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FEB 18 2010
NEW MOTOR VEHICLE BOARD

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Attorney for Protestant
MEGA RV CORP. dba MCMAHON'S RV

FILED
NEW MOTOR VEHICLE BOARD
DATE 2-18-10
BY

THE STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

MEGA RV CORP. dba MCMAHON'S RV, Protestant, vs. ROADTREK MOTORHOMES, INC. Respondent.	Protest Number: PR-2205-10 **AMENDED PROTEST PURSUANT TO V.C. SECTION 3076 (FRANCHISOR INCENTIVE PROGRAM)**

Protestant MEGA RV CORP. dba MCMAHON'S RV (hereinafter "McMahon's) hereby files its protest pursuant to the provisions of Vehicle Code section 3076[1], and alleges as follows:

1. McMahon's is a new motor vehicle dealer, as that term is defined by section 426, and is licensed as such by the California Department of Motor Vehicles. Protestant corporation maintains four dealerships in California, located at 1312 RV Center Drive, #16, Colton, CA 92324.

2. Respondent ROADTREK MOTORHOMES, INC. (hereinafter "Respondent" or "Roadtrek") is a manufacturer/distributor, as that term is defined by the vehicle code, and is licensed by the California Department of Motor Vehicles. Respondent's address is 100 Shirley Avenue, Kitchener, Ontario, Canada N2B 2E1.

[1] All statutory references are to the Vehicle Code, unless otherwise indicated.

3. McMahon's and Roadtrek are parties to a franchise, as that term is defined by section 331, pursuant to which McMahon's is afforded the right to sell and service new vehicles manufactured by Roadtrek. True and correct copies of the dealer agreements between the parties are attached hereto and marked as Exhibits A and B.

4. Protestant is represented in this matter by the attorneys indicated above.

5. During the course of the franchise relationship between the parties, Protestant properly submitted to Respondent claims for payments pursuant to a franchisor incentive program. Roadtrek has failed to disapprove Protestant's claims in writing stating the specific grounds for disapproval. "Claims not specifically disapproved in writing within 30 days from receipt, shall be deemed approved on the 30th day." V.C. section 3076. Roadtrek has failed to pay the monies owed to Protestant pursuant to the incentive claims submitted.

6. Due to the above, Roadtrek is in violation of section 3076.

7. Protestant and its attorneys desire to appear before the Board and estimate that the Hearing in this matter will take three (3) days to complete.

8. A Pre-Hearing Conference is requested.

Wherefore, Protestant McMahon's prays as follows:

1. That the Board schedule and conduct an evidentiary hearing on this protest, pursuant to the provisions of section 3066.

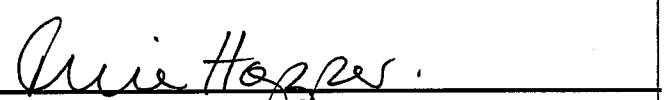
2. That after such evidentiary hearing, the Board render its decision sustaining this Protest and order Respondent to pay the incentive monies owed to Protestant according to proof at the evidentiary hearing on this matter.

3. **That this Protest be consolidated with the already pending Protests involving the same parties.**

4. For such other and further relief as the Board deems proper.

DATED: February 18, 2010

LAW OFFICES OF MICHAEL M. SIEVING



MICHAEL M. SIEVING
TINA HOPPER
Attorneys for Protestant
MEGA RV CORP., dba MCMAHON'S RV

PROOF OF SERVICE

I am employed in the City of Santa Ana and the County of Orange, California. I am over 18 years of age and not a party to the within entitled cause; my business address is 1801 Park Court Place, F-101, Santa Ana, California 92701. On the date indicated below, I served the foregoing document(s) described as:

1. **AMENDED PROTEST PURSUANT TO V.C. SECTION 3076 (FRANCHISOR INCENTIVE PROGRAM)**

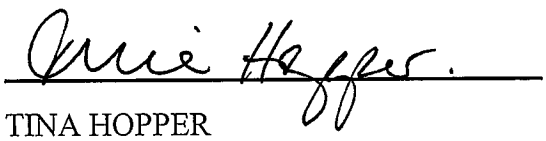
on the interested parties in this action, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Eric McDonough, Esq.
SEYFARTH SHAW LLP
2029 Century Park East, Suite 3500
Los Angeles, California 90067-3021
[Presumed attorney for Respondent]

Louis S. Chronowski, Esq.
SEYFARTH SHAW LLP
131 South Dearborn Street, Suite 2400
Chicago, Illinois 60603
[Presumed attorney for Respondent]

[X] **(BY MAIL)** The envelope was deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Sacramento, California.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 18, 2010 at Sacramento, California.



TINA HOPPER