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8 STATE OF CALIFORNIA
9 NEW MOTOR VEHICLE BOARD

10 In the Matter of the Protest of:

Protest No. PR-2339-12

11 ALDON, INC. dba CARSON TOYOTA,

12 Protestant,

**INTERVENOR'S POST HEARING
BRIEF**

13 v.

14
15 TOYOTA MOTOR SALES U.S.A., INC.,

16 Respondent.
17

18 In the Matter of the Protest of:

Protest No. PR-2341-12

19 CABE BROTHERS, dba
20 CABE TOYOTA, AND CABE SCION

21 Protestant,

22 v.

23 TOYOTA MOTOR SALES U.S.A., INC.,

24 Respondent.
25

26 H.T.L. AUTOMOTIVE, INC., dba
27 HOOMAN TOYOTA OF LONG BEACH

28 Intervening Party.

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1 **I. INTRODUCTION**

2 During the course of the three week hearing before Administrative Law Judge Ryerson
3 (“ALJ”), of the New Motor Vehicle Board, counsel for the parties presented the testimony of 13 live
4 witnesses, resulting in the admission of approximately 200 exhibits and portions of the deposition
5 testimony of 9 other witnesses. The totality of this evidence plainly evidences the fact that Protestants,
6 Aldon, Inc., dba Carson Toyota Scion (“Carson”) and Cabe Brothers, dba Cabe Toyota Scion
7 (“Cabe”), have failed to demonstrate good cause to prevent Respondent, Toyota Motor Sales U.S.A.,
8 Inc.’s (“Respondent” or “TMS”) proposed relocation of Intervenor, HTL Automotive, Inc., dba
9 Hooman Toyota of Long Beach (“Hooman” or “Intervenor”), to the proposed location.

10 The evidence introduced at hearing demonstrates that the proposed relocation of Hooman
11 Toyota will not result in any appreciable adverse impact, if any, to Protestants. Instead, the record
12 reflects the substantial benefits that will flow to the public, the Toyota brand and Hooman Toyota.
13 Hooman Toyota and Cabe Toyota have operated in close proximity for 36 years in one of the highest
14 volume Toyota markets in the world. There simply is no credible evidence of any adverse
15 consequence that might result from the proposed relocation, thus Protestants have failed to establish
16 the existence of good cause to prevent the proposed relocation.

17 Upon weighing the public’s interest, the existing dealers’ interests and TMS’ interest, it is plain
18 to see that good cause does not exist to prevent the proposed relocation, based upon the following facts
19 established at the hearing:

- 20 • The proposed relocation is barely beyond the one mile distance giving rise to Protest rights, to a
21 location within Hooman’s current PMA, and located in a market separated from Cabe and
22 Carson by the City of Signal Hill;
- 23 • Hooman has outgrown its current facility and cannot meet the TMS facility requirements or the
24 needs of its growing Toyota customer base;
- 25 • The relocation will not threaten the continued viability of either Protestant. Cabe and Carson
26 are profitable and will remain profitable after the relocation;
- 27 • Hooman and Cabe have successfully coexisted for 36 years, while located approximately three
28 miles apart;

- 1 • The Long Beach Market and surrounding areas provide ample sales and service opportunities
2 for the existing dealers, regardless of whether the proposed relocation is permitted;
- 3 • Cabe Toyota's focus on internet sales ignores the sales and service opportunities in its own
4 backyard, the Long Beach Market;
- 5 • Carson Toyota is a tremendously successful and profitable dealer, already enjoying the benefits
6 of being located along the 405 Freeway;
- 7 • If the proposed relocation is permitted, the benefits to Toyota customers will include greater
8 convenience, adequate parking, reduced service times and safer access.
- 9 • The loss of Hooman Toyota would be a devastating blow to the City of Long Beach and the
10 community.

11 As Long Beach City Councilmember Patrick O'Donnell stated during his deposition, the
12 proposed relocation is a matter of "common sense." Allowing the proposed relocation to move
13 forward would allow Hooman to move from an inadequate location to a facility that is currently
14 unused, and will ultimately benefit Hooman and the community. In Councilman O'Donnell's opinion,
15 the decision of whether or not to permit the proposed relocation is a "no-brainer." (O'Donnell 24:8-
16 18.)

17 **II. STATEMENT OF FACTS**

18 Hooman Toyota of Long Beach has been a franchised Toyota and Scion dealer since 2008.¹
19 (RT. Vol. 14, 17:10-21.) Hooman must relocate from its cramped and fractionalized current location,
20 4401 E. Pacific Coast Highway, Long Beach, CA 90804, to a larger consolidated location to better
21 meet the needs of Toyota and Scion owners as well as increasing market demand. Hooman entered
22 into a lease with option to purchase agreement for the properties at the proposed location, 3399 E.
23 Willow Street and 2679 Redondo Avenue, Long Beach, CA 90806 ("proposed location"), just over one
24 mile from Hooman's current location. (RT Vol. 14, 102:16-25; Exs. 275; 1192.)

