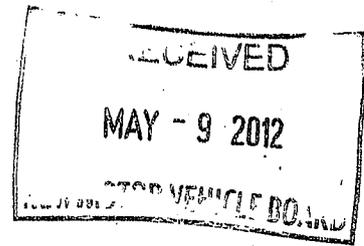


VIA E-MAIL



Baker Hostetler

Baker & Hostetler LLP

600 Anton Boulevard
Suite 900
Costa Mesa, CA 92626-7221

T 714.754.6600
F 714.754.6611
www.bakerlaw.com

May 8, 2012

Maurice Sanchez
direct dial: 714.966.8809
msanchez@bakerlaw.com

VIA E-MAIL & FIRST CLASS MAIL
rparker@nmvb.ca.gov

Robin Parker, Senior Staff Counsel
California New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95811

Re: Request for Amicus Brief - Powerhouse Motorsports Group, Inc. v. Yamaha Motor Corporation, U.S.A. - Protest No. PR-2122-08; SLO County Superior Court No. CV098090; and Court of Appeal No. B236705.

Dear Members of the Board:

Yamaha Motor Corporation respectfully seeks requests that the New Motor Vehicle Board file a brief in the above-referenced Court of Appeal case, as an amicus curiae, or "friend of the court." This request is specifically with regard to the issue of the Board's jurisdiction to hear and decide protests, especially termination protests.

As you may recall, Powerhouse Motorsports filed the above-referenced protest of Yamaha's termination of Powerhouse's franchise, which was based on the dealer being closed for more than 7 consecutive days. Yamaha filed a Motion to Dismiss the protest because it had not been filed within the time required under the statute. A two-day hearing was held, with several witnesses testifying and with numerous exhibits presented by each side. ALJ Archibald presided over the hearing on the Motion and wrote an extensive Proposed Decision, dismissing the protest. This Board adopted the Proposed Decision in June, 2009 and entered an Order accordingly.

The former dealer filed a Writ of Administrative Mandate, challenging the Board's decision and it was consolidated with the dealer's lawsuit filed in San Luis Obispo County Superior Court, regarding Yamaha's refusal to approve a transfer of the franchise to a third party. The Superior Court first denied the dealer's writ petition with regard to the dismissal of the termination protest, upholding the Board's Order. Yamaha then filed a Motion for Summary Judgment, citing the Board's dismissal of the protest. The Court denied the Motion for Summary Judgment and held that the Board did not have jurisdiction over protests and that the findings of the Board with regard to the Powerhouse termination were not binding. At that point, Yamaha sought an emergency writ before the Court of Appeal, and then petitioned the California Supreme Court to take the case. The Board graciously submitted a letter to the Supreme Court,

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explaining the basis for its jurisdiction over protests, and asking the Court to protect its jurisdiction. Neither appellate court, however, accepted this matter for review at that time.

The case was subsequently tried to a jury in Superior Court, leading to a verdict against Yamaha. It is now on appeal before the Second District Court of Appeal in Ventura. Yamaha requests that the Board submit a friend of the court brief to the Court of Appeal that would substantially be the same as the letter submitted to the Supreme Court previously. Specifically, the brief would explain the difference in the Board's jurisdiction between protests and petitions and would set forth the difficulties that would occur if the Board were held to lack jurisdiction over protests. The brief also would request the appellate court to recognize that rulings of the Board, in making its jurisdictional determination on a termination protest, are entitled to deference in the courts of this state.

Yamaha does not seek the Board to take a position with regard to the ultimate outcome of the case. Rather, the proposed amicus brief is meant simply to educate the Court of Appeal regarding the jurisdiction of the Board, explain the expertise of the Board in adjudicating protests, and underscore the mission of the Board to serve all constituents in the new motor vehicle industry: dealers, manufacturers and the general consuming public. Once the Court understands the important role the Legislature created and maintains for the Board, we believe it will protect the Board's jurisdiction to decide protests. There is no party better equipped to submit this brief than the Board itself.

Your consideration of this request is greatly appreciated.

Sincerely,



Maurice Sanchez

MS/ec