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Attorney for Protestant

MEGA RV CORP. dba MCMAHON'S RV

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

THE STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

MEGA RV CORP. dba MCMAHON'S RV,

Protestant,

vs.

ROADTREK MOTORHOMES, INC.

Respondent.

Protest Number: PR-2212-10

**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<sup>1</sup>, 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 6441 Burt Road #10, Irvine, CA 92618.

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.

<sup>1</sup> All statutory references are to the Vehicle Code, unless otherwise indicated.

1 3. McMahon's and Roadtrek are parties to a franchise, as that term is defined by section  
2 331, pursuant to which McMahon's is afforded the right to sell and service new vehicles manufactured  
3 by Roadtrek. True and correct copies of the dealer agreements between the parties are attached hereto  
4 and marked as Exhibits A and B.

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

6 5. During the course of the franchise relationship between the parties, Protestant properly  
7 submitted to Respondent claims for payments pursuant to a franchisor incentive program. Roadtrek has  
8 failed to disapprove Protestant's claims in writing stating the specific grounds for disapproval. "Claims  
9 not specifically disapproved in writing within 30 days from receipt, shall be deemed approved on the  
10 30<sup>th</sup> day." V.C. section 3076. Roadtrek has failed to pay the monies owed to Protestant pursuant to the  
11 incentive claims submitted.

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

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

15 8. A Pre-Hearing Conference is requested.

16 Wherefore, Protestant McMahon's prays as follows:

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

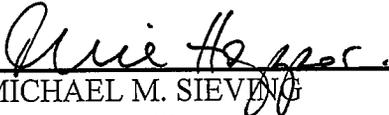
19 2. That after such evidentiary hearing, the Board render its decision sustaining this Protest  
20 and order Respondent to pay the incentive monies owed to Protestant according to proof at the  
21 evidentiary hearing on this matter.

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

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

25 DATED: February 18, 2010

LAW OFFICES OF MICHAEL M. SIEVING

26   
27 MICHAEL M. SIEVING  
28 TINA HOPPER  
Attorneys for Protestant  
MEGA RV CORP., dba MCMAHON'S RV

1 **PROOF OF SERVICE**

2 I am employed in the City of Santa Ana and the County of Orange, California. I am over  
3 18 years of age and not a party to the within entitled cause; my business address is 1801 Park Court  
4 Place, F-101, Santa Ana, California 92701. On the date indicated below, I served the foregoing  
5 document(s) described as:

6  
7 **1. PROTEST PURSUANT TO V.C. SECTION 3076 (FRANCHISOR INCENTIVE PROGRAM)**

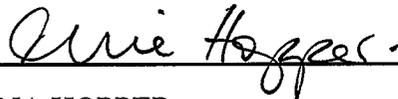
8  
9 on the interested parties in this action, by placing a true copy thereof enclosed in a sealed envelope  
10 addressed as follows:

11  
12 Eric McDonough, Esq.  
13 SEYFARTH SHAW LLP  
14 2029 Century Park East, Suite 3500  
15 Los Angeles, California 90067-3021  
16 [Presumed attorney for Respondent]

17  
18 Louis S. Chronowski, Esq.  
19 SEYFARTH SHAW LLP  
20 131 South Dearborn Street, Suite 2400  
21 Chicago, Illinois 60603  
22 [Presumed attorney for Respondent]

23  
24  (BY MAIL) The envelope was deposited with the U.S. Postal Service on the same day with  
25 postage thereon fully prepaid at Sacramento, California.

26  
27 I declare under penalty of perjury that the foregoing is true and correct and that this declaration  
28 was executed on February 18, 2010 at Sacramento, California.

29  
30   
31 \_\_\_\_\_  
32 TINA HOPPER