25 The traffic circle where Hooman is currently located is difficult to navigate, especially for
26 Toyota customers visiting Hooman's current location for the first time, and has a high rate of traffic
27 accidents. (RT Vol. 14, 56:25-57:7; 66:20-69:14; Ex. 276.) Moreover, the service department is

28 ¹ The prior dealer, Toyota of Long Beach, operated from the same location for approximately 30 years.

1 located across the street from Hooman's sales showroom, requiring customers to differentiate between
2 the two locations to determine where they must take their cars for service. (RT Vol. 14, 18:16-21:11;
3 Ex. 264.) These facilities offer inadequate parking, with service customers frequently forced to park in
4 the street while they wait for the service drive to clear. (RT Vol. 14, 31:15-24.)

5 In addition to its more convenient location, with easier access and adequate customer parking,
6 the proposed location would provide Toyota-Scion customers with more modern and spacious
7 customer waiting areas and other amenities and conveniences Hooman simply cannot provide at its
8 current location. (RT Vol. 14, 62:3-63:16; 64:25-65:11; Ex. 286, Hooman Proposed 00005, 00010.)
9 The proposed site would also permit Hooman's sales and service departments to be housed under one
10 roof, as opposed to the current location where the service department is located a block away from
11 sales. (*Id.*) Having these departments under one roof provides service customers the opportunity to
12 browse Toyota-Scion new vehicles while their service work is completed, and will further stimulate
13 new vehicle sales, which benefits the Toyota brand, Hooman and the City of Long Beach through
14 increased sales tax revenue. (RT Vol. 14, 85:13-25; O'Donnell Depo. 22:7-23:13.)

15 Hooman must relocate in order to accommodate the steadily increasing service demand for
16 Toyota-Scion owners. The current facility has 21 service bays with 18 lifts, compared to 56 service
17 bays and 52 lifts at the proposed location. (RT Vol. 14, 30:24-31:13; 89:11-16; Exs. 264, 272.) The
18 proposed location would provide Hooman more than double its current parts storage, increasing from
19 5,900 sq. ft. to 13,000 sq. ft. (RT Vol. 14, 91:7-17; Exs. 264; 272, p. 1142.) The increased capacity of
20 the proposed location would enable Hooman to shorten repair time, provide customers quicker access
21 to service and greatly increase customer convenience and satisfaction. (RT Vol. 14, 97:23-98; Exs.
22 266, 267; Hearne Depo. 77:1-14; Kong Depo. 62:1-9; 80:2-17.) The proposed location would also
23 include an on-site body shop and car wash, further reducing customer repair times. (RT Vol. 14, 65:20-
24 22; 89:17-20; Ex. 273, p. 1142.) The shortened repair time and increased capacity will also benefit the
25 public welfare through the creation of more parts and service jobs. (RT Vol. 14, 116:23-117:24.)

26 The claim that the proposed location will provide Hooman Toyota visibility from the 405 is
27 unfounded—the proposed location is not visible from the 405. (RT Vol. 14, 78:5-79:2.) Moreover,
28 even if it were, the fact that Hooman already owns the rights to an electronic reader board sign located

1 immediately on, and highly visible from, the 405 in both directions mitigates any impact that would
2 otherwise result. (RT Vol. 14, 77:12-78:4; 163:4-164:6; Ex. 286, Proposed Location 00347.) Any
3 argument that Protestants will suffer any significant impact due to Hooman's freeway visibility alone
4 must be rejected.

5 The proposed location is *just over one mile* from Hooman's current location (1.14 miles, just
6 several hundred feet beyond the jurisdictional exception of VC § 3062 (b)(1) and within Hooman's
7 current PMA). (Ex. 254, Tab 4, p. 1.) The nearest dealer to Hooman is Cabe Toyota, currently 3.1
8 miles away. (*Id.*) Upon relocation, this distance would be 2.2 miles. (*Id.*) The current close proximity
9 of Cabe and Hooman evidences the market's ability to support these two dealers already located just
10 three miles apart, and renders the likelihood of any potential impact to either Cabe Toyota or Carson
11 Toyota to be minimal, if any.

12 The following chart sets forth the before and after distances in miles between Hooman and the
13 protesting dealers:

14 Dealer	Current Distance	After Relocation	Difference
15 Cabe Toyota	3.1	2.2	.9
16 Carson Toyota	6.7	5.8	.9

17
18 As the Board is aware, Protests against the proposed relocation of an existing franchise
19 typically show a low probability of success because it is almost always the case, as it is in the present
20 matter, that the number of same line-make franchises in the existing market remains unchanged. In the
21 case of a Relocation Protest versus an Establishment Protest the market is not being further divided by
22 the establishment of an additional competitor. It is more often than not the case in Relocation Protests
23 that protesting dealers are unable to demonstrate any potential adverse impact to the retail motor
24 vehicle business or the consuming public in the relevant market area. The record reflects the same to
25 be true in this instance.

