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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a General meeting on December 3, 2010, in Hearing Room #1, at the Board's offices.

2. **ROLL CALL**

Robert T. (Tom) Flesh, President of the Board, called the meeting of the Board to order at 10:36 a.m.

Present: Ramon Alvarez C. William G. Brennan, Executive Director
Ryan L. Brooks (arrived 10:42 a.m.) Robin Parker, Senior Staff Counsel
Robert T. (Tom) Flesh Polly Riggerbach, Staff Counsel
Peter Hoffman
Victoria R. Pearson
Glenn E. Stevens
David W. Wilson

Absent: David C. Lizárraga
Haig Papaian

3. **PLEDGE OF ALLEGIANCE**

Ms. Pearson led the members and staff in the Pledge of Allegiance.

4. **APPROVAL OF THE MINUTES FROM THE JUNE 15, 2010, GENERAL MEETING, AND AUGUST 24, 2010, AND OCTOBER 29, 2010, SPECIAL MEETINGS**

Mr. Alvarez C. moved to adopt the June 15, 2010, General Meeting minutes. Mr. Wilson seconded the motion. The motion carried unanimously.

Mr. Hoffman moved to adopt the August 24, 2010, Special Meeting minutes. Ms. Pearson seconded the motion. The motion carried unanimously. Messrs. Brooks and Wilson did not vote since they did not attend the meeting.

Mr. Stevens moved to adopt the October 29, 2010, Special Meeting minutes. Mr. Alvarez C. seconded the motion. The motion carried unanimously.

5. **FIRST CONSIDERATION OF PETITION PURSUANT TO SECTION 557 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS**

MEGA RV CORP. dba MCMAHON'S RV v. ROADTREK MOTORHOMES, INC.
Petition No. P-457-10

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

Oral comments were presented before the Public Members of the Board. Michael M. Sieving, Esq. and Tina Hopper, Esq. of the Law Offices of Michael M. Sieving represented Protestant. Jim McNairy, Esq. of Seyfarth Shaw LLP represented Respondent.

The Public Members of the Board considered the above-entitled petition upon First Consideration under Section 557 of Title 13 of the California Code of Regulations. After such consideration, Mr. Stevens moved to reject the petition upon first consideration and dismiss the portion of the petition that sought adjudication of the dispute pursuant to Vehicle Code section 3050(c)(2). Mr. Brooks seconded the motion. The motion carried unanimously.

6. **CONSIDERATION OF PETITION REQUESTING THAT THE BOARD DIRECT DMV TO CONDUCT AN INVESTIGATION OF THE ALLEGATIONS CONTAINED THEREIN AND TO ORDER DMV TO EXERCISE ANY AND ALL AUTHORITY OVER RESPONDENT'S OCCUPATIONAL LICENSE PURSUANT TO VEHICLE CODE SECTION 3050(C)(1) AND (3)**

MEGA RV CORP. dba MCMAHON'S RV v. ROADTREK MOTORHOMES, INC.
Petition No. P-457-10

Consideration of Petition requesting that the Board direct DMV to conduct an investigation of the allegations contained therein and to order DMV to exercise any and all authority over Respondent's Occupational License, by the Public Members of the Board.

Oral comments were presented before the Public Members of the Board. Michael M. Sieving, Esq. and Tina Hopper, Esq. of the Law Offices of Michael M. Sieving represented Protestant. Jim McNairy, Esq. of Seyfarth Shaw LLP represented Respondent.

The Public members of the Board deliberated in Open Session. Mr. Brooks moved to deny the relief requested by Petitioner that the Board direct DMV to conduct an investigation of the allegations contained in the petition and order DMV to exercise any and all authority over Respondent's Occupational License. Mr. Flesh seconded the motion. The motion carried unanimously.

7. **DISCUSSION AND CONSIDERATION OF WHETHER TO DESIGNATE THE BOARD'S DECISION IN MEGA RV CORP., DBA MCMAHON'S RV V. ROADTREK MOTORHOMES, INC., PROTEST NOS. PR-2234-10, PR-2235-10, AND PR-2236-10, AS A PRECEDENT DECISION PURSUANT TO GOVERNMENT CODE SECTION 11425.60, BY THE PUBLIC AND DEALER MEMBERS**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning whether to designate the Board's decision in *Mega RV Corp., dba McMahon's RV v. Roadtrek Motorhomes, Inc.* (Protest Nos. PR-2234-10, PR-2235-10, and PR-2236-10) as a precedent decision. At the August 24, 2010, Special Meeting, the members adopted the Proposed Order granting Roadtrek's motion to dismiss. Glenn Stevens requested that the issue of whether to designate this decision as a precedential decision be considered at the next General Meeting.

