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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**A G E N D A**  
**GENERAL MEETING**

Hilton Los Angeles Airport  
Newport B Room  
5711 West Century Boulevard  
Los Angeles, California 90045  
(310) 410-4000

January 26, 2006

Please note that Board action may be taken regarding any of the issues listed below. As such, if any person has an interest in any of these issues, you may want to attend.

1. **9:30 a.m. -- Meeting called to order.**
2. **Roll Call.**
3. **Approval of the Minutes from the November 16, 2005, General meeting.**
4. **Oral Arguments before the Public Members of the Board.**
  - a. PH AUTOMOTIVE HOLDING CORPORATION dba PACIFIC HONDA v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1945-05  
  
CUSH AUTOMOTIVE GROUP dba CUSH HONDA SAN DIEGO v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1946-05  
  
TIPTON ENTERPRISES, INC., dba TIPTON HONDA v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1947-05  
  
BALL AUTOMOTIVE GROUP dba BALL HONDA v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1948-05
  - b. FORTY-NINER SIERRA RESOURCES, INC., dba FORTY-NINER SUBARU, and RICHARD E. WILMSHURST v. SUBARU OF AMERICA  
Protest No. PR-1973-05

- c. SIX LEASING, INC. dba WABASH NATIONAL WEST, a California corporation v. WABASH NATIONAL CORPORATION, a corporation  
Protest No. PR-1967-05

5. **Closed Executive Session deliberations.**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board shall convene in a closed Executive Session to deliberate on the decisions to be reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

a. **Consideration of Proposed Decision.**

PH AUTOMOTIVE HOLDING CORPORATION dba PACIFIC HONDA v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1945-05

CUSH AUTOMOTIVE GROUP dba CUSH HONDA SAN DIEGO v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1946-05

TIPTON ENTERPRISES, INC., dba TIPTON HONDA v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1947-05

BALL AUTOMOTIVE GROUP dba BALL HONDA v. AMERICAN HONDA MOTOR CO., INC.  
Protest No. PR-1948-05

Consideration of the Administrative Law Judge's Proposed Decision, by the Public members of the Board.

b. **Consideration of Proposed Order.**

FORTY-NINER SIERRA RESOURCES, INC., dba FORTY-NINER SUBARU, and RICHARD E. WILMSHURST v. SUBARU OF AMERICA  
Protest No. PR-1973-05

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss, by the Public members of the Board.

c. **Consideration of Proposed Order.**

SIX LEASING, INC. dba WABASH NATIONAL WEST, a California corporation v. WABASH NATIONAL CORPORATION, a corporation  
Protest No. PR-1967-05

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss, by the Public members of the Board.

6. **Open Session.**
7. **First Consideration of Petitions pursuant to Section 557 of Title 13 of the California Code of Regulations.**

- a. FORTY-NINER SIERRA RESOURCES, INC., dba FORTY-NINER SUBARU, and RICHARD E. WILMSHURST v. SUBARU OF AMERICA  
Petition No. P-454-05

First consideration by the Public members of the Board pursuant to Title 13, California Code of Regulations, section 554, et seq.

- b. SERPA AUTOMOTIVE GROUP, INC., a California Corporation v. VOLKSWAGEN OF AMERICA, INC.  
Petition No. P-455-05

First consideration by the Public members of the Board pursuant to Title 13, California Code of Regulations, section 554, et seq.

8. **Consideration of request that the Board request the DMV issue Petitioner an occupational license for the sale of Volkswagens at the 815 S. Ben Maddox property.**

SERPA AUTOMOTIVE GROUP, INC., a California Corporation v. VOLKSWAGEN OF AMERICA, INC.  
Petition No. P-455-05

Consideration of Petitioner's request that the Board request the DMV issue Petitioner an occupational license for the sale of Volkswagens at the 815 S. Ben Maddox property, by the Public members of the Board.

9. **Lunch Break.**
10. **Consideration of whether to request the Department of Motor Vehicles to withhold renewal and/or suspend the existing occupational license of Western Golf Car Manufacturing, Incorporated for failure to pay the annual Board fee (13 CCR § 553) - Administration Committee.**
11. **Consideration of the revised *Guide to the New Motor Vehicle Board* to include information on statutory and regulatory changes - Administration Committee.**
12. **Status report on implementation of the revised transcript policy that allows litigants to purchase hearing or meeting transcripts directly from the court reporter - Administration Committee.**
13. **Annual update on Board Consumer Mediation Program - Administration Committee.**

