

13 MR. DUPLESSIS:

14 There's a way to do that and
15 it's with the tag, the title agency, and the
16 registered owner of the vehicle. If we
17 could work with Motor Vehicle, we could post
18 a bill of rights at every tag station, this
19 is what the consumer is entitled to, this is
20 the warning, and you could put a brief
21 title, subchapter.

22 MS. GAUDIN:

23 There is a red flag. If
24 someone advertising as a dealer on Craig's
25 List, check them first.

1 MR. DUPLESSIS:

2 Well, before you get a title,
3 you've got to go to a tag agent and you've
4 got to go to the State. So if you put a
5 consumer bill of rights up there and put the
6 warnings up there, the cardinal rules, and
7 the contract numbers, it will start the ball
8 rolling, and that would be a huge step
9 forward.

10 MS. GAUDIN:

11 I tell you what, Craig's List
12 is an avenue for a lot of curbstoning for
13 dealers. They'll advertise on Craig's List,
14 will meet a customer at their home or a
15 grocery store parking lot. That's a whole
16 other can of worms.

17 MR. POTEET:

18 Well, we've talked about that
19 before. I mean, the idea is that this
20 little Commission and the State of Louisiana
21 is going to take on the Internet commerce of
22 the United States. Probably not.

23 MS. POWELL:

24 In order to do the computer
25 stuff, you're going to have to go to

1 computer analysts or forensics to be able to
2 determine stuff like that. So, you know,
3 maybe something --

4 MS. GAUDIN:

5 You just call them up and if
6 they're a dealer, you meet them where they
7 want to me and write them up.

8 MS. POWELL:

9 I'm talking about when you do
10 the computer.

11 MR. DUPLESSIS:

12 To do the research.

13 MR. POTEET:

14 Here's something that comes
15 up at our auction in our industry, and now
16 pretty much every auction in the country
17 that has any kind of technology is selling
18 cars simulcast. We have people bidding in
19 the lanes. We have people bidding online.
20 There's no way that we know who is actually
21 bidding. Now, again, you know, you've still
22 got a responsibility. If George Brewer
23 tells his little nephew, you can get on and
24 use my number to bid on cars, that's fine,
25 but I'm not going to go the nephew and ask

1 for my money. I'm going to go to George and
2 say, you bought this car online yesterday
3 and you need to pay for it now.

4 MR. TAYLOR:

5 You can't police that,
6 somebody doing bad business.

7 MR. POTEET:

8 Right. You can't do that.
9 As we're getting more and more into these
10 ways of bidding and buying things with
11 technology -- you know, again, eBay and
12 Craig's List. I read recently that eBay,
13 their car -- there's problems with their car
14 sales were like more than every other
15 problem they had combined. Well, I would
16 have guessed that.

17 So, you know, that's going to
18 be something that we're going to have to
19 kind of figure out how to deal with. But,
20 you know, when you get to the -- to me, it
21 all stems back to the licensed dealer. If
22 we take that tact that we're going to make
23 the licensed dealer responsible, everything
24 is done in his name, I think you can
25 eliminate a lot of problems, at least make

1 somebody -- again, if they come here and
2 they end up paying a \$3,000 fine or maybe
3 get fined \$35,000 -- \$36,000 for 12 bad
4 transactions, they're going to think twice
5 about that. Then when somebody hears about
6 it, they're going to say, you've got to be
7 kidding me, I'm responsible for all that.
8 Sure you are.

9 MR. DUPLESSIS:

10 When he becomes the one to
11 jump the chain of command to the title, we
12 all know the title law, you can jump the
13 chain of title change and he's responsible
14 for that in a civil suit. We're pale in
15 comparison to that.

16 MR. POTEET:

17 Exactly.

18 MS. POWELL:

19 We do stress in the seminar
20 about the salesmen. If you terminate them,
21 you have to notify us and notify anybody
22 that you've given him authorization to do
23 business with.

24 MR. POTEET:

25 Exactly.

1 MS. POWELL:

2 We tell them that up front
3 because if they don't and they do other
4 stuff, then they're still responsible for
5 what they've done.