As indicated in the memo, the decision provides in essence that Vehicle Code sections 331 and 331.3 require for a franchise or recreational vehicle franchise to exist that there be a "written agreement". Although an OL-124 (certificate of proposed franchise) is "written", there is nothing on it which indicates it is a "written agreement between two or more persons" which is needed for a "franchise" (under either definition of "franchise" or "recreational vehicle franchise"). An OL-124 does not constitute a "written agreement" and does not evidence there is a "commercial relationship of definite duration or continuing indefinite duration", both of which are required for there to be a "franchise" or "recreational vehicle franchise".

The Administrative Procedure Act (APA) provides that "[a] decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the..." Board. (Gov. Code § 11425.60(a)) The Board "...may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur." (Gov. Code § 11425.60(b))

After a discussion concerning the criteria, Mr. Stevens moved to designate the McMahon's RV decision as a precedent decision. Ms. Pearson seconded the motion. Mr. Stevens voted in favor of the motion and the remaining members opposed the motion. The motion did not carry.

8. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO ROBERT L. FRISCH, FORMER VICE PRESIDENT, WESTERN REGION, BMW OF NORTH AMERICA, LLC**

Mr. Brooks moved to present a Resolution to Robert L. Frisch, former Vice President, Western Region, BMW of North America, LLC, in appreciation for his contribution to the New Motor Vehicle Board, to the motor vehicle industry, and to the people of the State of California. Mr. Frisch seconded the motion. The motion carried unanimously. Mr. Frisch will be invited to attend an upcoming meeting or the staff will mail the Resolution to him.

9. **REPORT ON NON-SUBSTANTIVE CHANGES TO THE PROPOSED REGULATORY TEXT OF SECTIONS 550, 551.12, 594, 595, AND 597 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning non-substantive changes to the proposed regulatory amendments that were adopted by the Board in February 2010. Ms. Parker reported that the Board delegates to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. All substantive changes to the proposed text suggested by Board staff, the public, or the Office of Administrative Law ("OAL") will be brought before the members at the next meeting. However, non-substantive changes suggested by OAL or staff will be submitted to the Executive Committee for consideration and ultimately reported to the Board at the next meeting.

As indicated in the memo, while preparing and reviewing the initial rulemaking packets for case management and format of pleadings, there were non-substantive changes suggested by the Board staff and Gabor Morocz, Deputy General Counsel, Business, Transportation and Housing Agency ("Agency"). These non-substantive changes were approved by the Executive Committee and are summarized as follows:

- **SECTION 550: DEFINITIONS:** Given that many of the franchisors within the Board's jurisdiction and their counsel are out-of-state, Section 550(h) originally proposed adding "California" to "Department of Motor Vehicles." However, in light of comments from Agency, the Board eliminated the change to Section 550(h) and kept the existing text. In Section 550(i), it appears that the definition of "director" has been in the Board's regulations since it was effective in 1969; this definition was not revised when the current statutory definition of "director" was effective in 1984. In light of Agency comments, Section 550(i) was amended to mean "the Director of Motor Vehicles." Where appropriate the reference sections were amended to conform to these changes or to correct inaccurate references. In addition, the Reference to Vehicle Code sections 3050-3058 was expanded to Section 3079 to encompass protests for vehicles and RVs.
- **SECTION 551.12: PEREMPTORY CHALLENGES:** Agency suggested amending the text and Reference to reflect Section 2015.5 of the Code of Civil Procedure.
- **SECTION 594: SIZE OF PAPER, PAGINATION, ETC.:** The Reference in Section 594 should be "Section 3050" of the Vehicle Code without any limitation to specific subdivisions so as to permit the regulation to apply to protests, petitions, and appeals. The same change was also approved for Sections 595 and 597.
- **SECTION 595: FORMAT OF FIRST PAGE; FORMAT AND FILING OF PAPERS:** In section 595(f), the reference to "as defined in Section 550(u)" was deleted because Section 550(u) has not yet been promulgated. This could have caused a 6-12 month delay in promulgating the regulations and the reference to section 550(u) is not critical. As with Section 594, the Reference in Section 595 should be "Section 3050" of the

Vehicle Code without any limitation to specific subdivisions so as to permit the regulation to apply to protests, petitions, and appeals.

