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LOUISIANA USED MOTOR VEHICLE COMMISSION

STATE OF LOUISIANA

REGULAR MEETING

NOVEMBER 16, 2015

BEGINNING AT 9:32 A.M.

3132 VALLEY CREEK

BATON ROUGE, LOUISIANA

REPORTED BY:

BETTY D. GLISSMAN, CCR

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APPEARANCES:

CHAIRMAN:

MR. JOHN POTEET

COMMISSIONERS PRESENT:

MR. GEORGE BREWER

MR. TONY CORMIER (Arrived Late)

MR. RON DUPLESSIS

MR. GEORGE FLOYD

MR. STEPHEN OLAVE

MR. KIRBY ROY

MR. HENRY "DARTY" SMITH

MR. DINO TAYLOR

REPRESENTING THE LOUISIANA USED MOTOR  
VEHICLE COMMISSION:

ROBERT W. HALLACK, ESQUIRE

HALLACK LAW OFFICE

13007 JUSTICE AVENUE

BATON ROUGE, LOUISIANA 70816

SHERI MORRIS, ESQUIRE

ROEDEL, PARSONS, KOCH, BLACHE,

BALHOFF & McCOLLISTER

8440 JEFFERSON HIGHWAY, SUITE 301

BATON ROUGE, LOUISIANA 70809

1           ALSO PRESENT:

2

3           MS. KIM BARON

4           MR. DEREK PARNELL

5           MS. MONA ANDERSON

6           MS. TONYA BURKS

7           MS. STACY GAUDIN

8           MR. JOHN MCKOWEN

9           MR. MONTIE WISENOR

10          MR. NESTOR GUILLORY

11          MR. ERIC STROBERT

12          MR. VICTOR LORASO, III, ESQUIRE

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1 (Pledge of Allegiance)

2 MR. POTEET:

3 Kim, roll call.

4 MS. BARON:

5 John Poteet?

6 MR. POTEET:

7 Here.

8 MS. BARON:

9 George Brewer?

10 MR. BREWER:

11 Here.

12 MS. BARON:

13 Dino Taylor?

14 MR. TAYLOR:

15 Here.

16 MS. BARON:

17 Tony Cormier?

18 MR. CORMIER:

19 (No response.)

20 MS. BARON:

21 Ron Duplessis?

22 MR. DUPLESSIS:

23 Here.

24 MS. BARON:

25 George Floyd?

1 MR. FLOYD:  
2 Here.  
3 MS. BARON:  
4 Kirby Roy?  
5 MR. ROY:  
6 Here.  
7 MS. BARON:  
8 Darty Smith?  
9 MR. SMITH:  
10 Here.  
11 MS. BARON:  
12 Steve Olave?  
13 MR. OLAVE:  
14 Here.  
15 MS. BARON:  
16 Mr. Chairman, we have a quorum.  
17 MR. POTEET:  
18 Thank you, Kim.  
19 Is there anyone here today for  
20 public comments?  
21 MS. BARON:  
22 No, sir.  
23 MR. POTEET:  
24 Okay. Hopefully, everyone has  
25 had a chance to read the minutes from the

1 last meeting. So we need a motion to  
2 approve those minutes.

3 MR. SMITH:

4 I make a motion.

5 MR. OLAVE:

6 Second.

7 MR. POTEET:

8 A second from Steve.

9 All in favor, say, "Aye."

10 (All "Aye" responses.)

11 MR. POTEET:

12 Any opposed?

13 (No response.)

14 MR. POTEET:

15 The motion passes. Items for  
16 discussion. The first thing on the items  
17 for discussion and action is review of the  
18 financial report, and I think Mr. McKowen.

19 MR. MCKOWEN:

20 Okay. I think everybody got a  
21 copy of the audit report. We just got it  
22 finished on Friday. If you flip to Page 3,  
23 three pages in, that is my audit report. I  
24 audited the financial statements as of June  
25 30th of this year and in Paragraph 2, I

1 point out that the statements are the  
2 responsibility of management and my  
3 responsibility is to offer an opinion or  
4 express an opinion as to whether I think  
5 they're in compliance with generally  
6 accepted accounting principles. So on the  
7 next page, I say, yes, in fact, in -- in my  
8 opinion, the financials are stated fairly.  
9 And then under the emphasis of matter  
10 paragraph just after that, I will point out  
11 that GASB, Governmental Accounting Standards  
12 Board, has issued a statement that is  
13 effective for your statements this year and  
14 it caused a big change.

15 The next section starting on Page  
16 5 is Derek's discussion and analysis. That  
17 really just recaps everything else,  
18 everything that we're going to be going  
19 through. So I'll skip over that.

20 So let's look at Page 11, which  
21 is your statement of net position or the  
22 balance sheet. As I said a minute ago, with  
23 the adoption of GASB 68, you've got two new  
24 categories in addition to assets,  
25 liabilities, and net position. Now, you

1 have what they're calling deferred outflows  
2 of resources and deferred inflows of  
3 resources. So it -- it just keeps getting  
4 more and more complicated and it's  
5 getting -- well, I'll -- I won't even  
6 comment, but at the end of the year with  
7 cash, we were a million 7. Investments such  
8 as CDs, right at \$500,000. Accounts  
9 receivable, y'all have been looking at a  
10 much bigger number, but I met with Derek and  
11 Mona last week, I guess it was, and we  
12 looked at GASB and basically what it's  
13 telling us is, based on what -- what y'all  
14 know about your receivables, we had to write  
15 down a significant amount, primarily related  
16 to an individual, which y'all found in the  
17 last fiscal year, and then there was a  
18 dealer, which y'all have a large fine for  
19 this year and -- well, I take that back. We  
20 left the -- the individual in the allowance,  
21 but we totally wrote off the dealership.

22 And, of course, that doesn't mean  
23 you don't continue to pursue them, but I  
24 discussed it with Derek and Mona and they  
25 weren't so sure that anything was going to



1 ever come of that. So, anyway, that's just  
2 where we are.