6 MR. DUPLESSIS:

7 I thought we were done with
8 that. We'll pursue this.

9 MR. TAYLOR:

10 Derek, is this a good time
11 for me to discuss --

12 MR. PARNELL:

13 Yes.

14 MR. TAYLOR:

15 I had a vendor call me from
16 Shreveport and there's always been this
17 definition we discussed a little bit
18 earlier. New Car Commission, which does the
19 finance commission, I guess, in reference to
20 car dealers, anyway. Long story short,
21 we've got a used car dealer in Shreveport.
22 They put together this little ad right here.
23 They are paying online -- I mean, an out of
24 state company to come in to do a sales event
25 for them. Well, somehow that got in the

1 hands of New Car Commission. Maybe they
2 sent it there versus sending it to the Used
3 Car Commission to get approval for this ad
4 before they ran it because they didn't want
5 to get shut down.

6 Well, the New Car -- one of
7 the field investigators come in and said,
8 hey, you know, everything here is wrong, you
9 can't run this ad because of this, this, and
10 this. Well, because this ad violates a lot
11 of the New Car Commission's -- the verbiage
12 y'all use in ads and things of those nature.
13 The Used Car Commission, they've got a very
14 broad definition of how we have to
15 advertise. It just says we can't mislead
16 the customer, is basically what it says.
17 But I think that needs to be tightened up.
18 It does, but that don't have anything do
19 with this one particular dealer right now
20 today and who should be regulating this ad.

21 Derek, is interpreting
22 because of the indirect financing, is that
23 we might have some type of financial --that
24 we might be financing cars for dealers.
25 Well, that's not what this guy is doing.

1 They're providing indirectly financing for
2 Iberia Bank, or whoever they're providing
3 the customer financing for. So these people
4 are facing a lot of heat from the New Car
5 Commission on running this ad and these
6 people are, like, why are you even talking
7 to me, you don't govern us used car dealers.
8 And they're saying, yes, we do because
9 you're offering financing here. Well,
10 they're not offering financing, in their
11 opinion, and they're offering indirect
12 financing. Is that right, did I confuse
13 everybody?

14 MR. DUPLESSIS:

15 No. I'm totally straight
16 with what you're saying.

17 MR. TAYLOR:

18 And, once again, just -- I
19 need to make sure that I, you know, take
20 myself, as a used car dealer, out of this,
21 my -- you know, I'm sitting here talking to
22 Derek and Derek is, like, this indirect
23 financing, you're kind of financing. Well,
24 I don't believe that, but, you know, is that
25 because I'm a used car dealer?

1 MR. PARNELL:

2 Well, I don't know. The way
3 I was looking at it, like in my mind,
4 indirect financing is that you're acting as
5 an agent of that finance company. You're
6 pretty much doing everything that if I was
7 sitting in a finance company and you work
8 for that person, you're doing the same
9 process that that employee of the finance
10 company would do.

11 MR. POTEET:

12 You become a lender.

13 MR. PARNELL:

14 If you're doing that type of
15 thing, it kind of seems like --

16 MR. DUPLESSIS:

17 You definitely are.

18 MR. BREWER:

19 Hold on a second. You can't
20 take a credit report, not if you don't have
21 a finance license.

22 MR. DUPLESSIS:

23 Right.

24 MR. BREWER:

25 So if you don't have a

1 finance license, you can't -- you need to
2 replace that credit report from the
3 customer. So you have to call in Iberia
4 Bank to come -- or send the customer over
5 there and have them come to your location
6 and actually fill out that credit app.

7 MR. PARNELL:

8 That's what's happening.

9 That was my concern. I just didn't
10 understand it fully. From what I recall,
11 purchasing cars in my day --

12 MR. POTEET:

13 Well, shouldn't that be
14 clarified in here. In here -- if you look
15 on the second page, I'm looking in the
16 middle and it says -- so you're telling me
17 this is offering finance. Credit issue, no
18 matter what the reason, bankruptcy, charge
19 offs, divorce, repossession, tax liens,
20 credit card difficulty, we want to try to
21 help. Zero down payment, with approved
22 credit, your vehicle payment, blah, blah,
23 blah, blah, blah. Well, to me, that sounds
24 like you're offering finance. That's what I
25 thought.

1 MS. POWELL:

2 There's something in the New
3 Car Commission's law about bridging a loan.

4 MR. DUPLESSIS:

5 It doesn't matter. It is the
6 law because Sheri and I wrote all the spot
7 delivery stuff a few years ago in the '08
8 cleanup. That was -- we did most of that
9 writing. Your current law is Regulation M
10 and Regulation C under the Federal titles,
11 and that's the prevailing law by which
12 everything is governed.