26 Hooman has a substantial and permanent investment in its Toyota franchise in excess of \$20
27 million. (RT Vol. 14, 109:3-14; 110:20-112:12; Exs. 252, 285.) As stated above, this investment
28 would be placed in extreme jeopardy should the proposed relocation be disallowed. Also at risk, is the

1 investment Hooman has made towards acquiring the right to occupy the property of the proposed
2 location. To date, Hooman has invested in excess of \$610,000 in its efforts to secure the property. (RT
3 Vol. 14, 112:14-24; Ex. 253.) Of this amount, Hooman will have spent well in excess of \$200,000 in
4 rent² at the time of hearing. (RT Vol. 14, 112:16-113:5; Ex. 253.)

5 Should either of these Protests against the proposed relocation be sustained, not only will
6 Hooman's considerable investment be at risk, so will the significant benefits to the community that
7 Hooman's relocated operation will provide, including, but not limited to, a likely increase in the
8 substantial tax revenue generated for the City of Long Beach.

9 **III. ARGUMENT**

10 **A. Legal Standard**

11 The issue before the Board is whether or not there exists good cause to disallow the proposed
12 relocation of Hooman in consideration of the good cause factors set forth under Vehicle Code Section
13 3063:

14 In determining whether good cause has been established for not entering into or
15 relocating an additional franchise for the same line-make, the board shall take into
16 consideration the existing circumstances, including, but not limited to, all of the
17 following:

18 (a) Permanency of the investment.

19 (b) Effect on the retail motor vehicle business and the consuming public in the relevant
20 market area.

21 (c) Whether it is injurious to the public welfare for an additional franchise to be
22 established.

23 (d) Whether the franchisees of the same line-make in that relevant market area are
24 providing adequate competition and convenient consumer care for the motor vehicles of
25 the line-make in the market area which shall include the adequacy of motor vehicle
26 sales and service facilities, equipment, supply of vehicle parts, and qualified service
27 personnel.

28 (e) Whether the establishment of an additional franchise would increase competition
and therefore be in the public interest.

The California Appellate Court determined "It would appear that by the adoption of the above

² This amount could be considered interest towards the \$8.25 million purchase price of the proposed location, which is dependent on the exercise of the purchase option at a future date. (RT Vol. 14, 104:18-107:19; Exs. 270, 275.)

1 set forth statutory scheme the legislature intended that the Board balance the dealers' interest in
2 maintaining viable businesses, the manufacturers' interests in promoting sales, and the public's
3 interest in adequate competition and convenient service." *Piano v. State of California*, 103 Cal. App.
4 3d 412, 417 (1980).

5 Applying the standard of *Piano* to the facts in these Protests, it is plainly evident that Hooman's
6 interest in relocating to the proposed location far outweighs Protestants' interest in opposing the
7 proposed relocation. Hooman's need to relocate is far greater than the *de minimis* impact, if any, that
8 might occur to Protestants. The public interest will be significantly benefited in a great number of
9 ways, as set forth in more detail below, and TMS's interest in maintaining its existing dealer network
10 and improving its image in the Long Beach Market will also significantly benefit.

11 **B. Protestants presented evidence of their permanent investment in their Toyota franchises.**
12 **(Cal. Veh. Code § 3063(a))**

13 It is not disputed that Protestants have a substantial and permanent investment in their Toyota
14 franchises. Protestant Cabe Toyota has been a Toyota franchisee in Long Beach, California since
15 1966. Cabe Toyota is located on Long Beach Boulevard, approximately one mile south of the 405
16 freeway. After 10 years of promising to upgrade its facility, first as Image I compliant and then as
17 Image II compliant, Cabe finally began construction a few weeks before this hearing commenced. (RT
18 Vol. 1, 130:14-131:4; 131:23-132:5; Vol. 2, 13:10-19; 45:18-46:6; Kong Depo. 94:20-25; Hearne
19 Depo. 159:23-160:12; Exs. 1070; 2044, pp. 24-25.)

20 Protestant Carson Toyota has been a Toyota franchisee in Carson, California since 1974.
21 Carson is located on E. 223rd Street, along the south-bound side of the 405 freeway. Carson updated
22 its facilities to become Image II compliant in 2008. (RT Vol. 1, 131:23-132:5.)