3 Prepaid expenses, that's just a  
4 little prepaid insurance. Net capital  
5 assets after depreciation of \$157,000. So  
6 your total assets are 2 million 5. Down  
7 under liability, the total current  
8 liabilities are \$373,000 and the biggest new  
9 item on the balance sheet is a net pension  
10 liability of a million 5. So what that did  
11 was reduce your net position or your equity  
12 position by that amount. So y'all were  
13 great last year, but now here comes this new  
14 statement and it changes your -- your  
15 balance sheet and now, you've got a negative  
16 net position of \$78,000, which is not too  
17 encouraging, except that nothing has really  
18 changed and y'all are by far from -- the  
19 only ones that that happened to.

20 Onto the next page, statement of  
21 revenues, you had total operating revenues  
22 of a million 2, operating expenses, almost a  
23 million 2. So your operating income was  
24 right at \$70,000 for the year. You also had  
25 a little interest income. So your -- your

1 -- your change in net position was \$76,000  
2 for the year.

3 Starting on Page 13 is your  
4 statement of cash flows. That just tries to  
5 reconcile the change in cash back to your  
6 net income from the -- for -- for the year.  
7 So your -- your cash increased by \$293,000  
8 for the year and, again, the end of the year  
9 was a million 7 in cash. The only thing  
10 left is the notes -- or the biggest thing  
11 left is the notes. And the only change  
12 there is the note for pension, which is  
13 eight pages long. Again, all that is  
14 required.

15 I'm not going to go all --  
16 through all of that. Required information,  
17 your budget summary comparison schedule is  
18 on Page 33. New information required is  
19 information on the pension liability. Page  
20 37 discloses your per diems. Page 38 is  
21 another change issued by the State that we  
22 need to disclose, Derek's salary and his  
23 expense reimbursement, which is the same  
24 thing. So that's on Page 38.

25 And then starting on Page 39 is

1 my report on internal control and  
2 compliance. I had no findings there. And,  
3 Mr. Chairman, that's my report.

4 MR. TAYLOR:

5 On Page 8 where it says budgetary  
6 highlights and it says our revenues are less  
7 than anticipated by 347, is that -- is that  
8 solely to those fines, is that dedicated to  
9 that?

10 MR. McKOWEN:

11 It is. It is.

12 MR. POTEET:

13 Regarding the pension liability,  
14 what -- going forward, what would be  
15 approximately our liability on -- on an  
16 annual basis?

17 MR. McKOWEN:

18 Your expense runs 150 -- between  
19 150 and 200. So the big -- it got put on  
20 one time and going forward, it shouldn't  
21 change much from one year to the next.

22 MR. POTEET:

23 Okay.

24 MR. McKOWEN:

25 So you'll continue to have your

1 expense --

2 MR. POTEET:

3 Yes.

4 MR. McKOWEN:

5 -- because the liability is just  
6 going to sit there on the books. And the  
7 whole idea was LASERS is so far underfunded  
8 -- not only LASERS, but all of these public  
9 systems are so underfunded that GASB  
10 Governmental Accounting Standards Board,  
11 said, you know, these are huge numbers that  
12 we need to disclose. So this is your share  
13 of LASERS. I forgot what the -- a 10  
14 million dollar shortfall.

15 MR. POTEET:

16 Well, I think it is a good idea  
17 to disclose it.

18 MR. McKOWEN:

19 And nothing has really changed.

20 MR. POTEET:

21 Right.

22 MR. McKOWEN:

23 You continue to fund it. The  
24 problem is, in years past, you weren't  
25 paying -- none of the entities or agencies

1           were paying in enough to keep up with the  
2           growing liability --

3           MR. POTEET:

4                     Right.

5           MR. MCKOWEN:

6                     -- and now you're paying 37, 38  
7           percent of -- of salaries trying to make up  
8           that shortfall, but in the meantime, GASB  
9           has said, you need to disclose how much it  
10          is.

11          MR. POTEET:

12                     Does anyone else have any  
13          questions for Mr. McKowen?

14          MR. TAYLOR:

15                     Does that \$78,000 deficiency, our  
16          change in position, does that affect us in  
17          any way?

18          MR. MCKOWEN:

19                     No, because there's -- half --  
20          half of the boards and commissions that I've  
21          worked with have found themselves in the  
22          same position.

23          MR. TAYLOR:

24                     Okay.

25          MR. MCKOWEN:

1                   And nothing has changed except  
2                   they're telling us now that it needs to be  
3                   on the books.

4                   MR. POTEET:

5                   All right. Does anyone else have  
6                   any questions?

7                   (No response.)

8                   MR. POTEET:

9                   Thank you, Mr. McKowen.

10                  MR. MCKOWEN:

11                  All right. Thank you.

12                  MR. POTEET:

13                  Do we have to do anything with  
14                  that, do we have to approve that? No.  
15                  Okay. Thanks.

16                  Mona, it's time for -- to get the  
17                  financial report. Thank you very much.

18                  MS. ANDERSON:

19                  And we will talk about that a  
20                  little bit more probably at the next  
21                  meeting. I do have some -- this is really  
22                  helpful. Our contract CPA came up with this  
23                  Q and A and -- on the GASB 68 situation.  
24                  Basically, they were trying to, as he said,  
25                  have us show the unfunded liability in some

1 way, so that it wasn't just hidden, but I  
2 don't know -- most of the people that I  
3 speak with say that it's not accomplishing  
4 what they thought, because the agencies that  
5 have debt with a financial institution go in  
6 and they just pick out that figure -- that  
7 new figure and base it on the rest of the  
8 finances. That sort of explains to you a  
9 little bit in plain talk what this was  
10 about. And one of the best -- I think Items  
11 #7 and #8 are probably the best explanation  
12 and it talks about -- relates it to your  
13 having a mortgage. You know, you have money  
14 in your bank account and you have this big  
15 mortgage that you owe, but just because you  
16 owe that mortgage doesn't mean that your  
17 financials are unhealthy, and I think it's  
18 the same situation here.

