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DEC 14 2012
NEW MOTOR VEHICLE BOARD

1 Terry Tuchman
 2 230 E Dyer Rd. E
 3 Santa Ana Ca. 92707
 4 Telephone number 714 641 1413
 Facsimile number 714 832 5265
 E-mail address GenuineScooters@aol.com

5 In Pro Per

6 PROTEST

FILED
NEW MOTOR VEHICLE BOARD
DATE <u>12-14-12</u>
BY <u>sl</u>

9 STATE OF CALIFORNIA

10 NEW MOTOR VEHICLE BOARD

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 13 In the Matter of the Protest of
 14 D & A Automotive ,O.C Genuine Scooters of
 15 Santa Ana
 16 Protestant,
 17 v.
 18 Genuine Scooters,
 19 Respondent.
 20

Protest No. PR-235512

PROTEST

[Vehicle Code §3062]

21
 22 Protestant, files this protest under the provisions of California Vehicle Code section 3062 and
 23 alleges as follows:

- 24 1. Protestant is a new motor vehicle dealer selling Genuine Scooters, and is located at 230 E
 25 Dyer rd #E Santa Ana Ca. 92707.. Protestant's telephone number is 714 641 1413.
 26 2. Respondent distributes/ Genuine Scooter products and is the franchisor of Protestant.

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1 3. Protestant is represented in this matter by Terry Tuchman, whose address is 1742 Lerner Ln.
 2 Santa Ana Ca. 92705 and telephone number is 714 832 5262.

3 4. On or about Monday Dec.10th at 12,noon, Protestant received from Respondent a notice
 4 that Respondent intends to establish a new franchise in Costa Mesa Ca..

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

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

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

9 (b) The Protestant has been in business for 38 years and have been selling exclusively the
 10 genuine scooter brand. The Protestant has two locations to serve scooter customers. One in Santa Ana..
 11 Santa is open Monday to Friday from 8 AM to 5 PM or by appointment. On Saturday and Sunday it is
 12 open by appointment from 7 AM to 5:30 PM... The repair shop in Tustin services Santa Ana customers.
 13 The shop in Tustin is open Monday to Friday from 9 AM to 6 PM. On Saturday from 9 AM to 3 PM. The
 14 protestant has also contracted a service provider in Fountain Valley to service genuine scooters. The hours
 15 of operation are Monday , Tuesday Thursday, Friday from 10:30 AM to 6 PM on Saturday and Sunday
 16 from 11 AM to 5 PM (c) It would be injurious to the public welfare for the franchise to be
 17 established.

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

21 (e) The establishment of the franchise would decrease competition and therefore not be in the
 22 public interest.

23 7. Protestant, TERRY TUCHMAN desires to appear before the Board and estimate that the
 24 hearing in this matter will take 10 days to complete.

25 8. A Pre-Hearing Conference is requested.

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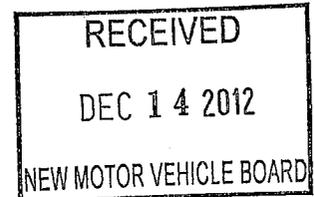
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6 WHEREFORE, Protestant prays as follows:

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

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12 DATED: _12/12/12

13 
14 By TERRY TUCHMAN
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NEW MOTOR VEHICLE BOARD

PROOF OF SERVICE

ORANGE COUNTY

STATE OF CALIFORNIA

In the Matter of the Protest of
 D & A AUTOMOTIVE, O C GENUINE
 .SCOOTERS SANTA ANA

Protestant,

v.

GENUINE SCOOTERS,

Respondent.

Protest No. *PR-7355-12*

I, DARREN GRIFFITS declare:

I am a citizen of the United States, a resident of ORANGE County, California, and over 18 years of age. I am not a party to the above-entitled action. My business/residence address is 34105 Pacific Coast Highway Dana Point, California. On 12/12/12, in the above-entitled action, I served a copy of the attached document(s):

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States Mail a TUSTIN, California addressed as set forth below. I am readily familiar with the business' practice for collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in the affidavit.

by following ordinary business practices, the envelope was sealed and placed for collection by ---on this date, and would, in the ordinary course of business, be retrieved by --- for overnight delivery on this date, addressed as set forth below.

by transmitting via electronic mail the document(s) listed above to the person(s) at the e-mail address(es), as set forth below on this date before 5:00 p.m. (Pacific Time) and the transmission was reported as complete and without error.

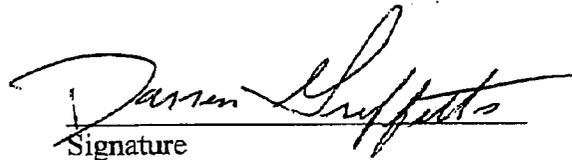
by transmitting via facsimile the document(s) listed above to the person(s) at the fax number(s), as set forth below on this date before 5:00 p.m. (Pacific Time) and the transmission was reported as complete and without error.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Genuine Scooters LLC c/o Trey Duren, 2700 W Grand Ave. Chicago IL 60612, fax # 773 271 8518

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

Date 12/14/12


Signature

DARREN GRIFFITTS
Type or Print Full Name