13 First of all, you have an ...
14 issue with the financial institutions on the
15 instruments. Second of all, the New Car
16 Commission handles all of the finance
17 licenses. That is an act of finance. You
18 do want to comply with Regulation M and
19 Regulation C, and the State licensing laws
20 if you should hold a finance license with
21 the New Car Commission if you are in this
22 act of financing.

23 The other thing is, if he's
24 bringing people in from out of state, we
25 have to license those salespeople. We can

1 refuse those licenses if we check back into
2 their history. I recently got a
3 notification, and I will tell you the name
4 because it's public record and it was sent
5 to me by the State of Georgia. It was a
6 Level 10 and it came through the New Car
7 Commission and through the Governor's Office
8 of Protection, and it was Level 10, 360
9 Sales. And we can look into the background
10 and they were warning about the prosecution
11 of these people going forward. So there is
12 an issue here. We can look into the
13 background of the salespeople and if there's
14 any issues with that company doing this and
15 there is licensing requirements, and there
16 is Federal Regulations M and C that apply to
17 all the transactions that go on here. So
18 before you issue that license, you may want
19 to look and make sure that all of their
20 salespeople are licensed through you and
21 they're not temporarily licensed.

22 MR. PARNELL:

23 All right. Well, I would say
24 looking at this ad, the second page --

25 MR. POTEET:

1 That little spot in the
2 middle is what makes me look at it.

3 MR. PARNELL:

4 Even under the car. You've
5 got 4.9 percent APR.

6 MR. DUPLESSIS:

7 That's clearly and act of
8 finance and they're clearly responsible for
9 the financing.

10 MR. HALLACK:

11 I think this is false and
12 misleading under our law and constitutes a
13 violation of our law because the false and
14 misleading part, they are financing it, but
15 they're responsible.

16 MR. POTEET:

17 It's offering low payment and
18 low pricing.

19 MR. PARNELL:

20 It says, ask about our
21 special finance program.

22 MR. DUPLESSIS:

23 There's the misleading part.

24 MR. HALLACK:

25 They're not financing this.

1 They're passing it on to a buyer or
2 something because they're not a licensed
3 financier.

4 MR. DUPLESSIS:

5 Well, if they're not a
6 licensed financier, then that's an issue.

7 MR. HALLACK:

8 They can't finance.

9 MR. DUPLESSIS:

10 They can't even do it
11 indirect. And if you sell credit life and
12 A&H, you are required to be licensed.

13 MR. TAYLOR:

14 So what you just said, you
15 are telling me that every used car dealer in
16 the state that's doing indirect financing
17 like my car lots, then we need to have a
18 finance license, too. That's what you just
19 said.

20 MR. DUPLESSIS:

21 Yes, sir. That's correct.

22 MR. TAYLOR:

23 Not about advertising, just
24 period.

25

1 MR. DUPLESSIS:

2 Yes. Unless it's
3 specifically under the new car statutes.

4 MR. TAYLOR:

5 No, you run a report and
6 submit it to the bank and you sign Iberia
7 the bank paper -- I keep picking on Iberia
8 Bank -- but you're signing that under
9 contract right there on your desk.

10 MR. DUPLESSIS:

11 You're an indirect lender.
12 So you are a direct obliger of Regulations M
13 and C, Federal and State.

14 MS. MORRIS:

15 Yes. That's another thing we
16 need to send out to the licensees.

17 MR. TAYLOR:

18 That's a big can of worms
19 that you're opening.

20 MR. DUPLESSIS:

21 We know it's out there.
22 Whether it's being enforced or not, that's
23 going back to New Car, not us, but that's
24 their commission and they have to license.
25 You know, we're saying, no harm, no foul.

1 Mr. New Car Commission, you've got all this
2 stuff and you wanted it, here it is and it
3 is up to you to pursue. But I think it's an
4 obligation for them if they're going to
5 start pursuing it in part and start
6 enforcing it. I think they owe an
7 opportunity to clear this up and work with
8 them to put this in effect before we -- and
9 that's the cooperative work agreement that
10 we are under, and I know Robert does a
11 network agreement by the Attorney General
12 and Governor and I know Sheri does, too.
13 We're supposed to have a meeting them to
14 discuss these things and I think we need to
15 take it forward.