19 So we're working with Roy Hebert,  
20 who is our contracted CPA, to kind of do --  
21 make some changes possibly in the way we  
22 record things, so that we can get a clearer  
23 picture without this liability going in  
24 there. It -- it just skews the finances.  
25 You can't -- you can't tell what the real

1 situation is, to me, but we'll discuss that  
2 more. He's going to -- he had another  
3 appointment. He couldn't be here today. So  
4 we'll discuss that at the next meeting if we  
5 can.

6 MR. POTEET:

7 Okay.

8 MS. ANDERSON:

9 But you might want to look  
10 through that. It's sort of like -- it's  
11 sort of a plain talk explanation of GASB 68  
12 and how they came up with this was, the  
13 actuaries went in and did their thing, which  
14 is -- you know, it's extremely hard to  
15 understand how they came up with these  
16 figures. And then LASERS and Division of  
17 Administration had meetings. They came up  
18 with these spreadsheets. We actually worked  
19 with Mr. Hebert to determine what our  
20 figures were in advance of the audit, so  
21 that we would know, you know, going in what  
22 it was going to look like. And as  
23 Mr. McKowen said, there are some agencies  
24 that are much, much worse than us.

25 I think the biggest thing is



1       that, you know, long-term, nobody can say,  
2       this is in preparation for what we might  
3       have in increases in the future in our  
4       contribution into LASERS, but that's -- they  
5       have legislation that affects that. They  
6       have investments that affect that, so not  
7       real -- you know, it's a figure. But can  
8       you say realistically what it's going to be  
9       next year? No. They're just going to have  
10      to do this all over again year after year  
11      and have us record something.

12                 All right. So if you look in  
13      your statements -- in your packets for your  
14      financial statements for the month ending  
15      October 31st, the first statement on Page 1  
16      is the statement of net position. At the  
17      end of the month, we had \$1,607,999 in the  
18      bank account. That's a slight increase. It  
19      will probably be more now that we're full  
20      into our renewal period. Same thing with  
21      accounts receivable, hearing and fines, it's  
22      basically the same figure as last month,  
23      because we assessed and collected the same  
24      amount.

25                 Current liabilities at the bottom

1 of the page were \$46,061. Everything there  
2 is normal liabilities for each month. On  
3 Page 2, you'll see both the 2016 and '17  
4 deferred inflows, which is our beginning.  
5 You can see our revenue for the coming --  
6 for this renewal period, and then in  
7 January, all of those 2016 revenues will be  
8 moved to income as they'll become earned  
9 January 1st. On Page 3, the statement of  
10 revenues, expenses, and changes in net  
11 position, mid page, our year-to-date revenue  
12 was \$299,840 compared to \$337,880 last year,  
13 which I think we had a lot of large fines  
14 for LAUCO that was in -- in last year.

15 On the following page -- well,  
16 under expenses, your salaries and related  
17 benefits month to date only increased a  
18 slight amount, but year to date was a  
19 \$10,597 increase. The remainder of the  
20 expenses increased \$8,647 and there was  
21 nothing out of the ordinary in that.

22 On Page 5, our year-to-date --  
23 I'm sorry, our month-to-date net position  
24 was negative \$22,000 and our year-to-date  
25 net position was a negative 75 compared to

1 last year's positive 87. And, again, that's  
2 that high fee that we had in last year's  
3 revenue. That's the difference.

4 On Page 6, you can look at the  
5 month to month changes compared to last  
6 year. Page 7 is the chart of the revenues,  
7 expenses, and net position. At the end of  
8 October, we're just getting into renewals.  
9 Page 8 is a -- a chart of our revenue and at  
10 -- at that time, mainly auction transaction  
11 fees.

12 On Page 9 is the certificate of  
13 deposit summary and that's basically the  
14 same report that you saw last month, no  
15 changes until 2016. On Page 10, our -- our  
16 accounts receivable hearings, as I said  
17 before, we assessed and collected \$15,650.  
18 So there was no change in the net amount.  
19 You can see on Page 11, we're showing that  
20 LAUCO fine and that's the one that he wrote  
21 off in the audit. So you'll see that come  
22 off next -- next month, and that will happen  
23 often. Entities that we report to like the  
24 Office of State Reporting, they don't -- we  
25 don't even report the amounts that go to the

1 Attorney General's Office. They consider  
2 that to be a write off after that. And on  
3 that accounts receivable hearings report, up  
4 at the top, we've got a couple of those  
5 older ones that went to the bond company in  
6 -- in October. So we should be seeing some  
7 payments on that shortly.

8 So unless there are any other  
9 questions, that concludes my report,  
10 Mr. Chairman.

11 MR. POTEET:

12 Thank you.

13 Does anybody have anything,  
14 questions?

15 (No response.)

16 MR. POTEET:

17 You did such a good job, there  
18 are no questions. We need a motion to  
19 approve the financial report.

20 MR. ROY:

21 I move.

22 MR. POTEET:

23 Kirby.

24 Do I have a second?

25 MR. OLAVE:

1                   Second.

2           MR. POTEET:

3                   Steve Olave.

4                   All in favor, say, "Aye."

5                   (All "Aye" responses.)

6           MR. POTEET:

7                   Any opposed?

8                   (No response.)

9           MR. POTEET:

10                   The motion carries.

11                   All right. So the next thing on

12                   our agenda is payment of invoice for

13                   Mr. Hallack, Derek.

14           MR. PARNELL:

15                   Commissioners, you'll find in

16                   your packet -- you see the next page right

17                   behind the financials is the bill of

18                   services for October 2015. I have reviewed

19                   the services performed and accounting has

20                   reviewed that the time and calculations are

21                   correct. Counsel Hallack's bill for October

22                   2015 is \$3,150. Commissioners, I would ask

23                   that you approve payment of Counselor

24                   Hallack's bill.

25           MR. CORMIER:

1 I make a motion.

2 MR. SMITH:

3 Second.

4 MS. BRIGNAC:

5 Second Darty.

6 All in favor, say, "Aye."

7 (All "Aye" responses.)

8 MR. POTEET:

9 Any opposed?

10 (No response.)