23 **i. Hooman Toyota's substantial and permanent investment.**

24 Hooman Toyota currently operates from six locations with various functions supporting the
25 dealership. (RT Vol. 14, 18:4-7; 30:7-10; 37:25-38:10; Kong Depo. 57:5-10.) Intervenor has made a
26 total investment of \$20,317,307 in its current location and facilities through November 30, 2012.
27
28

1 The proposed relocation will allow Hooman the opportunity to protect the substantial and
2 permanent investment in its Toyota franchise. The proposed location would permit Hooman to reduce
3 its rent factor approximately 60%, to approximately \$36,000 per month. (Ex. 274.) Not only is the
4 proposed relocation critical to Hooman's continued operational viability, it will also permit Hooman to
5 provide significantly greater customer convenience than what is currently available at its present
6 location. (RT Vol. 14, 109:3-14; 110:12-112:13.) Intervenor has leased a new facility at approximately
7 \$36,000 per month, with an option to purchase at a cost of \$8.25 million, at 3399 E. Willow Street,
8 Long Beach, California and 2679 Redondo Avenue, Long Beach, California, in order to relocate its
9 Toyota dealership. (RT Vol. 14, 102:6-25; 104:17-106:22; Exs. 274; 275) Intervenor has made an
10 investment of more than \$610,000 in Hooman Toyota's proposed relocation facility. (RT Vol. 14,
11 112:14-24; Ex. 253.) Intervenor's total investment in its current dealership and proposed relocation as
12 of November 30, 2012 is over \$21 million. (Exs. 252, 285; RT Vol. 14, 109:2-113:5.)

13 Intervenor has also leased 50% of a freeway sign for the use of promoting the Hooman Toyota
14 dealership and shares advertising space with additional dealerships. (RT Vol. 14, 71:17-75:7; Exs. 260;
15 278; 286, Hooman Proposed 00347.)

16 **C. The effect on the retail motor vehicle business and the consuming public in the**
17 **relevant market area will be positive. (Cal. Veh. Code § 3063(b))**

18 Carson's expert, Dr. Matthews, could not point to any level of expected impact to Carson that
19 might result from the proposed relocation, instead focusing his analysis on the potential impact to
20 Cabe. However, even then, Dr. Matthews failed to identify any expected range of impact that might
21 result. (RT Vol. 9, 212:4-213:2; Ex. 1500.)

22 Cabe's expert, Mr. Scott Watkins, analysis was shown to be so inherently unreliable and
23 misleading, as to be of no use to the Board in making findings related to any potential impact to the
24 existing dealers that might result from the proposed relocation. (Ex. 1227.)

25 In contrast, Hooman's expert, Ted Stockton, demonstrated the likely range of impact that might
26 occur to Cabe Toyota, if any, would be a range from less than 1% to less than 3%. (RT Vol. 6, 134:1-4;
27 13-24; 139:10-22; Ex. 254, Tab 17, p. 1.) As will be discussed in greater detail below, Mr. Stockton's
28

1 testimony and analysis is entitled to greater weight than the testimony and analysis offered by Dr.
2 Mathews and Mr. Watkins.

3 Mr. Watkins provides little information that might be helpful to the Board in assessing the
4 likely impact the proposed relocation would have upon existing dealers. During Mr. Watkins' cross
5 examination, Mr. Watkins' own testimony demonstrated his impact model to be so fatally flawed that
6 it can be of little use as credible evidence of any likely impact that might result to Protestants as a
7 result of the proposed relocation. Mr. Watkins impact model was revealed to be a significant departure
8 from industry standards employed by experts in this field, designed to produce a particular result and
9 otherwise of no value. For example, Mr. Watkins, suggested that Cabe would experience a lost sales
10 percentage of nearly 65% in the so-called "eastern wedge". Much of this area falls in Census tracts
11 where the proximity impact upon Cabe is, at most, 1%. Therefore, at the very least, Mr. Watkins is
12 predicting impact on sales 65 times greater than the actual proximity change that would occur in the
13 market. (RT Vol. 6, 125:15-126:4; Ex. 254, Tab 15, p. 3.) This cannot reasonably be expected to be
14 the case.

15 Mr. Watkins' analysis was not only defective, it could not have been validly undertaken to
16 begin with because it starts from a false premise, or an ill-fated prediction. First, he never disclosed
17 exactly what impact he was considering. It was not clear if he was evaluating the effect of having
18 Carson on the 405 Freeway versus having no Carson at all in the market, having Carson a mile off of
19 the 405 Freeway or something else. Second, he was attempting to evaluate a dynamic problem
20 (something unexplained about the presence of Carson) using only a single data point—the percentage
21 of sales that Cabe made in the so called "western wedge". By using a single data point, Mr. Watkins'
22 analysis did not have the necessary "degrees of freedom" to pose a question to the data. As a result,
23 his wedge analysis was, at best, a guess. (RT Vol. 6, 187:2-189:22.)

24 The problem with this single data point approach is that Mr. Watkins' "wedge" analysis was a
25 bad guess. First, he either falsely denied or failed to recognize that he had merely subtracted Cabe's
26 sales penetration in the west wedge from its sales penetration in the east wedge, declaring this fact was
27 only a "coincidence." Second, by attributing all of the difference in the east and west wedges' sales
28 penetration to something (undisclosed) about Carson's presence, Mr. Watkins ignored the obvious

1 presence of DCH Toyota in the virtual center of the west wedge and the presence of South Bay Toyota.
2 DCH's concentrated sales pattern demonstrates the fallacy of Mr. Watkins' assumption. (RT Vol. 6,
3 190:2-192:20; Ex. 255, Tab S-1, pp. 1-2.)