- **SECTION 597: LAST PAGE; SIGNATURE:** As with Sections 594 and 595, the Reference in Section 597 should be "Section 3050" of the Vehicle Code without any limitation to specific subdivisions so as to permit the regulation to apply to protests, petitions, and appeals.

Ms. Parker indicated that notices for these regulations have been published and the public comment period closes on December 6, 2010.

Additionally Ms. Parker reported that public comments were received for the proposed amendments to Section 551.12 (Notice of Assignment of Administrative Law Judges; Peremptory Challenges). The comments posed should be considered by the staff, the Policy and Procedure Committee, and ultimately the Board at a noticed meeting. This will take several months. In order to not delay the other eight (8) regulations that were also noticed with Section 551.12, the Board staff consulted with the OAL reference attorney. It is permissible to sever Section 551.12 from the other regulations. The staff can then proceed with the final rulemaking packet for the remaining regulations.

Mr. Brennan introduced two new staff members to the Board; Taquita Lugo and Tony Vela, both college students.

10. **ANNUAL UPDATE CONCERNING THE DEVELOPMENT AND USE OF THE BOARD'S WEBSITE - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Kathy Tomono updating the development and use of the Board's website. As indicated in the memo, no substantial changes have been made to the website since previously reported in November 2009. Ms. Tomono reported that one upcoming addition will be an "Email Alert" subscription button. Viewers can click on this to subscribe and add their email addresses to automatically be alerted when new information is added, such as agendas, minutes, etc.

The following chart reflects the top 10 page views (page views are the number of pages that are viewed during a visit to the website): The number of page views for fiscal year 2009-2010 was 893,839, which is a 45% increase over the 2008-2009 fiscal year total, which was 401,564.

	Pages	Page views
1	Appeal decisions	99,772
2	Protest final decisions	92,549
3	Home page	80,876
4	RSS Meeting Feed	12,906
5	RSS Publication Feed	9,887
6	Search Page	7,449
7	RSS What's New Feed	5,315
8	Board Members	4,686
9	Mediation Overview	3,932
10	Agenda/Meetings	3,778
	All other pages	572,689
	Total	893,839

Mr. Brennan indicated that website has improved and that Kathy is responsible for the website. The DMV has been very helpful in this regard. Furthermore, DMV has helped the Board with its computers, which in turn has reduced the Board's costs.

11. **DISCUSSION OF THE BOARD'S LEASE ON ITS CURRENT FACILITY AND POTENTIAL ALTERNATIVE LOCATIONS - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Dawn Kindel concerning Board's lease on its current facility and potential alternative locations. As indicated in the memo, the Board has been at this facility since 1981. The Board's current lease agreement commenced on August 1, 2006, and ends on July 31, 2014. The leased space is approximately 8,613 of net usable square footage and includes 20 parking spaces. The Board pays no utilities or maintenance costs. Miss Kindel reported that the DMV's facilities coordinator is currently looking into entering into a firm term lease for the Board at a reduced rate. She also reported on the following alternatives to reduce the Board's lease costs.

- Move to DMV;
- Reduce the space that the Board currently occupies;
- Sublet;
- Move to a state-owned or leased facility;
- Purchase a building and/or land to build a facility on.

There were a number of suggestions from the members including shopping the lease as a "mystery shopper" to see how much rent would be, extend the lease for a reduced lease amount, and purchasing a building. This topic will be agendized for discussion and consideration at the March meeting including the process for acquisition of a building, the costs, and the pros and cons. Mr. Brennan indicated that he would ask the DMV Facilities Coordinator to attend the meeting.

12. **STATUS REPORT CONCERNING MANUFACTURER AND DISTRIBUTOR COMPLIANCE WITH VEHICLE CODE SECTIONS 3064/3074 AND 3065/3075 (THE FILING OF STATUTORILY REQUIRED SCHEDULES AND FORMULAS) - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Polly Riggenbach updating manufacturer and distributor compliance with the Board's request that statutorily mandated schedules or formulas be filed with the Board. Ms. Riggenbach reported that of the 235 manufacturers/distributors which fall within the Board's jurisdiction that are required to file schedules and formulas pursuant to Vehicle Code sections 3064/3074 and 3065/3075, there is 100% compliance. In December 2007, there was only 13% compliance. Mr. Flesh inquired about new start up companies including electric vehicles to make sure they were in compliance. Ms. Riggenbach indicated that annually all new companies are added to the Board's database based on a report it receives from DMV. Mr. Hoffman inquired about Coda and Wheego. (After agenda item 14, Ms. Riggenbach indicated that Wheego was compliant with its filing but Coda was not in the Board's database.)

