

VIA E-MAIL

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MAR 29 2012
NEW MOTOR VEHICLE BOARD

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FILED
NEW MOTOR VEHICLE BOARD
DATE 3-29-12
BY na

11 Attorney(s) for Protestant
12 SANTA MONICA AUTO GROUP
13 dba SANTA MONICA INFINITI

14 STATE OF CALIFORNIA
15 NEW MOTOR VEHICLE BOARD

16 In the Matter of the Protest of
17 SANTA MONICA AUTO GROUP,
18 dba SANTA MONICA INFINITI

19 Protest No. PR - 2330-12

20 Protestant,

21 **PROTEST**

22 v.

23 [Vehicle Code §3062]

24 INFINITI WEST, a Division of
25 NISSAN NORTH AMERICA, INC.

26 Respondent.

27 Protestant, SANTA MONICA GROUP, dba SANTA MONICA INFINITI, through its attorney(s),
28 files this protest under the provisions of California Vehicle Code section 3062 and alleges as follows:

1. Protestant is a new motor vehicle dealer selling Infiniti vehicles, and is located at 3219 Santa Monica Blvd., Santa Monica, CA 90404. Protestant's telephone number is (310) 828-4424.
2. Respondent distributes/manufactures Infiniti products and is the franchisor of Protestant.

1 3. Protestant is represented in this matter by Michael M. Sieving and Tina Hopper of
2 CALLAHAN THOMPSON SHERMAN & CAUDILL, LLP, whose address is 1545 River Park Drive,
3 Suite 405, Sacramento, California 95815 and telephone number is (916) 649-3500.

4 4. On or about March 28, 2012, Protestant received from Respondent a notice that
5 Respondent intends to establish an Infiniti franchise in Beverly Hills, CA. Protestant received notice
6 that the proposed new dealer will conduct sales operations from 8825 Wilshire Blvd., Beverly Hills, CA
7 and will provide service and other non-sales functions at 9000/9001/9031 W. Olympic Blvd., Beverly
8 Hills, CA.

9 5. Protestant is located within the relevant market area of the proposed new dealer.

10 6. There is good cause for not permitting the establishment of the franchise by reason of the
11 following facts:

12 (a) Protestant has made a substantial and permanent investment in the dealership which would
13 be destroyed or substantially diminished by the establishment of an additional dealer in Beverly Hills.

14 (b) The establishment would have an adverse effect on the retail motor vehicle business and the
15 consuming public in the relevant market area.

16 (c) It would be injurious to the public welfare for the franchise to be established.

17 (d) The Infiniti franchisees in the relevant market area are providing adequate competition and
18 convenient consumer care for Infiniti vehicles including adequate motor vehicle sales and service
19 facilities, equipment, supply of vehicle parts, and qualified service personnel.

20 (e) The establishment of the franchise would not increase competition in the market and
21 therefore not be in the public interest.

22 7. Protestant and its attorneys desire to appear before the Board and estimate that the hearing in
23 this matter will take 10 days to complete.

24 8. A Pre-Hearing Conference is requested.

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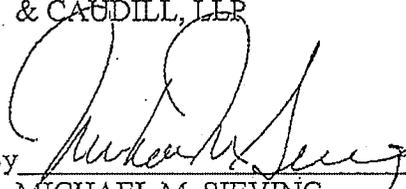
WHEREFORE, Protestant prays as follows:

- (1) That the Board issue its decision determining that good cause exists for not permitting the establishment;
- (2) That the Board issue its order not permitting such establishment; and,
- (3) For such other and further relief as the Board deems proper.

Respectfully submitted,

CALLAHAN THOMPSON SHERMAN
& CAUDILL, LLP

DATED: March 29, 2012

By 
MICHAEL M. SIEVING
TINA HOPPER
Attorneys for Protestant
SANTA MONICA AUTO GROUP
dba SANTA MONICA INFINITI

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

3 COUNTY OF SACRAMENTO)

4 I am employed in the County of Sacramento, State of California, I am over the age of 18 years
5 and not a party to the within action; my business address is 1545 River Park Drive, Suite 405,
6 Sacramento, California.

6 On this date, March 29, 2012, I served the foregoing document described as:

7 **(PROTEST)**

8 I enclosed a true copy of said documents in a sealed envelope or package addressed to the
9 persons noted below.

10 X (By United States Mail) I placed the envelope for collection and mailing, following our
11 firm's ordinary business practices. I am familiar with our firm's practice for collecting and
12 processing correspondence for mailing. On the same day that correspondence is placed for
13 collection and mailing, it is deposited in the ordinary course of business with the United States
14 Postal Service, in a sealed envelope with postage fully prepaid.

13 (By overnight delivery) I enclosed the documents in an envelope or package provided by
14 an overnight delivery carrier and addressed to the persons listed below. I placed the envelope or
15 package for collection and overnight delivery at an office or a regularly utilized drop box of the
16 overnight delivery carrier.

15 (By messenger service) I served the documents by placing them in an envelope or
16 package addressed to the persons at the addresses below and providing them to a professional
17 messenger service for service.

17 (By fax transmission) Based on agreement of the parties to accept service by fax
18 transmission, I faxed the documents to the persons at the fax numbers listed below. No error was
19 reported by the fax machine that I used. A copy of the record of the fax transmission, which I
20 printed out, is attached.

20 (By electronic service) Based on a court order or an agreement of the parties to accept
21 service by electronic transmission, I caused the documents to be sent to the persons at the
22 electronic notification addresses listed below.

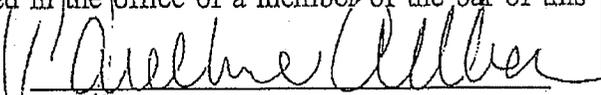
22 (By personal service) I served the documents by delivering the envelope, by hand, to the
23 persons listed below.

23 (By [Insert Electronic Service Provider]) I caused the above-entitled documents to be
24 served through [Insert Electronic Service Provider] addressed to all parties appearing on the
25 [Insert Electronic Service Provider] electronic service list for the above-entitled case. The file
26 transmission was reported as completed and a copy of the [Insert Name of Electronic Service
27 Filing Receipt] pages will be maintained with the original documents in our office. Service will
be deemed effective as provided for in the Electronic Case Management Order. I have complied
with California Rules of Court, Rule 2.257(a) and the original, signed Proof of Service is
available for review and copying at the request of the court or any party.

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Executed on March 29, 2012, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


CAROLINE ALLBEE

SERVICE LIST

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Case Name: SANTA MONICA AUTO GROUP, dba SANTA MONICA INFINITI V.
INFINITI WEST, a Division of NISSAN NORTH AMERICA
Court: NEW MOTOR VEHICLE BOARD
Protest Number :
Infiniti West, a Division of Nissan North
America, Inc.
20 Pacifica, Suite 1200
Irvine, CA 92618
Phone: 949-705-4800