16 MR. PARNELL:

17 We recently had a meeting
18 with them discussing another finance issue.
19 So that does -- it happens ongoing. So this
20 is a different issue, a more specific issue,
21 that we probably need to address with them,
22 but, once again, Commissioner Taylor, it is
23 opening up a huge can of worms.

24 MR. DUPLESSIS:

25 It's been out there.

1 MR. PARNELL:

2 But like when I read an ad
3 like this, that's the first thing I think,
4 okay, if you're saying all of this, that
5 you're offering special financing and you
6 have 4.9 APR on it.

7 MR. CORMIER:

8 That's been going on for
9 years.

10 MR. TAYLOR:

11 Absolutely. I've run into
12 that. I mean, goodness gracious.

13 MR. DUPLESSIS:

14 Well, our laws were modeled
15 after the Federal Trade Commission law,
16 which isn't as expansive as the New Car
17 Commission. So what we did was, we took the
18 Federal Trade Commission law, if it's
19 truthful. Now, they say anything in here
20 that I see is not misleading, ask about our
21 special finance program, that's not
22 misleading, and if they can cut a deal or
23 pay off your trade, I fail to see anything
24 misleading in this ad because I pointed out
25 and agree with it, but they're under the

1 obligation to follow the Federal Trade
2 Commission laws and make sure it's truthful
3 here. But I don't see a violation right off
4 the bat. If you can show me one, I'll stand
5 corrected.

6 MR. HALLACK:

7 As the Commissioner just
8 said, as about our special finance, which
9 means they're financing.

10 MR. DUPLESSIS:

11 No. That's not misleading.
12 That just makes them a financier.

13 MR. POTEET:

14 It sounds like one of those,
15 you have to choose which side you're on.
16 You are misleading or is he not following
17 the financing laws.

18 MR. TURNER:

19 We have an office that helps
20 people --

21 MR. CORMIER:

22 We offer bank financing,
23 that's what we have in our ad.

24 MR. POTEET:

25 What's wrong with saying

1 that?

2 MR. CORMIER:

3 I don't know if they have
4 one. I'm assuming that they do that.

5 MR. BREWER:

6 As I understand it, correct
7 me if I'm wrong, if you take a credit app on
8 a person with the Privacy Act, they could
9 actually sue you if you don't have a finance
10 license.

11 MR. DUPLESSIS:

12 That's correct.

13 MR. BREWER:

14 Because you've invaded their
15 privacy.

16 MR. POTEET:

17 Right. And that's the whole
18 question.

19 MR. BREWER:

20 So if you are doing that as a
21 dealer, I would suggest --

22 MR. TURNER:

23 I never heard that.

24 MR. BREWER:

25 I'm telling you, you check on

1 it because --

2 MR. TURNER:

3 If you run someone's credit
4 without a signed credit app or them
5 submitting it on line to your secured --

6 MR. BREWER:

7 You have to have a finance
8 license. I'm telling you, you check on it.

9 MR. DUPLESSIS:

10 You've got to look under the
11 Truth in Lending Act to follow that as far
12 as regulating it.

13 MR. CORMIER:

14 There's a lot of dealers
15 doing it.

16 MR. TAYLOR:

17 All dealers that don't want
18 to finance don't have a finance license.

19 MR. CORMIER:

20 That's correct.

21 MR. TAYLOR:

22 All those dealers --

23 MR. POTEET:

24 Take credit apps.

25 MR. TAYLOR:

1 I think I counted it up the
2 other day, I had 18 indirect loans.

3 MR. HALLACK:

4 This is going to be a huge
5 problem coming up because the meeting that
6 we had with the New Car Commission, we went
7 back over their law and most people in our
8 seminars, too, we tell dealers that if you
9 finance 12 or more, you've got to have a
10 finance license and that's actually not the
11 law. The law is, if you finance one, you've
12 got to have a finance license. The
13 exemption that we've been going by, the
14 exemption of 12, is only for new car
15 dealers. I think we need to -- and that's a
16 regulation.

17 MS. POWELL:

18 That was taken out.

19 MR. PARNELL:

20 No, that's still in there.

21 MS. BARON:

22 No. Is it?

23 MR. PARNELL:

24 Because it still says a
25 licensed motor vehicle dealer may maintain

1 up to 12 contracts.