13. **ANNUAL REPORT ON BOARD DEVELOPMENT PROGRAM - BOARD DEVELOPMENT COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker reporting on the Board Development Program. Ms. Parker reported that representatives from CalRVDA and the Recreation Vehicle Industry Association are planning to attend the January or February meeting to discuss the legislative irregularities with Article 5 of the Vehicle Code pertaining to RV protests. Ms. Parker reported that NADA is set for February 5-7, 2011, in San Francisco.

14. **SEMI-ANNUAL DISCUSSION AND CONSIDERATION OF THE METHODS FOR DETERMINING BOARD FEES - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan concerning the semi-annual discussion and consideration of the methods of determining Board fees. Mr. Brennan indicated that there was no reason to change the method for accessing fees but the Board was going into its reserves and as a consequence it will be looking at projections with a recommendation to change the fee structure.

15. **BOARD FINANCIAL CONDITION REPORT FOR THE PREVIOUS FISCAL YEAR - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for fiscal year 2009-2010. Miss Kindel reported that the Board expended 91% of its appropriated budget through the end of the fiscal year. Furthermore, she reported that revenues and reserves were both decreasing. Mr. Brennan indicated that the Board's payroll exceeds its revenue by \$50,000. As a consequence, the Board is using a portion of its fund reserves to finance

the Board's operations. Mr. Brennan indicated that he is keeping a close eye on all expenditures. The Board needs to be careful that work is provided to its administrative law judges so that it does not lose them (Linda Waits recently resigned). Lastly, Mr. Brennan reported that dealer fees for the 2010-2011 fiscal year are tracking higher. The topic of Board fees will be considered at the next meeting.

16. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 1ST QUARTER OF FISCAL YEAR 2010-2011 AND STATUS ON THE BOARD'S COLLECTION OF ITS ANNUAL FEES - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel, and Linda Lighter concerning the Board financial condition for the 1st quarter of 2010-2011. Mr. Brennan reported that the Board expended 16% of its appropriated budget through the first quarter of the current fiscal year. Unfortunately, however, he reported that this figure is misleading as there was no state budget until the end of September, and therefore, no operating expenditures are reflected for this period. Mr. Brennan reported that many of the employees now have new Union contracts; however, the attorneys are still furloughed. As indicated in the memo, the Board's annual manufacturer/distributor fee collection has been completed for this year; \$415,718.41 was collected from 169 manufacturers and distributors, for the 1,558,165 vehicles sold in calendar year 2009.

17. **DISCUSSION AND CONSIDERATION OF 2011 INDUSTRY/ATTORNEY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning the 2011 Industry/Attorney Roundtable in Sacramento on March 30, 2011. The members were also provided proposed draft topics and speakers. Ms. Parker reported that the staff proposed hosting the Roundtable on March 30 (the day after the California New Car Dealers Association Dealer Day event). The Roundtable would be in West Sacramento at the Ziggurat Building, which is a State building, at a cost of approximately \$500.00 which includes all of the audio visual needs.

The members had a lengthy discussion concerning the draft topics. Mr. Hoffman indicated that the proposed flooring topic was old news; manufacturer pressure to upgrade facilities is a timely topic given the recent statute. Ms. Pearson suggested warranty labor rates; Mr. Wilson proposed this be combined with prepaid maintenance. Mr. Flesh suggested a panel discussion on alternative fuel vehicles and the infrastructure. Ms. Pearson proposed compliance with the Lemon Law requirements or highlighting the consumer mediation program. Mr. Hoffman echoed that there is massive abuse of the Lemon Law; everything is settled out of court because of the expense of litigation. Mr. Brooks suggested a topic pertaining to alternative fuel vehicles and "green collar jobs". Mr. Hoffman suggested an emphasis on that if there are going to be "green products" available and if so some how consumer demand needs to be created for those products. Mr. Brooks echoed that creating consumer demand in the form of rebates, tax breaks, and other incentives would be relevant. Mr. Brooks clarified for the record that with regards to the alternative fuel vehicles topic: do they truly create "green collar" jobs; what is the cost to dealers and

manufacturers; whether incentives drive consumer demand; and when manufacturers require dealers to invest in the infrastructure will that investment pay off when the incentives go away because of the quality and type of vehicles. The staff will revise the topics and route them to the Committee.