11 MR. POTEET:

12 All right. The next thing on the

13 agenda is the Motor Vehicle Sales Finance

14 Act, Derek.

15 MR. PARNELL:

16 Okay. A couple of months ago, as

17 the Director of the Commission, we sent a

18 letter to Motor Vehicle -- LMVC dated

19 October 2nd. It was sent to Lessie --

20 Lessie House, which was a request for an

21 advisory or interpretive opinion regarding

22 the applicability of some independent used

23 motor vehicle dealers licensed by the Used

24 Motor Vehicle Commission. Within the Motor

25 Vehicle Sales Finance Act, the persons who

1 are required to obtain a sales finance  
2 license and within our letter, we recognized  
3 that there were two memos that were sent out  
4 April of 2007 and September of 2014, both of  
5 which describe what persons LMVC believes  
6 should hold finance licenses, and neither of  
7 those memoranda cited any specific legal  
8 authority for requiring a sales finance  
9 license to perform some certain activities  
10 that they put out there. Our document asked  
11 for the legal authority upon which the LMVC  
12 relied on for requiring dealers licensed by  
13 the LMVC that do not meet the requirements  
14 that are set forth in Title 6, which is the  
15 Motor Sales Finance Act and act as persons  
16 -- requiring certain persons to receive a  
17 finance license.

18 Last week, I did receive -- if  
19 you look in your packets, I put a copy of  
20 the letter that we sent out or a copy of the  
21 memorandum that we did receive in 2014, but  
22 also the letter that we did receive in  
23 response from the New Car Commission.

24 And I don't know -- if I can hand  
25 it over to Ms. Morris, she can kind of go

1           into a little bit about that letter, their  
2           response.

3           MS. MORRIS:

4                     We received the response and I've  
5           reviewed the response. It doesn't really  
6           answer the question that was asked in this  
7           Commission's request and it just really  
8           restates what was in the memo, stated that,  
9           you know, these items -- this list of items  
10          constitutes origination, but there still is  
11          no legal support cited for that. The  
12          opinion talks about the Motor Vehicle Sales  
13          Finance Act from 1999. It says that that's  
14          inapplicable and I think that was in  
15          response to some cases that were cited in  
16          our request. And I think this Commission  
17          recognized that the law had been changed and  
18          revised, but the language that was cited in  
19          those cases was not revised and that's why  
20          they were cited. So I don't think that  
21          really means anything or affects the opinion  
22          that was expressed by this Commission. And  
23          I don't really think we have any better  
24          answer, because they just conclude that  
25          these items are origination, there's no --



1 no rule, regulation, or statute that's, you  
2 know, cited for that authority. So we asked  
3 them if -- if our dealers are not doing  
4 these things, why do they need a license and  
5 they just really said, if you're doing these  
6 things, you need a license, which is exactly  
7 what their memo said.

8 MR. POTEET:

9 So it's so because they say it's  
10 so?

11 MS. MORRIS:

12 Basically.

13 MR. POTEET:

14 Is that what it is?

15 MS. MORRIS:

16 Basically.

17 MR. POTEET:

18 Mr. Duplessis, do you have  
19 anything to say about that?

20 MR. DUPLESSIS:

21 You know, worked with my mom, but  
22 later in life it didn't work well. I -- I  
23 read this and I just felt like they just  
24 didn't get it. They're -- they're citing a  
25 bunch of -- a bunch of laws that are outside

1 the scope of the -- the scheme of law and it  
2 doesn't really -- there's nothing really  
3 more they can do. I think they did the best  
4 they could with a losing argument and they  
5 have other obligations some of the boards  
6 and commissions are not filling. And they  
7 just recently kind of reared their head on  
8 this issue. So, you know, for years, we've  
9 never had an issue of this nature. So late  
10 in the game, I don't think they have the  
11 authority to do it and the question is,  
12 what's next for the Commission or what's  
13 next for the dealer body or whoever is going  
14 to take this up to make it authentic, but  
15 clearly this is an overreach of power.

16 MR. POTEET:

17 That's what I think, too.

18 Any comments from the legal side?

19 I mean, do you have a --

20 MS. MORRIS:

21 Well, it doesn't -- I think our  
22 dealers -- the dealers came to the  
23 Commission asking for some clarification and  
24 what they're asking for clarification is a  
25 set of laws administered by another agency

1 and this doesn't provide any further  
2 clarification. And, really, this Commission  
3 can't say that you don't have to comply if  
4 it's the Motor Vehicle Commission's position  
5 that you have to comply. You can be cited.  
6 You risk being cited if you don't comply  
7 unless someone gets a declaratory judgment  
8 or some other opinion. It's not something  
9 that this Commission can say you don't have  
10 to comply with.

11 MR. POTEET:

12 Well, for those of you that are  
13 on the Commission -- and we have some people  
14 here from the -- the LIADA. This is -- I  
15 want to put out to you what I think -- what  
16 I see here. Our dealers fall into three  
17 categories -- I think three categories,  
18 those that -- that really do need a finance  
19 license. They're doing financing and I  
20 think most of those people don't have any  
21 problem with doing that. They -- they may  
22 like it better if they were regulated by us,  
23 but in -- all in all, they're -- they're  
24 okay with it. Then, we have people who  
25 don't think they need a license and are

1       afraid of the -- the Commission. So they go  
2       ahead and get a license. And I -- I think  
3       we've noted -- I think -- Dino Taylor,  
4       didn't you fall into that category?

5               MR. TAYLOR:

6               Yes.

7               MR. POTEET:

8               Okay. So -- so these people are  
9       obviously being sort of brow beat into  
10      getting something they -- they probably  
11      think they need. Then, the third category  
12      are people that don't need it and don't see  
13      why they would ever need it and are not --  
14      they have no representation on the Motor  
15      Vehicle Commission -- the Louisiana Motor  
16      Vehicle Commission. So, to me, we've got a  
17      very small group of people that are probably  
18      not bothered by this, that they won't need  
19      the license and get the license, but then  
20      you've got a large part of our  
21      constituencies that are either confused or  
22      feel like they're getting forced into doing  
23      something they -- they don't have to. And  
24      just to kind of wrap it up with a nice bow,  
25      we have a Commission that -- that is not

1 really doing anything to -- to clear up the  
2 issue, to -- and I don't mean our  
3 Commission. They're -- they're not  
4 answering the questions. They're not  
5 clarifying what needs to be done. So I  
6 think it kind of -- what -- what do you  
7 dealers think about this? Somebody tell me  
8 what you think.