4 More seriously, Mr. Watkins either erroneously or intentionally presented defective parameters
5 of his analysis to the ALJ, insisting that his wedges were in 60-degree angles. As shown through the
6 protractor exercise, they were not. (RT Vol. 4, 48:12-52:6; Ex. 1227, p. D11.) The significance of the
7 error, intentional or not, is that the analysis as presented excluded South Bay from the west wedge and
8 made it appear that Hooman was moving into the east wedge, when its current location was already
9 there. Mr. Watkins testified under oath that the wedges were 60 degrees and even produced back-up
10 showing 60 degree angles. It follows that Mr. Watkins or his staff, therefore, produced alternate
11 versions of the analysis, despite asserting that he did not do so, or produced something other than his
12 actual back-up materials in an exercise of sloppiness or deception. (RT Vol. 4, 52:18-52:25.)

13 Perhaps the most egregious moment of Mr. Watkins' testimony occurred when, after his
14 defective angles had been exposed, he suggested that extending the line of the wedge out far enough
15 would make the wedge's angles 60 degrees. Mr. Watkins' appeal to the logically impossible as one
16 final effort to mask his error or deception is enough for the Board to disregard Mr. Watkins' testimony
17 in its entirety. (RT Vol. 4, 50:15-51:12.)

18 Dr. Matthews' analysis was shown to be equally unpersuasive concerning the potential adverse
19 impact to Cabe or Carson that might result from the proposed relocation. In fact, Dr. Matthews failed
20 to affirmatively allege *any* level of impact to either Cabe or Carson. (RT Vol. 9, 212:4-213:2.) Much
21 of his initial analysis was based upon his assessment of what he presumed would be increased fixed
22 costs at the proposed Hooman location. (RT Vol. 8, 195:9-195:15.) Dr. Matthews' assumptions about
23 an increase in Hooman's fixed costs were incorrect. In fact, Hooman's fixed costs will decrease. (RT
24 Vol. 6, 206:5-208:17.)

25 Dr. Matthews' initial report said that Hooman Toyota's *assumed* increased fixed costs would
26 have to be pushed off on to other dealers and the public through sharper business practices, higher
27 prices, and layoffs, and it should have followed that these negatives would be reduced at the new
28

1 location due to decreased fixed costs, perhaps even resulting in a benefit to consumers. Nevertheless,
2 he offered no such testimony. (RT Vol. 6, 206:5-208:17.)

3 Instead, Dr. Matthews testified that the reduced fixed costs would *harm* other dealers since
4 those other dealers would *now* be unable to compete with Hooman. This change-of-field means one of
5 two things: either Dr. Matthews changed his opinion on the effect of fixed cost changes on the dealer
6 network, or he invented, on the fly, a novel and undisclosed theory on fixed costs—that any change
7 will harm surrounding dealers! (RT Vol. 8, 213:11-216:2.)

8 In addition, Mr. Stockton's analysis and testimony showed that Dr. Matthews' erroneous
9 demographic analysis, offered to show no shortfall of Toyota registrations due to varying amounts of
10 Asian and Hispanic populations in underperforming census tracts, should be given no weight by the
11 Board. Mr. Stockton showed step-by-step precisely what Dr. Matthews' errors were, and the effect of
12 those errors at each step in the process. The accumulation of errors led Dr. Matthews to an erroneous
13 conclusion, namely that diminished Toyota market share and proximity to Cabe and Hooman are
14 unrelated. (RT Vol. 7, 21:21-24:15.)

15 Neither Dr. Matthews' nor Mr. Watkins' criticisms of Mr. Stockton's analysis will assist the
16 Board in weighing the methodologies used and conclusions reached in Mr. Stockton's report. Dr.
17 Matthews' purported test of Mr. Stockton's gravity model simply uses the wrong math, which does
18 little more than produce false conclusions. (RT Vol. 9, 210:14-213:2.)

19 Except for the analysis and testimony from Toyota's expert Mr. Sharif Farhat, which will be
20 presented in detail in Respondent's brief, the only other reliable testimony offered concerning the
21 likely impact the proposed relocation might have upon the existing dealers came from Intervenor's
22 expert, Mr. Stockton, despite the burden being on Protestants to demonstrate adverse impact.

23 Mr. Stockton performed three regression models to consider three scenarios of potential impact
24 upon Cabe and Carson. The first scenario considers the impact only of the relocation itself. In the
25 second scenario, Hooman expands its mass or presence and increases its ability to draw customers at
26 all distances. This expansion also has the effect of reversing the observed market share reduction that
27 exists in close proximity to Cabe and Hooman. In the third scenario, Hooman still increases its mass
28

1 but none of the increased sales come from other brands; all gained sales come at the expense of other
2 Toyota dealerships. (RT Vol. 6, 132:24-133:25.)