18. **CONSIDERATION OF PROPOSED REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

- a. Determination of Annual Board Fee (13 § 553.20);
- b. Noncompliance (13 § 553.30);
- c. Obligation to Comply (13 § 553.50);
- d. Payment of Fees (13 § 553.70);
- e. Transmittal of Fees by Mail (13 § 553.72).

The members were provided with a memorandum and proposed regulatory revisions from Bill Brennan and Robin Parker. Ms. Parker reported that in an effort to streamline and reduce the costs of performing the Annual Board Fee collection and the Arbitration Certification Program ("ACP") fee collection, regulatory amendments are being proposed. As indicated in the memo, Sherrie Moffet-Bell, Chief of the ACP has approved the changes that affect them.

The following briefly summarizes the proposed regulatory changes:

- **Amend Section 553.20** to allow the Board to issue fee collection invoices via e-mail or regular mail in lieu of certified mail for its Annual Board Fee collection. Also, consistent with Section 553, reiterate that the minimum fee to be paid by each manufacturer or distributor shall not be less than \$225.00.
- **Add Section 553.30** to allow the Board to consider the failure of a manufacturer or distributor to comply with the provisions pertaining to the Board fee collection to be good cause pursuant to Vehicle Code section 3050(c). This is consistent with Section 553.75 pertaining to the ACP fee collection.
- **Amend Section 553.50** to change an inaccurate reference to the Business and Professions Code. The proper reference should be Section 472.5(e) not 472(a).
- **Amend Section 553.70** to allow the Board to issue fee collection invoices via e-mail or regular mail in lieu of certified mail for its ACP fee collection. Also, reiterates that the definition of "new motor vehicle" for purposes of this fee collection is contained in Business and Professions Code section 472.5(e).
- **Amend Section 553.72** to correct an inaccurate reference to the Board's zip code.

Mr. Stevens moved to adopt the proposed regulations. Mr. Wilson seconded the motion. The motion carried unanimously.

Mr. Flesh read the following statement into the record:

Given the Board's decision to go forward with the proposed regulations, I hereby delegate to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. Notice of the proposed rulemaking will be published in the California Regulatory Notice Register and will be sent to the Public Mailing List. During the public comment period, I want to invite and encourage written and oral comments. Additionally, a public hearing at the Board's offices may be held to accept oral and written comments.

By the Board instructing staff to go forward with the proposed regulations, this does not necessarily indicate final Board action. If any written or oral comments are received, the full Board will consider the comments and reconsider the text of the proposed regulations. Furthermore, if the staff decides that substantive modifications to the proposed text are necessary, the Board will consider those modifications at a noticed meeting. However, non-substantive changes involving format, grammar, or spelling suggested by the Office of Administrative Law or the staff will not be considered by the Board because they are non-regulatory in nature. They will be considered by the Executive Committee and ultimately reported to the Board at a future meeting. If there are no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

19. **CONSIDERATION OF 2011 RULEMAKING CALENDAR - POLICY AND PROCEDURE COMMITTEE**

The members were provided with the 2011 Rulemaking Calendar. Ms. Parker reported that if the calendar is approved by the Board, it is then submitted to Business, Transportation & Housing Agency for their approval, and ultimately published in the California Regulatory Notice Register by the Office of Administrative Law.

Mr. Stevens moved to adopt the 2011 Rulemaking Calendar. Mr. Brooks seconded the motion. The motion carried unanimously.

20. **DISCUSSION CONCERNING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Legislation of Special Interest - none.
- b. Legislation of General Interest.
 - (1) Assembly Bill 2597 (Assembly Member Berryhill) [vetoed 9/29/10].