2 MS. POWELL:

3 Up to 12 contract and that is
4 only new car dealers.

5 MR. POTEET:

6 That's on in-house financing.

7 MR. DUPLESSIS:

8 The federal requirement of
9 reporting to the credit bureaus and holding
10 a finance license is 12 is the threshold.
11 That's the confusion and we -- a couple
12 years ago, we got a spot delivery where
13 there was a conflict between state law being
14 30 days and Federal law being 20 days, and
15 we -- when they wrote that law, we told them
16 this is in conflict, until a couple of
17 dealers had to pay up for that 10 days.
18 It's in the state law and the lawyer said,
19 well, we really don't care, this is Federal
20 law, and this is what you need to pay. So
21 you're under two different guidelines. I'm
22 here to tell you, you're operating under an
23 abundance of caution on TILA and these
24 lawyers that go after you because they find
25 one, they can start trickling the trail back

1 and it looks like a pile of hands by the
2 time you are finished.

3 MR. PARNELL:

4 This is something we
5 definitely have to work with them on just by
6 -- because I think -- and you were just
7 saying that it did say in the past that only
8 -- but, you know, a licensed motor vehicle
9 dealer, if you look at the definition, it is
10 the same motor vehicle finance act, it does
11 define motor vehicle as new and used -- or
12 used, but it doesn't say motor vehicle
13 dealer. We don't have a definition of motor
14 vehicle dealer in here. So, I mean, you
15 kind of -- I kind of look at it like --

16 MS. MORRIS:

17 It needs the word used in
18 there.

19 MR. HALLACK:

20 Motor vehicle dealer is
21 defined in their law. So, I mean, the
22 exception only applies to a motor vehicle
23 dealer, which is their licensee. So, I
24 mean, it's going to be a huge problem. We
25 have hundreds of dealers that are going to

1 have 12 contracts that don't hold a finance
2 license.

3 MR. POTEET:

4 Well, I think that's
5 something we're going to have to start
6 working on and go forward with.

7 MR. HALLACK:

8 And I think that they're
9 going to keep creeping into our dealers
10 looking to see who's financing, and this is
11 how they do it right here. They see an ad
12 in the paper and they say, oh, this dealer
13 is financing, he needs a license.

14 MR. POTEET:

15 Well, I think too, that
16 eventually for used car dealers, you know
17 what's going to have to happen is there has
18 to be some kind of wording that says how you
19 do this sort of thing. I mean, they are
20 ways that you could do this properly.

21 MR. HALLACK:

22 Like Mr. Cormier said, you
23 finance through a bank.

24 MR. POTEET:

25 All of this is through one of

1 18 different lenders or whatever. And back
2 to your point, what's -- are you taking that
3 as an agent of the bank or are you doing it
4 on your own? I mean, I think it can all be
5 resolved. It's just -- right now nobody in
6 this room knows how it's going to be
7 resolved.

8 MR. HALLACK:

9 Well, I think we need to get
10 back the exemption for used motor vehicle
11 dealer, at least the 12 vehicle exemption.

12 MR. POTEET:

13 Right. Would everybody agree
14 with that?

15 MR. HALLACK:

16 What's good for the goose is
17 good for the used motor vehicle dealer.

18 MR. POTEET:

19 Derek, you've got some things
20 on your to-do list.

21 MR. PARNELL:

22 Yes.

23 MR. TAYLOR:

24 I'm not scared to fall under
25 anybody's regulation.

1 MR. POTEET:

2 You just don't know what they
3 are.

4 MR. TAYLOR:

5 I know what they are.

6 MR. POTEET:

7 That's the way most people
8 feel about this. And to Ron's point, I
9 agree it's not misleading. Technically,
10 it's misleading, but I agree it's not
11 misleading, but what -- how should it be
12 worded and how should it be advertised, and
13 I think once we can come up with rules, then
14 we can start telling people, this is how you
15 do this. It's not -- I don't think it's
16 rocket science.

17 MR. HALLACK:

18 Well, I think you can't run
19 this ad unless you're a licensed motor
20 vehicle sales unless you have a license --
21 motor vehicle sales license.

22 MR. POTEET:

23 I understand your point, but
24 I'm saying that's not -- that wasn't their
25 intent here. I think the idea is that there

1 are some things that are left out that need
2 to be sealed up.

3 MR. BREWER:

4 I have a question. Has
5 anyone been faced with salvage retention
6 policy that the State now has because, for
7 example, if an insurance company pays off a
8 vehicle and the customer buys it back from
9 the insurance company, and then he trades it
10 in to a new car dealer, if there's a salvage
11 -- previous salvage with that thing, we have
12 three salvage retention they call it. When
13 you try to tie the new owner in Louisiana,
14 you can't do it. They won't accept it.