9 MR. STRODERT:

10 Well, I'm speaking on behalf of  
11 the State association. I think we're in a  
12 similar position from the confusion  
13 standpoint. We still just don't know what  
14 to do.

15 MR. POTEET:

16 Right.

17 MR. STRODERT:

18 And I think that the goal behind  
19 this entire process was to be able to have  
20 some sort of clarity on what the next step  
21 would be and obviously with this letter,  
22 nothing has happened --

23 MR. POTEET:

24 Right.

25 MR. STRODERT:

1                   -- you know. And I think that  
2           from a -- from a dealer standpoint, you said  
3           exactly the feeling that we have. I mean,  
4           there are some of them that do care, and  
5           then some of them, it -- it's just they need  
6           a license, so they get the license. But I  
7           guess for the State association, we're --  
8           we're kind of waiting to see what were some  
9           of the opinions from some of the dealers on  
10          the Board. I mean, what are some of you  
11          guys' thoughts pertaining to the sales  
12          finance act as far as Board members and as  
13          far as how it affects you guys?

14                   MR. TAYLOR:

15                   I talked to three dealers this  
16          morning on the way down and our -- our  
17          opinion was that there we're -- we're  
18          pushing to a point to where we're going to  
19          pay a litigator, an attorney, to -- to study  
20          this for us. We're going to pay for three  
21          or four hours of his time to give an opinion  
22          on it. Then, after that, after hearing his  
23          opinion, then -- then, we're possibly  
24          looking forward to moving this into the  
25          court system.

1 MR. OLAVE:

2 I think it's almost like we need  
3 a test case.

4 MR. POTEET:

5 I think that's a good idea. I  
6 think that that's -- you know, of course,  
7 that's not something we can -- we can push,  
8 but -- but we can certainly -- I mean, we've  
9 done -- in my opinion, we've done everything  
10 we can do at this point without doing  
11 something legislatively. And I'm not saying  
12 we shouldn't do that, but I think we've got  
13 -- we've got to kind of push the issue in  
14 this manner to say, okay, look, we're --  
15 we're -- we're getting an attorney, we're  
16 going to -- we're going to tell you what we  
17 think and you're going to have to -- to  
18 defend your position or -- or define your  
19 position or whatever that -- has to be done.  
20 I think we've got to do that, and then the  
21 next step is to see what happens with that.  
22 And -- and maybe we -- you know, hopefully,  
23 we can get something done soon and we can  
24 start thinking about something for -- for  
25 next year.

1                   I don't think we -- back to  
2                   Sheri's point, I don't think we can tell you  
3                   in -- in good faith and just ignore their --  
4                   their law. I think that would be wrong for  
5                   us to do that. You know, it -- so I think  
6                   that this is -- this is what we have to do.  
7                   I don't see any other way around it.

8                   MR. TAYLOR:

9                   I'm going to continue to buy my  
10                  -- my license until the court system tells  
11                  us which way that we need to -- to push this  
12                  or after -- after the opinion of my attorney  
13                  tells me which way to go and -- but until I  
14                  get a ruling, I'm going to protect myself by  
15                  buying a license.

16                  MR. STROBERT:

17                  Right.

18                  MR. POTEET:

19                  And that's -- that's really not a  
20                  position we want our dealers in. So does  
21                  anybody have any -- any other ideas other  
22                  than what Mr. Taylor is doing here?

23                  MR. DUPLESSIS:

24                  You know, I think the legislative  
25                  process that we've seen is kind of lengthy.



1       It's not without tentacles or barbs. Our  
2       obligation, I think, is to conform with the  
3       boards and commissions structure, also the  
4       wishes of the governor and I -- I see that  
5       this year is going to be an open session and  
6       next year, you'll have a new governor and a  
7       fiscal session. My thought is that the new  
8       governor will probably not have the stomach  
9       to push this forward in his first year with  
10      the fiscal session, and I think we just  
11      heard by the financial auditor that there's  
12      going to be some bigger issues on the table  
13      and this is -- this is miniscule. It's  
14      bothersome, I think, for him to even  
15      probably go in that direction.

16                 So the Board, I think, should  
17      look at legislation to clear this up. And  
18      we've passed -- I guess, tightened up  
19      housekeeping issues before with our own  
20      Commission. I think we need to go ahead and  
21      look at legislation. I think we have to  
22      seek -- we are obligated to seek the advice  
23      of the governor, because we're appointed by  
24      him. If he says, stand down, we have to  
25      stand down. That's the bottom line. Either

1       that or we're just getting fired or we'll  
2       get -- we'll get pushed to the side.

3               I've seen it before, you know,  
4       guys get the letter, they misbehave, they go  
5       to jail or whatever the case is, or get  
6       kicked off the Board. That does no one no  
7       good, because we're up to speed on the  
8       issue. So I think we have to play by the  
9       rules unlike maybe, you know, the reach  
10      here, but I would recommend that we at least  
11      send a letter to the boards and commissions  
12      telling them about the issues in this  
13      situation and ask them to go forward with  
14      some housekeeping legislation on it, and  
15      it's going to take time.

16             MR. POTEET:

17               Well, I think -- I agree with  
18      that and I think -- I think we could do  
19      that. You know, at the same time that you  
20      guys are doing your thing, I think we could  
21      at least make some progress. I don't know  
22      how much progress we're going to make. I'm  
23      not really sure. You know, hopefully, we'll  
24      get to that point where we can get this  
25      resolved.

1 MR. STROBERT:

2 Have we ever discussed whether or  
3 not you guys from a Commission on the used  
4 motor vehicle side can issue some sort of  
5 license that would be similar to what the --  
6 the new motor vehicle license is pertaining  
7 to the sales finance act, but come through  
8 the -- the Used Motor Vehicle Commission,  
9 almost like a sales and finance act that's  
10 pertaining to -- to the Used Motor Vehicle  
11 Commission?