3 Not surprisingly, the very short relocation itself has very limited impact upon other Toyota
4 dealerships. Lost sales impact upon Cabe and Carson from strictly the relocation is estimated to be
5 less than one-third of one percent. Taking into account Hooman's increased mass at the proposed
6 location results in new vehicle sales impact between 1.23% and 2.79% on Cabe and 0.88% and 1.57%
7 upon Carson. The ranges depend upon the degree to which increased sales by Hooman would come at
8 the expense of other brands. These statistical findings are strongly validated by the results
9 demonstrated in Exhibit 254, Tab 16, pages 4 and 8, which show the numbers of sales that Carson and
10 Cabe made into areas into which they will gain and lose proximity advantage. (RT Vol. 6, 132:25-
11 137:7; Ex. 254, Tab 16, pp. 4, 8.)

12 In the end, Protestants failed to demonstrate any credible evidence that a significant adverse
13 impact might result from the proposed relocation, let alone that the proposed relocation might threaten
14 the permanent investment of either Protestant.

15 **D. It Is Not Injurious to the Public Welfare for the Hooman Toyota Franchise to be**
16 **Relocated (Cal. Veh. Code § 3063(c))**

17 Hooman Toyota's current facility has low functionality, especially relative to the size of the
18 market. (RT Vol. 6, 56:8-10; 66:6-10; 66:19-25.) The facility in general is overladen with redundant
19 costs and is highly constrained, to the detriment of both the owner and the customers. (RT Vol. 6,
20 65:22-66:5; 19-24.) Hooman Toyota only has room in its showroom for one small car. (RT Vol. 14,
21 22:23-23:4.) Hooman Toyota also had to acquire more property for inventory in order to store the
22 selection of cars and options demanded by the public. (RT Vol. 14, 23:20-24:7.) The approved service
23 facility is deficient and does not provide adequate competition and convenient consumer care in the
24 relevant market area. (Carrillo Depo., 28:22-29:7; 41:24-42:7.) There are only 18 service stalls at the
25 facility (RT Vol. 14, 31:10-14) which is currently fully utilized and kept busy to capacity. (Carrillo
26 Depo., 31:20-32:2.) Hooman Toyota almost immediately had to make changes to the dealership in
27 order to keep up with customer demand. (RT Vol. 14, 22:3-16.) Hooman added service stalls in order
28 to take care of more customers, but this was at the cost of removing a car wash area (Carrillo Depo.,

1 42:8-25). In addition, there is very little parking available at the service facility and cars are often
2 double or triple-parked. (RT Vol. 6, 58:10-24; 63:8-64:1; Ex. 286, Hooman Current 00255.) It
3 normally takes three or four people to get a vehicle off a service lift and out to the parking lot because
4 one employee must direct traffic, one employee must drive and another employee must move another
5 car to make room. (RT Vol. 6, 60:6-22; Carrillo Depo., 44:14-25.) Employees at Hooman are required
6 to drive cars to different locations for service and car washes, which wastes time, because there is not
7 enough space and size available at the current location. (Carrillo Depo., 43:1-8; RT Vol. 6, 56:6-23;
8 61:1-12; RT Vol. 14, 34:17-25.) Customers are also concerned that Hooman employees are adding
9 miles to their vehicles and using gas due to the fact that they must take the cars to other locations for
10 service or wash. (Carrillo Depo., 47:15-48:9.)

11 Current employee morale at Hooman Toyota is affected by the customer complaints and it is
12 hard for the dealership to find new employees and keep good ones. (Carrillo Depo., 43:13-44:14; 45:1-
13 10.) The majority of customer complaints at Hooman Toyota are related to the lack of space and the
14 inconvenience customers encounter in bringing their cars to the dealership. (Carrillo Depo., 45:12-23;
15 RT Vol. 14, 39:9-40:2; 70:6-71:6; Ex. 272.) Customers also complain regarding the service drive and
16 the need for customers to line up in the street to wait for service. (Carrillo Depo., 46:11-47:14; RT Vol.
17 14, 31:15-32:3.) Customers are being cited by police for blocking the street, and are upset if customers
18 are taken out of order in the line. (*Id.*)

19 At Hooman Toyota's current location, the equipment and supply of vehicle parts is deficient
20 and does not provide adequate competition and convenient consumer care in the relevant market area.
21 (RT Vol. 14, 32:9-33:25.) Toyota employees complain to Mr. Nissani about the lack of space to drop
22 parts at night, and Hooman Toyota runs out of parts halfway through weekend service because Toyota
23 cannot leave enough parts for the weekend. (*Id.*)

24 Cabe Toyota acknowledged the danger and inconvenience of Hooman Toyota's current
25 location in advertisements it published stating "Avoid the Traffic Circle." (Ex. 2066.) The traffic
26 circle can also be hard to get to. (RT Vol. 11, 195:12-13.) Hooman's current location at the traffic
27 circle is impacted with traffic, everyone has trouble driving through the traffic circle and there are an
28

1 above-average amount of accidents in the traffic circle. (O'Donnell Depo. 34:19-35:12; RT Vol. 14,
2 66:22-67:6; Ex. 276.)