14. **Discussion and consideration of annually awarding the Solon C. Soteras Employee Recognition Award instead of semi-annually - Board Development Committee.**
15. **Status report concerning the Board's financial condition for the 1<sup>st</sup> quarter of fiscal year 2005-2006 - Fiscal Committee.**
16. **Annual status report concerning the Board's collection of its annual fee (13 CCR § 553.10) - Fiscal Committee.**
17. **Report on nonsubstantive changes to the text of Section 550 (Definitions), Section 551.11 (Settlement Conference; Separation of Powers), and Section 551.12 (Peremptory Challenge) of Title 13 of the California Code of Regulations - Policy and Procedure Committee.**
18. **Consideration of proposed regulations - Policy and Procedure Committee.**
  - a. **Consideration of proposed regulation that defines "franchisor incentive program" (13 CCR § 550(l)).**
  - b. **Consideration of proposed regulation that makes the mailing of notices or other communications by certified mail sufficient compliance with the Vehicle Code requirements of registered mail (13 CCR § 550.20).**
  - c. **Consideration of proposed amendment to regulation that reflects Mandatory Settlement Conference Statements are required to be served on opposing counsel and must be accompanied by a proof of service (13 CCR § 551.11).**
  - d. **Consideration of proposed amendment to regulation that clarifies the peremptory challenge provision and notes the assigned administrative law judge in the Order of Time and Place of Hearing (13 CCR § 551.12).**
19. **Consideration of 2006 revisions to the *Informational Guide for Manufacturers and Distributors* which outlines their obligations to provide notices, schedules, and formulas mandated by the California Vehicle Code and Civil Code to the New Motor Vehicle Board and/or impacted dealers - Policy and Procedure Committee.**
20. **Annual report concerning Board adopted policies - Policy and Procedure Committee.**
21. **Consideration of the 2006 Rulemaking Calendar - Policy and Procedure Committee.**
22. **Consideration of proposed revisions to the Board's practice of preparing and retaining two versions (cited and uncited) of Proposed Decisions/Orders/Rulings - Policy and Procedure Committee.**

23. **Annual report of staff participation in the California State Employees Charitable Campaign (CSECC).**
24. **Executive Director's Report.**
  - a. Administrative Matters.
  - b. Status of Protests.
  - c. Status of Petitions.
  - d. Status of Appeals.
  - e. Judicial Review.
  - f. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
  - g. Other.
25. **2006 election of Board President and Vice President - Executive Committee.**
26. **Appointment of Committee members to the Administration Committee, Board Development Committee, Fiscal Committee, Government and Industry Affairs Committee, and Policy and Procedure Committee, by the incoming Board President.**
27. **Closed Executive Session.**

Pursuant to Government Code section 11126(e)(1), the Board shall convene in a closed Executive Session.

- a. **Discussion and advice from General Counsel concerning pending litigation.**

KIA MOTORS AMERICA, INC., Petitioner v. NEW MOTOR VEHICLE BOARD, Respondent; S & C MOTORS, INC., Real Party in Interest  
Sacramento County Superior Court No.05CS00283

Discussion and advice from the Board's General Counsel concerning pending litigation, by the Public members of the Board.

- b. **Discussion and advice from General Counsel concerning pending litigation.**

CAMARILLA, INC., dba V.I.P. AUTO UPHOLSTERY; JEFFREY L. WILLIS, an individual, Petitioners v. EXECUTIVE DIRECTOR of the NEW MOTOR VEHICLE BOARD, Respondent; MERCEDES-BENZ USA, LLC, Real Party in Interest

Los Angeles County Superior Court No. BSO93346.

Discussion and advice from the Board's General Counsel concerning pending litigation and consideration of whether to file a Notice of Appeal in the above-referenced matter in light of the Los Angeles County Superior Court's Judgment granting Petitioners' Peremptory Writ of Mandamus, by the Public members of the Board.

28. **Open Session.**

29. **Consideration of Recommendation in light of Judgment Granting Camarilla Inc., d/b/a/ V.I.P. Upholstery and Jeffrey Willis' Peremptory Writ of Mandamus.**

AUTO STIEGLER, INC. v. MERCEDES-BENZ USA, LLC  
Protest No. PR-1898-04

Consideration of the Recommendation in light of the Los Angeles County Superior Court's Judgment Granting Camarilla Inc., d/b/a V.I.P. Upholstery and Jeffrey Willis' Peremptory Writ of Mandamus, wherein the Board was ordered to set aside its September 30, 2004, adoption of the "Recommendation that the Executive Director seek direction from the New Motor Vehicle Board that Mercedes-Benz USA, LLC, recover attorneys' fees and costs from Camarilla, Inc., d/b/a V.I.P. Auto Upholstery and its attorney for failure to comply with authorized discovery without substantial justification for that failure (Veh. Code § 3050.2(b))", by the Public members of the Board.

30. **Adjournment.**

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To request special accommodations for persons with disabilities at this or any future Board meeting or to request any accommodation for persons with disabilities necessary to receive agendas or materials prepared for Board meetings, please contact Kathy Tomono at (916) 445-2080 or [k\\_tomono@pacbell.net](mailto:k_tomono@pacbell.net).

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