15 MS. GAUDIN:

16 I don't think the title shows
17 that on the actual title.

18 MS. POWELL:

19 No, because the person
20 already has it.

21 MS. GAUDIN:

22 There's a flag that it --

23 MS. POWELL:

24 But they flag it at Motor
25 Vehicle that this is a salvage retained

1 vehicle.

2 MR. BREWER:

3 Right, and you can't re-title
4 that vehicle.

5 MS. POWELL:

6 It has been reconstructed.

7 MR. BREWER:

8 You can't get it
9 reconstructed until you have it inspected
10 and you have to have all the documents
11 showing where you brought it back up to
12 safety on the street. So the new car
13 dealers are trading these vehicles in and
14 they have no knowledge of it having that
15 until it gets brought to the attention of
16 the new owner. We have three of them right
17 now. It's evidently becoming a pretty good
18 little issue.

19 MR. DUPLESSIS:

20 It should show up on CarFax.

21 MR. BREWER:

22 I'm sorry?

23 MR. DUPLESSIS:

24 It should show up on CarFax.

25 MR. BREWER:

1 It does, but if you buy a car
2 off the street without checking to see if it
3 has a salvage retention, you're just caught
4 with a car.

5 MR. DUPLESSIS:

6 We CarFax everything.

7 MR. BREWER:

8 You almost have to. It's
9 becoming a problem. I mean, we had three in
10 one month.

11 MR. DUPLESSIS:

12 Oh, my goodness.

13 MR. TURNER:

14 Word is out that you're
15 buying those cars, George.

16 MR. BREWER:

17 They were traded in from the
18 new car dealers and we bought them from the
19 new car dealers.

20 MR. DUPLESSIS:

21 You can't trust a new car
22 dealer.

23 MR. POTEET:

24 The new car dealer is
25 responsible for disclosing it to you. By

1 law, he's responsible for disclosing it to
2 you.

3 MR. TURNER:

4 The new car dealer goes back
5 to the consumer who should have disclosed
6 it.

7 MR. BREWER:

8 So far, they haven't been
9 able to go back and the money is gone and
10 the customer is gone.

11 MR. POTEET:

12 Well, you know, that's a
13 relationship you have with that dealer.

14 MR. BREWER:

15 Right.

16 MR. POTEET:

17 If you want to take him to
18 court, I'm sure you could --

19 MR. BREWER:

20 Thank goodness. They are all
21 cheap cars, but I was just wondering if
22 anyone else has run into that problem.

23 MR. POTEET:

24 Not that specifically, but
25 I'm sure we'll see something like that at

1 the auction.

2 MS. WALTON:

3 But that's where NMVTIS is
4 coming in because you -- they have a website
5 that you can run a VIN and the insurance
6 companies are responsible for putting their
7 salvage on NMVTIS. So you can check it
8 there before --

9 MS. POWELL:

10 Anybody can check it?

11 MS. WALTON:

12 Yes.

13 MR. DUPLESSIS:

14 That was the thing that was
15 the mind buster that Nick was trying to push
16 out. It's a national deal that we've had
17 for years and Nick did a good job of tying
18 it up and putting it out there, and that
19 tracks back to Homeland Security. This is
20 an ongoing problem and an issue in
21 Washington. Maybe it will eventually get
22 solved, but it's pretty consistent.

23 MS. WALTON:

24 The last time I looked at the
25 National Motor Vehicle Title Information

1 System, all these salvage yards, when they
2 buy a vehicle, they have so much time to say
3 what the disposition of that vehicle is. So
4 they either have to say that it's going to
5 be fixed and retailed or they have to say
6 it's going to be sold for parts only.

7 And NMVTIS is the one that
8 follows the salvage yards and if they don't
9 comply, then there's like a \$1,500 fine per
10 vehicle that they can charge them for. But
11 there is a website that anybody can go to
12 that you can run a VIN and it will tell you
13 if the insurance companies have settled up
14 as a total loss. The problem we ran into at
15 motor vehicle is, some insurance companies
16 file them as a total loss, but yet they sold
17 the car with a clear title, and when you
18 call the insurance company, they didn't
19 settle -- their definition of a total loss
20 for Louisiana is not -- it's different in
21 every state. So it might be a total loss in
22 Louisiana, but not in another state. So I
23 know that NHTSA and NMVTIS were trying to
24 pass something Federal, so that all states
25 will comply. It will be the same. But we

1 had a lot of them where states -- like, I'm
2 going to use New Jersey, get a salvage,
3 comes to Louisiana and when we issue a clear
4 title, then we get a NHTSA report -- I mean,
5 a NMVTIS report that says, hey, it should
6 have been branded. We called the insurance
7 company and they said, no, it wasn't a total
8 loss by Louisiana standards. So it did need
9 to be branded. So there are still some
10 issues that they're trying to work out, but
11 it is a good system that you can check.