3 As discussed above, the relocation of Hooman Toyota will result in substantial benefits to the
4 public welfare. Hooman Toyota will be able to provide the public with a superior customer experience
5 that is simply not possible at its current location. The location will provide customers with a spacious
6 waiting area to pass the time while their service work is being completed. (Kong Depo., 80:2-17;
7 Hearne Depo. 77:1-14; RT Vol. 14, 91:19-24; Ex. 266.) Moreover, and perhaps of even greater
8 importance to Toyota service customers, service wait times will be significantly reduced and
9 appointments will be easier to schedule due to the increased capacity that exists at the new location.
10 (RT Vol. 14, 63:6-16.)

11 In addition, the proposed location provides greater accessibility and greatly expanded customer
12 parking. (*Id.*) Customers will no longer be required to navigate the difficult and confusing maze of the
13 Traffic Circle, and for a number of customers who travel regularly on the 405, the new location will be
14 considerably more convenient than the current location. (Hearne Depo. 77:15-19; 81:3-5.)

15 Finally, the City of Long Beach will benefit from the use of the currently abandoned Coast
16 Cadillac facility. (O'Donnell Depo. 20:6-21:3; 24:1-18; 29:10-30:8.) This will generate additional tax
17 revenues for the city that are currently unrealized as the property remains vacant while these Protest
18 are brought to a resolution. (*Id.*) Moreover, the proposed relocation will ensure that Hooman Toyota
19 remains a major tax revenue generator for the City of Long Beach for many years to come. (*Id.*)

20 Given the absence of any credible evidence that the proposed relocation might result in any
21 harm to the public welfare, it is plain to see the benefits to the public welfare reflected in the record
22 weigh heavily in favor of allowing the proposed relocation to move forward.

23 **E. The franchisees of the same line-make (Toyota) in the relevant market area are not**
24 **providing adequate competition and convenient consumer care for the motor vehicles of that**
25 **line-make in the market area (Cal. Veh. Code §3063(d))**

26 Hooman Toyota's current fractionalized locations are deficient in several respects and do not
27 provide adequate competition and convenient consumer care to customers in the relevant market area.
28 Employee and workers' stations are crammed into a small area on the second floor with little to no

1 storage or filing space available. Hooman Toyota utilizes every square foot of available space at its
2 current facility in an attempt to operate as efficiently as possible. (RT Vol. 6, 65:12-21; Carrillo Depo.
3 92:4-18; 99:2-17; Hearne Depo. 71:7-10, 14-22.) Hooman has tried numerous ways to add more
4 space, including moving trash cans, building an outside patio area and other creative ideas. (Carrillo
5 Depo. 52:17-53:3.) There is very little parking available at the sales facility. Customers are often
6 confused as to the location of the sales facility versus the location of the service facility. (Hearne Depo.
7 77:15-78:8.) In order to navigate between the sales and service facilities, customers must cross a
8 dangerous boulevard. (RT Vol. 6, 57:4-13; Ex. 286, Hooman Current 00060.) The current customer
9 waiting area has only a few seats and is very small and cramped. (RT Vol. 6, 59:7-9; 59:17-60:24;
10 64:13-65:8; 67:1-5; Vol. 14, 26:21-25; Ex. 286, Hooman Current 00179.)

11 The evidence establishes consumers in the RMA will benefit from the proposed relocation of
12 Hooman Toyota in several ways: 1) Customers will have better access to a larger and more convenient
13 location; (Hearne Depo. 77:15-19; 81:3-5.) 2) Toyota customers will have a broader selection of
14 Toyota vehicles and accessories at the larger proposed location; (Kong Depo. 80:2-17; Hearne Depo.
15 77:1-14; RT Vol. 14, 91:19-24; Ex. 266.) 3) Hooman's proposed relocation will result in a significant
16 reduction in fixed costs, which will permit Hooman to offer more competitive pricing; (RT Vol. 6,
17 70:21-71:11; Vol. 14, 116:5-20.) 4) The proposed relocation will provide better brand awareness for
18 the Toyota brand and will increase sales throughout the RMA and beyond; (Hearne Depo. 77:15-19;
19 81:3-5.) and 5) The improved dealer network will enable the Toyota brand to capture sales
20 opportunities currently being lost to competitors. (RT Vol. 6, 133:13-20; Ex. 254, Tab 17.)

