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JAN 29 2013
NEW MOTOR VEHICLE BOARD

1 MICHAEL J. FLANAGAN State Bar #93772
2 GAVIN M. HUGHES State Bar #242119
3 LAW OFFICES OF MICHAEL J. FLANAGAN
2277 Fair Oaks Boulevard, Suite 450
4 Sacramento, CA 95825
Telephone: (916) 646-9100
5 Facsimile: (916) 646-9138
E-mail: lawmjf@msn.com

FILED
NEW MOTOR VEHICLE BOARD
DATE 1-29-13
BY SA

6 ATTORNEYS FOR PROTESTANT

7
8 STATE OF CALIFORNIA
9 NEW MOTOR VEHICLE BOARD

10 In the Matter of the Protest of:

11
12 M&M AUTOMOTIVE GROUP, INC., dba
INFINITI OF OAKLAND,

PROTEST NO: PR- 2360-13
Vehicle Code Section 3060

13 Protestant,

14 v.

15 INFINITI WEST, a Division of Nissan
16 North America, Inc.,

17 Respondent.

18
19
20 Protestant, M&M Automotive Group, Inc., Inc., dba Infiniti of Oakland, a California
21 corporation, qualified to do business in California, through its attorneys, files this protest under
22 provisions of California Vehicle Code Section 3060 and alleges as follows:

23 1. Protestant is a new motor vehicle dealer selling Infiniti vehicles and parts, is duly
24 licensed as a vehicle dealer by the State of California, and is located at 2735 Broadway, Oakland,
25 California 94612. Protestant's telephone number is (510) 639-2000.

26 2. Respondent distributes Infiniti products and is the franchisor of Protestant.
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1 3. Protestant is represented in this matter by Law Offices of Michael J. Flanagan, whose
2 address and telephone number are 2277 Fair Oaks Boulevard, Suite 450, Sacramento, California
3 95825; (916) 646-9100.

4 4. On or about January 18, 2013, Protestant received from Respondent a letter dated
5 January 18, 2013, that Respondent intends to terminate Protestant's franchise agreement effective
6 January 31, 2013.

7 5. Respondent does not have good cause to terminate the franchise by reason of the
8 following facts:
9

10 (a) Protestant has made a substantial and permanent investment in the dealership.

11 (b) Protestant has transacted and is transacting an adequate amount of Infiniti
12 business compared to the business available to it.

13 (c) Protestant has fulfilled the warranty obligations to be performed by it.

14 (d) The extent of any failure of Protestant to comply with the terms of the franchise
15 agreement is immaterial.

16 (e) Protestant has adequate motor vehicle sales and service facilities, equipment,
17 vehicle parts, and qualified service personnel to reasonably provide for the needs of Infiniti buyers and
18 owners in the market area and is rendering adequate service to the public.

19 (f) It would be injurious to the public welfare for the franchise to be terminated or
20 for Respondent to refuse to continue the existing franchise.

21 (g) Protestant's failure to fulfill Respondent's sales and/or service expectations, if
22 any, is in whole or in part the result of Respondent's action or inaction, product deficiencies, product
23 scarcities and/or market conditions.
24

25 6. Protestant and its attorneys desire to appear before the Board and/or its designated
26 hearing officer and estimate that the hearing in this matter will take seven (7) days to complete.
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1 WHEREFORE, Protestant prays as follows:

2 1. That the Board sustain this protest and order Respondent not to terminate Protestant's
3 Infiniti franchise nor refuse to continue its existing franchise.

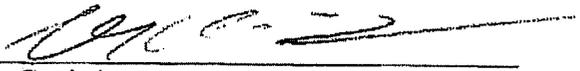
4 2. That pending the hearing in this matter, the Board or its executive director or authorized
5 representative immediately order Respondent not to terminate or refuse to continue Protestant's franchise
6 until such time as Respondent has established good cause for such actions under the provisions of Vehicle
7 Code Sections 3060 and 3061.

8 3. That a pre-hearing conference be set and the parties notified thereof.

9 4. That Protestant be awarded such other and further relief as the Board deems just and
10 proper.
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12
13 Dated: January 29, 2013

LAW OFFICES OF
MICHAEL J. FLANAGAN

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15
16 By: 
17 Gavin M. Hughes
18 Attorneys for Protestant
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DECLARATION OF SERVICE BY FIRST CLASS MAIL

I, Valerie A. Coffey, declare that I am employed in the County of Sacramento, State of California, that I am over 18 years of age, and that I am not a party to the proceedings identified herein. My business address is 2277 Fair Oaks Boulevard., Suite 450, Sacramento, California, 95825.

I declare that on January 29, 2013, I caused to be served a true and complete copy of:

PROTEST
Protest PR-Unassigned
Infiniti of Oakland v Infiniti

By First Class Mail:

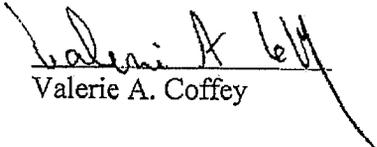
Eric Rodgers
Nissan Western Region
INFINITI WEST REGION
PO Box 685001
Franklin, TN 37068-5001

Eric Anderson
Regional Vice President
INFINITI WEST REGION
PO Box 685001
Franklin, TN 37068-5001

Eric Anderson
Regional Vice President
INFINITI WEST
20 Pacifica Suite 1200
Irvine CA 92618

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29 January, 2013, Sacramento, California.


Valerie A. Coffey

PROOF OF SERVICE