12 MS. BARON:

13 What is that website where
14 you could go and check that?

15 MS. WALTON:

16 NMVITS.org, I think. I'll
17 have to get it.

18 MS. BARON:

19 Okay.

20 MS. POWELL:

21 We'll say that in the
22 seminar, too.

23 MS. BARON:

24 Yes, but we can send that out
25 to everybody.

1 MR. DUPLESSIS:

2 You can post that on our
3 website as well and that's a coming thing
4 that eventually all this will be worked out,
5 but I don't see it happening for 10 years.

6 MS. WALTON:

7 Another thing that I know
8 that David Parks with NHTSA was trying to --
9 they're trying to expand -- right now you
10 know, it's 10 years for the odometer.
11 They're trying to go 15 years because a lot
12 of your roll backs are happening after the
13 title is no longer branded for 10 years. So
14 they're trying to increase it to 15 years.

15 MS. POWELL:

16 I don't think they should
17 have any exempt.

18 MS. WALTON:

19 Federal law, there is really
20 no exemption.

21 MR. POTEET:

22 Yes. I had a long discussion
23 with Mr. Parks about that. I said, what
24 does exempt actually mean? You still have
25 to follow all of the other rules about the

1 disclosure.

2 MS. WALTON:

3 They don't have to brand the
4 title after 10 years.

5 MR. POTEET:

6 It's ridiculous. It just
7 needs to go away. In my opinion, it needs
8 to go away because we were told that we are
9 supposed to be keeping records of every car
10 that comes in, whether it's exempt or not.
11 I said, well, what does exempt mean?

12 MS. WALTON:

13 And how are you going to do
14 it?

15 MR. POTEET:

16 It just means the car is 10
17 years old or older. Well, okay, I think I
18 can see that by the model, by looking at the
19 VIN. I mean, that's really all it does.

20 MS. WALTON:

21 That's all it does.

22 MR. POTEET:

23 You know, if you sell a car
24 that's exempt and you mislead somebody about
25 the mileage or the odometer doesn't work,

1 then you've committed a federal crime even
2 though it's exempt. I bet you less than 10
3 percent of car dealers know that because
4 believe me, I've had arguments at the
5 auction about it.

6 MS. POWELL:

7 But they do work on it. They
8 just finish prosecuting one and sentencing
9 and all that stuff, one of the dealers that
10 was using the older model vehicles because
11 of that. So it is still --

12 MR. POTEET:

13 We turned one in. We turned
14 a dealer in about a year ago because he
15 refused to cooperate with us and we said,
16 okay, well, if you don't want to cooperate
17 with us, maybe you can cooperate with NHTSA,
18 work with them.

19 MR. DUPLESSIS:

20 You certainly solved that
21 one.

22 MR. POTEET:

23 One less customer that I have
24 to deal with.

25 Anything else?

1 MR. TURNER:

2 Motion to adjourn.

3 MR. BREWER:

4 Second.

5 MR. POTEET:

6 All in favor, say "Aye."

7 (All "Aye" responses.)

8

9 (Meeting adjourned at 11:15 a.m.)

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1 REPORTER'S CERTIFICATE

2
3 I, BETTY D. GLISSMAN, Certified
4 Court Reporter, Certificate No. 86150, in
5 and for the State of Louisiana, do hereby
6 certify that the Louisiana Used Motor
7 Vehicle Commission January 28, 2013 meeting
8 was reported by me in the stenotype
9 reporting method, was prepared and
10 transcribed by me or under my personal
11 direction and supervision, and is a true and
12 correct transcript to the best of my ability
13 and understanding.

14 This February 4, 2013, Baton
15 Rouge, Louisiana.

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19
20
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22 _____
23 BETTY D. GLISSMAN, CCR
24 CERTIFIED COURT REPORTER
25