12 MR. POTEET:

13 Well, I -- I would think, and the  
14 attorneys can tell you, we could do  
15 something like that, but then, you'd have to  
16 get two licenses. You would have to get  
17 theirs and ours. Am I right?

18 MS. MORRIS:

19 Yes.

20 MR. POTEET:

21 I mean, we can't -- we can't  
22 negate their license, that won't help  
23 anyone. I -- I think that the best path is  
24 to do what we're doing. We're going to have  
25 a -- a meeting -- don't we have a meeting on

1 the 14th to discuss some of our legislative  
2 agenda? So I think at that time, maybe  
3 we'll have some more information, but I  
4 think -- you know, if -- if you remember,  
5 the whole reason for sending that letter was  
6 to -- to get them to put in writing what  
7 their position was and it seems to us that  
8 the -- the Louisiana Motor Vehicle  
9 Commission is very squishy, for lack of a  
10 better word. So we -- we got that now. We  
11 have that. So now I think we can go on to  
12 the next step and it is kind of a drawn out  
13 process, but I -- I think this is the right  
14 way to go.

15 MR. STRODERT:

16 Good enough.

17 MR. POTEET:

18 So, you know, you can't go back  
19 to the LIADA and report that we got  
20 something done, but you can't go back and  
21 say, we're moving on to the next step, and  
22 -- and I think that by the time we get to  
23 the middle of next year or maybe by -- by  
24 the end of the first quarter, we'll have a  
25 lot more answers and we'll have a lot more

1 direction as to what -- what we need to be  
2 doing as a Commission and what our dealers  
3 need to be doing in terms of following the  
4 law.

5 MR. TAYLOR:

6 I hope in two weeks to have the  
7 opinion that I have coming.

8 MR. STRODERT:

9 Okay.

10 MR. TAYLOR:

11 As soon as I get that, I'll share  
12 that with you.

13 MR. STRODERT:

14 Like my mentor said a long time  
15 ago, progress -- slow progress is still  
16 progress, right?

17 MR. POTEET:

18 All is good.

19 MR. STRODERT:

20 Thank you, guys.

21 MR. POTEET:

22 Thank you.

23 MR. GUILLORY:

24 It's a simple thought, but based  
25 on what he asked just now, if we have

1 something -- if we were to put -- the  
2 Commission would put a rule in place that we  
3 issue a license to our dealer as part of  
4 their package for a small fee, and now they  
5 -- now they -- they fall under the rule of  
6 being ruled by two boards, they're in  
7 compliance with that portion that they say  
8 -- is what they base their memo off of and  
9 if -- if we even add something about  
10 training, where we're not just giving a  
11 piece of paper, they're getting training.  
12 Then, if it goes to the point where it goes  
13 before a Legislature and it gets them to  
14 that argument phase, then we are helping our  
15 dealers to become compliant with that part  
16 of the finance act.

17 MR. POTEET:

18 Well, I see some -- some validity  
19 in that argument, but I will defer back to  
20 the attorneys.

21 MR. GUILLORY:

22 It's just a thought. Right now,  
23 we're standing arguing that -- who has the  
24 authority, but if we start licensing our  
25 dealers according to that -- that

1           third-party act, what authority does the New  
2           Car Commission have to regulate our people  
3           at that point, because we've brought them  
4           compliance?

5           MR. POTEET:

6                     Yes. I -- I see the point, but I  
7           think that would be, at this stage, almost  
8           like an act of war.

9           MS. MORRIS:

10                    Well, we don't have the authority  
11           to issue a motor vehicle sales finance  
12           license. That authority in the act belongs  
13           to the other commission.

14           MR. GUILLORY:

15                     Okay.

16           MR. POTEET:

17                     All we would be doing really is  
18           creating some kind of separate license or  
19           separate guideline or something. I don't  
20           think that would be --

21           MR. GUILLORY:

22                     I mean, if you pull the pen and  
23           hand it to them, they've got to let go at  
24           some point.

25           MR. POTEET:

1                   That's true. Does anyone else  
2                   have any -- any more discussion on that  
3                   issue? I think that we --

4                   MR. LORASO:

5                   Just one quick -- Victor Loraso  
6                   and I represent some independent dealers  
7                   before the Motor Vehicle Commission on this  
8                   issue.

9                   MR. POTEET:

10                  Oh, okay.

11                  MR. LORASO:

12                  We're not getting into much of  
13                  it. I thought a piece of the letter that  
14                  was written by, I think, Commissioner House  
15                  and this might be something that could be  
16                  for Board action, would be the definition of  
17                  a motor vehicle under the sales finances for  
18                  any bonafide franchisor, franchisor with a  
19                  manufacturer or distributor.

20                  The issue with that is -- is you  
21                  can be licensed as a new motor vehicle  
22                  dealer and you can get -- and you can have  
23                  that exemption, but under the sales finance  
24                  act, a used car dealer cannot get that same  
25                  exemption. So it's an old privilege and



1 immunity clause issue that the protections  
2 that are afforded to -- to new motor vehicle  
3 dealers is not given to used motor vehicle  
4 dealers under the sales finance act.

5 So I think that would be a good  
6 attack if there is an opinion and going  
7 forward with the Commission and get some  
8 sort of -- you know, some sort of ruling  
9 from the court to say that this is  
10 unconstitutional, because it's not applied  
11 to used dealers the same way that it is to  
12 new.

13 MR. POTEET:

14 And it -- also, it brings up the  
15 whole point that these -- these dealers --  
16 used car dealers are not being represented  
17 on the Commission.

18 MR. LORASO:

19 Right.

20 MR. POTEET:

21 So they have no say in any of  
22 that.

23 MR. LORASO:

24 Right. It's multifaceted, the  
25 different levels, but one law ties into the

1 other and the other ties into the other.  
2 Dealers. I think this letter here -- I'm  
3 trying to get out of the Motor Vehicle  
4 Commission right now, is exactly this, that  
5 I want them to tell me that a new motor  
6 vehicle dealer can be exempt and a used  
7 motor vehicle dealer cannot be. And once  
8 that happens, I think there is an issue to  
9 challenge it, because they're not giving the  
10 same legal remedies to used dealers that  
11 they're giving to new dealers.