- c. Pending Federal Legislation of General Interest.
- (1) United States House of Representatives Bill 2743 (U.S. Representative Maffei) - Automobile Dealer Economic Rights Restoration Act of 2009.
 - (2) United States House of Representatives Bill 2796 (U.S. Representative LaTourette) - Automobile Dealer Economic Rights Restoration Act of 2009.
 - (3) United States House of Representatives Bill 3311 (U.S. Representative Blumenauer).
 - (4) United States House of Representatives Bill 3450 (U.S. Representative Jackson-Lee) - Automobile Dealers Fair Competition Act of 2009.
 - (5) United States House of Representatives Bill 4897 (U.S. Representative Richardson) - Drivers Accelerated Interest Deductibility Act of 2010 or the Drivers AID Act.
 - (6) United States House of Representatives Bill 5345 (U.S. Representative Speier) - Consumer Auto Safety Enhancement Act of 2010.
 - (7) United States Senate Bill 209 (U.S. Senator Boxer).
 - (8) United States Senate Bill 247 (U.S. Senator Feinstein) - Accelerated Retirement of Inefficient Vehicles Act of 2009.
 - (9) United States Senate Bill 271 (U.S. Senator Cantwell) - Fuel Reduction using Electrons to End Dependence on the Mid-East (FREEDOM) Act of 2009.
 - (10) United States Senate Bill 1200 (U.S. Senator Feinstein) - Short Term Accelerated Retirement of Inefficient Vehicles Act of 2009.

The members were provided with a memorandum from Bill Brennan and Robin Parker concerning pending legislation. Ms. Parker reported that AB 2597 was vetoed by the Governor. Ms. Parker also reported that since there has been no activity on the pending federal legislation that future reports will not contain pending federal legislation unless there is a change in status. However, the staff will continue to monitor and track the federal legislation and report as needed.

21. EXECUTIVE DIRECTOR'S REPORT

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Brennan provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Brennan also reported that Mr. Alvarez C. was recently reappointed by the Governor and that he has been working with the Governor's appointments office to seek a

replacement for Mr. Papaian prior to the end of the year (Mr. Papaian's one-year grace period ends on January 15, 2011). Furthermore, Mr. Brennan noted that Ms. Pearson, Mr. Wilson, Mr. Stevens and Mr. Lizárraga are in their one-year grace period starting January 15, 2011.

Ms. Riggerbach reported that since the members received their written report, there was one new protest filed and three protests dismissed. A total of 50 protests were currently pending. Ms. Riggerbach also discussed judicial review; the *Timmons Volkswagen* writ was dismissed and in *Powerhouse* a motion for summary judgment is pending.

Ms. Parker reported that there have been 84 protests filed this year in comparison to 54 in 2009. Furthermore, Ms. Parker indicated that there had been 161 involuntary notices of termination submitted.

22. **ANNUAL REPORT OF STAFF PARTICIPATION IN THE CALIFORNIA STATE EMPLOYEES CHARITABLE CAMPAIGN (CSECC)**

The members were provided with a memorandum from Bill Brennan and Linda Lighter, Chairperson for this year's California State Employees Charitable Campaign. Mr. Ohta, a Co-Chair of the campaign reported that the Board raised a total of \$2,469 this year through generous donations made by Board Members, Administrative Law Judges and staff, and through the fundraising events. In addition, nine members of the staff are now signed up for monthly payroll deductions, and, as a direct result of an inspiring presentation made by a representative from the Sacramento Food Bank and Family Services, the Board is adopting a family for Christmas. Mr. Ohta thanked the Board members and staff for their contributions.

23. **SELECTION OF BOARD MEETING DATES FOR 2011**

The members were provided with a memorandum from Bill Brennan concerning upcoming Board meeting dates. The members went off the record for this discussion. Ms. Parker announced that the following meetings were scheduled for 2011:

- February 4, 2011, General Board Meeting, San Francisco
- March 29, 2011, General Board Meeting
- March 30, 2011, Industry/Attorney Roundtable, West Sacramento
- June 7, 2011, General Meeting, Los Angeles.

24. **CLOSED EXECUTIVE SESSION**

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

CONSIDERATION OF ANNUAL PERFORMANCE REVIEW FOR EXECUTIVE DIRECTOR - EXECUTIVE COMMITTEE

The members of the Board convened in closed Executive Session to discuss this agenda item.

25. **OPEN SESSION**

The members returned from Open Session. No action was taken on agenda item 24.

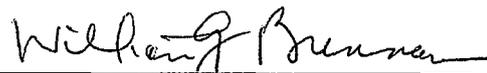
26. **PUBLIC COMMENT. (GOV. CODE § 11125.7)**

No additional public comment was presented.

27. **ADJOURNMENT**

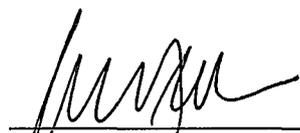
With no further business to discuss, the meeting was adjourned at approximately 1:10 p.m.

Submitted by



WILLIAM G. BRENNAN
Executive Director

APPROVED:



Robert T. (Tom) Flesh
President
New Motor Vehicle Board