



DECISION COVER SHEET

ACTION BY: Public Members Only

ACTION BY: All Members

To : BOARD MEMBERS

Date: April 26, 2012

From : ADMINISTRATIVE LAW JUDGE: Anthony M. Skrocki

CASE: DEPOT GARAGE, INC. v. GENERAL MOTORS
Protest No. PR-2315-11

TYPE: Vehicle Code section 3060 termination protest (GMC Truck)

PROCEDURE SUMMARY:

- PROTESTS FILED ON CALENDAR: September 30, 2011
- MOTIONS FILED: Respondent's Motion to Dismiss Protest For Lack of Jurisdiction
- COUNSEL FOR PROTESTANT: Jose Reynoso, In Pro Per
General Manager
Depot Garage, Inc.
- COUNSEL FOR RESPONDENT: Gregory R. Oxford, Esq.
Isaacs Clouse Crose & Oxford LLP

Of Counsel
L. Joseph Lines, Esq.
General Motors LLC

EFFECT OF PROPOSED ORDER: The Proposed Order would grant Respondent's motion to dismiss protest.

SUMMARY OF PROPOSED ORDER:

- General Motors LLC ("GM") gave notice by letter dated September 2, 2011, of its intent to terminate the GM truck franchise of Depot Garage, Inc. ("Depot"). Depot filed a timely protest on September 30, 2011.
- At the time the protest was filed, Depot had been negotiating a buy-sell with a third party. Both GM and Depot expected the buy-sell to occur and that there would be no need for a hearing on the protest. The buy-sell was consummated with GM's approval on December 22, 2011, and GM and Depot voluntarily terminated the franchise.

- Subsequently, Depot assured GM and the Board that Depot would file a request for dismissal of its protest but no request was received.
- The Board's staff made contact with Mr. Reynoso (who was representing Depot). Mr. Reynoso confirmed that the buy-sell had occurred and that a request for dismissal would be filed. No such request was received by the Board.
- In order to bring the protest to a conclusion, GM filed this Motion to Dismiss.
- The Board established a briefing schedule and a date for hearing of the motion.
- No Opposition to the Motion or any other pleadings were filed in behalf of Depot.
- No representative of Depot participated in the hearing on the Motion to Dismiss.
- Because it is undisputed that Depot's franchise has been terminated due to the buy-sell, Depot is no longer a franchisee of GM and has no right to a hearing before the Board.
- As the franchise has been voluntarily terminated, there is no reason to hold a hearing to determine if there is good cause for GM to terminate the franchise of Depot.

RELATED MATTERS:

- Related Case Law: None.
- Applicable Statutes: Vehicle Code section 3060.