12 MS. MORRIS:

13 Do you have a case that's going  
14 to come before the Commission, a hearing or  
15 something?

16 MR. LORASO:

17 I do, I do, but it's -- you know,  
18 I mean, you know, January.

19 MS. MORRIS:

20 Is it a public hearing?

21 MR. LORASO:

22 I believe it may be. The way  
23 that they act, you know, some are private.  
24 Some are public, but I don't know.

25 MR. DUPLESSIS:

1                   No, that's not true.

2           MS. MORRIS:

3                   Is it a hearing before --

4           MR. LORASO:

5                   It's before the Commission.

6           MS. MORRIS:

7                   -- their open meeting?

8           MR. LORASO:

9                   Yes.

10          MR. DUPLESSIS:

11                   The primary -- the way the --

12          it's called a Bertucci hearing. And a

13          Bertucci hearing is a -- is a -- normally a

14          private settlement hearing and they -- they

15          -- I'll -- I'll tell you the procedure,

16          because I've been in them, and we have

17          essentially the same procedure. Theirs is a

18          little different, but they will come

19          together in the main room just like here and

20          they will cite the issue and they will

21          convey the up side, down side. Normally,

22          the side they convey is the one in their

23          favor quite heavily, and then they ask you

24          to settle and -- and go away. Then, you're

25          -- they're obligated to have a public open

1 hearing or you'll be in violation of -- of  
2 executive orders in closed session. So they  
3 have to go before -- and I do not believe  
4 they have a court reporter for those  
5 particular hearings.

6 MR. LORASO:

7 You have to request one.

8 MR. DUPLESSIS:

9 You have to request one and pay  
10 -- you're going to have to pay a fee, but  
11 all of that is clearly evidentiary. It is  
12 open hearings and you go before a board by  
13 which you're not represented, which is also  
14 in violation of the boards and commissions.  
15 And then, you know, the question is --  
16 they're also supposed to provide training.  
17 They're supposed to give a mailing list,  
18 e-mail list, that kind of thing. And I have  
19 not seen any of their hearing and meeting  
20 notes as public record, which I -- I believe  
21 is also probably not correct. And there's  
22 no way to garner case history or case law  
23 with that commission.

24 MR. LORASO:

25 And the case that I have before

1           them right now will probably be settled --  
2           I'm told that it is going to get dismissed  
3           before it is settled, so we may not be able  
4           to tackle this issue, but I do think if  
5           there is for future and to get this issue  
6           out on the table, I think it would be the  
7           avenue to attack and the accomplishments  
8           won't be for one group and not the other.

9           MR. POTEET:

10                         All right. Thank you very much.  
11           That was very enlightening.

12           MR. TAYLOR:

13                         Can we get your contact  
14           information before you leave?

15           MR. POTEET:

16                         The next thing on the agenda is  
17           imposed penalties.

18           MR. PARNELL:

19                         Please find in your packet the  
20           chart that illustrates the dealers that have  
21           committed violations or have been fined. We  
22           have received the stipulated agency orders  
23           and proof of payment has been made by all on  
24           the list. I have determined that the public  
25           interest can be served without further

1 administrative proceedings. I will announce  
2 the names of the dealers that have been  
3 imposed civil penalties. And first we need  
4 to see if there's anyone present that's on  
5 this list? Obviously, there is no one here.  
6 She has a notice for someone that's not  
7 actually on the agenda. So that -- that  
8 tells me that there's no one here present.  
9 Okay. So I'll announce the names as we go  
10 through the civil penalties, what they did,  
11 and what their fine amount was. The first  
12 one on the list is Bayou Brothers Auto  
13 Sales, Incorporated out Port Allen,  
14 Louisiana. They have seven counts of not  
15 operating from the address shown on the  
16 license. Their fine amount is \$1,050.  
17 Second, we have Samir Auto Sales, LLC from  
18 Lafayette, Louisiana. There's a total of  
19 225 counts of misuse of temporary tags. The  
20 remaining fine amount was \$3,000. The third  
21 on the list is Northlake Auto Brokers, LLC,  
22 Mandeville, Louisiana. They have failing to  
23 keep an established place of business, one  
24 count for \$150. Rende Autoplex, LLC from  
25 Sorrento, Louisiana, engaging in the

1 practice of failing to submit monthly sales  
2 report, nine counts, for \$900. S&S Auto  
3 Sales, Carencro, Louisiana, failing to keep  
4 an established place of business, sign was  
5 removed, one count, \$150. McCray's Auto  
6 Sales, Baton Rouge, Louisiana, failing to  
7 keep an established place of business, one  
8 count, for \$150. Capital Auto Sales of  
9 Baton Rouge, engaging in the practice of  
10 failing to submit monthly sales reports,  
11 \$600. Last on the list is Ndubuisi  
12 Autoplex, LLC from Baton Rouge, Louisiana,  
13 failing to keep an established place of  
14 business, for \$300. The total amount of  
15 civil penalties for the month of October is  
16 \$6,300. And, Commissioners, I would ask  
17 that you ratify the imposed civil penalties  
18 assessed and accept the signed stipulated  
19 agency orders.

20 MR. SMITH:

21 I move.

22 MR. POTEET:

23 Motion to ratify.

24 MR. DUPLESSIS:

25 Mr. Chair, did you miss

1 Millennium?

2 MR. POTEET:

3 That's actually a --

4 MR. DUPLESSIS:

5 A different case.

6 MR. POTEET:

7 Yes.

8 All in favor, say, "Aye."

9 (All "Aye" responses.)

10 MR. POTEET:

11 Any opposed?

12 (No response.)

13 MR. POTEET:

14 Those are ratified. Now, we have

15 ratification of revocations.

16 MR. PARNELL:

17 And so that's what -- we have

18 Millennium Motor. If you look in your

19 packet, you'll find a chart that illustrates

20 the dealership that has been revoked and I

21 see we have no one present from Millennium

22 Motor.

23 MS. BARON:

24 We do not.

25 MR. PARNELL:



1 I'll announce the name and the  
2 case. Millennium Motor, they were -- notice  
3 was sent out to them August 28th of '15.  
4 Notice of revocation was sent out to them  
5 10/19 of '15. Commissioners, I ask that you  
6 ratify the revocation of the above mentioned  
7 dealer and all of it's sales persons.

8 MR. POTEET:

9 I need a motion to ratify.

10 MR. TAYLOR:

11 I make a motion.

12 MR. POTEET:

13 Dino Taylor.

14 MR. CORMIER:

15 Second.

16 MR. POTEET:

17 Second from Tony.

18 All in favor, say, "Aye."

19 (All "Aye" responses.)

20 MR. POTEET:

21 Any opposed?

22 (No response.)

23 MR. POTEET:

24 All right. That's ratified.

25 Executive Director's report.

1 MR. PARNELL:

2 All right. The first item is  
3 review of compliance investigation and  
4 complaint totals. For the month of October,  
5 there were 20-five day notices that were  
6 issued, 32 physical inspections done by  
7 investigators, 25 incidents where they  
8 assisted consumers and received titles.  
9 There were 116 site visits for the month.  
10 Six audits were conducted. Violations  
11 issued were -- 40 violations that were  
12 issued. And we have a total of \$13,967.66  
13 where they assisted to help consumers  
14 receive money. If you'll turn in your  
15 packet, you'll find the reports that we  
16 normally have.

17 The first document is the alleged  
18 issue count. For the month of October,  
19 there were 213 alleged issues. The largest,  
20 of course, typically is always the same,  
21 non-delivery of title.

22 The next report in your packet is  
23 the case report, which illustrates our total  
24 number of cases that were assigned in the  
25 month of October, which there were 115 cases

1 assigned. Of those, 36 cases have been  
2 closed. 79 of those cases remain open. The  
3 last document is the department summary  
4 report, which illustrates the same amount of  
5 cases that have been closed for the month.

6 Next on mine is general  
7 information. Some months ago, we received  
8 documentation -- a letter from Property  
9 Assistance and they sent out a notice  
10 basically saying that all State vehicles  
11 have to have GPS devices installed on them.  
12 So on Thursday, November 12th, and Friday,  
13 November 13th, we met with the installers  
14 and Louisiana Property Assistance set up and  
15 we have now the GPSs installed in all of our  
16 State vehicles. The primary purpose is  
17 really kind of curtail some of our paperwork  
18 that we have to submit to them and their  
19 documents. They stated they will be able to  
20 submit a lot of our paperwork online, being  
21 that we have the GPS in the vehicles rather  
22 than doing our paperwork that we typically  
23 do every month. That hasn't come into play  
24 yet. We still -- I still have to meet with  
25 them this week to get passwords, so I can

1 set parameters for what I'm looking for as  
2 far as on the GPS with the vehicles.  
3 Currently, we're in our renewal period.  
4 Things have been going very well from what I  
5 -- from my standpoint. I haven't gotten a  
6 lot of complaints that's out there.  
7 Typically, you know, we would get  
8 complaints. I haven't had any calls from  
9 any state reps or senators yet. That  
10 usually comes when we get close to December  
11 31st. But if you guys have -- have you-all  
12 heard any issues or any complaints that have  
13 been going on out there as far as the  
14 renewal process?

15 MR. TAYLOR:

16 The only problem is that we have  
17 a lot of salesmen and you have to log in and  
18 out, and I hope that when we get new  
19 software in the future that that won't be  
20 the same.

21 MR. DUPLESSIS:

22 That's the issue that we have to  
23 look at.

24 MR. TAYLOR:

25 But that's all.

1 MR. PARNELL:

2 If you have any other questions  
3 or comments, please let me know. That  
4 concludes my report.

5 MR. POTEET:

6 All right. Thank you, Derek.  
7 All right. I guess the -- the only thing  
8 left is the administrative hearings. I did  
9 want to -- real quick before we have an  
10 adjournment for that, items for the next  
11 agenda. What is the time -- are we going to  
12 meet here or are we going to meet over the  
13 at the Louisiana State Archives Building?  
14 What time are we going to meet?

15 MS. BARON:

16 We have it until three o'clock.

17 MR. POTEET:

18 Okay. So we'll have our regular  
19 meeting first, and then we'll go right into  
20 the -- okay. Can everybody make that, are  
21 we going to have a quorum?

22 MR. CORMIER:

23 What date, again?

24 MR. POTEET:

25 It's the 14th. It would have

1           been our normal meeting day, but we moved it  
2           up a week. The 21st would have been our  
3           regular meeting.

4           MR. CORMIER:

5                     The location?

6           MS. BARON:

7                     The same we had last year.

8           MR. BREWER:

9                     I don't remember exactly where it  
10          was.

11          MS. BARON:

12                     I will send a reminder.

13          MR. TAYLOR:

14                     I can make it.

15          MR. POTEET:

16                     Is there anybody that can't make  
17          it?

18                     (No response.)

19          MR. POTEET:

20                     Good.

21          MS. BARON:

22                     Do all of y'all want that  
23          attorney's contact information? I can  
24          e-mail it to y'all.

25          MR. POTEET:

1 I got his card.

2 MR. CORMIER:

3 Sure.

4 MS. BARON:

5 Will do.

6 MR. POTEET:

7 All right. So we have to adjourn

8 for the administrative --

9 MS. BARON:

10 We do. And I need about five

11 minutes.

12 MR. POTEET:

13 Let's adjourn for a five-minute

14 break.

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17 (Meeting adjourned at 10:27 a.m.)

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REPORTER'S CERTIFICATE

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I, BETTY D. GLISSMAN, Certified Court Reporter, Certificate No. 86150, in and for the State of Louisiana, do hereby certify that the Louisiana Used Motor Vehicle Commission November 16, 2016, meeting was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding.

This November 30, 2015, Baton Rouge, Louisiana.

\_\_\_\_\_

BETTY D. GLISSMAN, CCR  
CERTIFIED COURT REPORTER