21 The record is replete with the many challenges Hooman must contend with at its current
22 facility. It currently operates out of six separate locations, which presents a number of challenges to
23 Hooman's day-to-day operations. (RT Vol. 14, 18:4-7; 30:7-10; 37:25-38:10; Kong Depo. 57:5-10;
24 Carrillo Depo. 41:18-22.) The proposed relocation would allow Hooman Toyota to consolidate its
25 operations into one facility, improving Hooman's operational efficiency as well as its ability to provide
26 better customer service and convenience. (Hearne Depo. 77:15-19; 81:3-5; Kong Depo. 62:1-9; RT
27 Vol. 14, 63:6-16.) The reduced costs and improved opportunities for customer satisfaction will
28 decrease the overall cost of distribution for the Toyota dealer network and will increase the incentive

1 for specific investment at Hooman. (RT Vol. 6, 70:12-14; 75:2-7.) Currently, much of Hooman's fixed
2 costs are dedicated to off-site facilities and the management of the same. (RT Vol. 6, 61:1-12; RT Vol.
3 14, 34:17-25; 38:11-22; 116:23-117:4.) The reduction in operational costs makes specific investment
4 more viable and affordable as the costs of new initiatives will no longer be absorbed by non-productive
5 activities, such as off-site car washes, managing available parking space, and shuttling vehicles. (RT
6 Vol. 6, 70:12-14; 75:2-7.) In economic theory, a reduction in marginal cost generally results in a *per*
7 *se* increase in competition. (*Id.*)

8 In examining Toyota brand performance within the RMA, Mr. Stockton employed a regression
9 analysis, a tool commonly used in mathematics, economics, and statistics to explain and test the
10 relationship between variables (like market share and demographic factors). When used properly,
11 regression analysis removes subjectivity from the analytical process and allows the analyst to confirm
12 the reliability of findings. (RT Vol. 6, 49:12-50:4.)

13 Mr. Stockton's regression analysis demonstrates that within the RMA as a whole the Toyota
14 brand is not performing at a noteworthy level, neither above nor below what would be expected based
15 upon various market conditions. (RT Vol. 6, 52:4-52:11; Ex. 254, Tab 8, p. 1.) However, Mr.
16 Stockton's analysis identified areas of below average brand penetration in census tracts immediately
17 proximate to Cabe and Hooman, which raises the question of whether Toyota's market share is
18 systematically diminished within areas in close proximity to those dealerships. Mr. Stockton's
19 regression analysis confirms the existence of an actual pattern. A statistically significant relationship
20 exists between reduction in Toyota market share and close proximity to Cabe and Hooman. (Ex. 254,
21 Tab 7, pp. 1-3; Tab 8, p. 2; RT Vol. 6, 45:19-48:21; 52:25-54:3.) Mr. Stockton testified that the
22 substandard facilities of both Cabe and Hooman are the likely cause of Toyota's low penetration in
23 these areas.

24 While Hooman's sales facility has an acceptable appearance, its fractionalized and undersized
25 characteristics render its operations dysfunctional. At most, the sales facility appears to have a one-car
26 showroom, on site inventory is extremely limited and there is significant shuttling of vehicles and
27 customers. This leads to redundancies and inefficiencies, such as the necessity of managing the
28

1 whereabouts of employees. (RT Vol. 6, 56:6-56:23; 61:1-12; RT Vol. 14, 34:17-25; 38:11-22; 116:23-
2 117:4.)

3 Hooman's service facility is across a busy street from its sales facility. Furthermore, a fairly
4 large and congested parking lot also separates the two buildings. A small and short service drive
5 connects a local access street to the entrance to the service facility. (RT Vol. 6, 57:2-57:13.) In
6 comparison to the constraints of the sales facility, the magnitude of the disruption of the service facility
7 is quite notable. Because of the facility deficiencies and operational constraints, the flow of business at
8 the service facility is labored, chaotic, and unsatisfactory for customers. There is an unpleasant
9 dynamic of confusion and shuffling. The interior of the service facility is small, cramped and
10 crowded. Employees must work jointly to navigate getting vehicles on and off of lifts and in and out
11 of the facility. (RT Vol. 6, 59:2-60:22; Carrillo Depo. 44:14-25.) Moreover, service customer car
12 washes must occur off-site. Mr. Stockton observed that a trip to the car wash with minimal or no
13 waiting took 59 minutes. These facility restraints create extra costs, customer dissatisfaction, and other
14 inefficiencies, which are likely causing customers to seek service at more distant and less convenient
15 locations. (RT Vol. 6, 61:1-61:12; RT Vol. 14, 31:15-32:3; 39:9-40:2; 70:6-71:6; Carrillo Depo.
16 45:12-23; 46:11-47:14; Ex. 272.) In Mr. Stockton's experience, Hooman's facilities are among the
17 most constrained and burdened with redundant costs he has ever seen. (RT Vol. 6, 66:19-66:25.)

18 The proposed relocation would eliminate many of the redundant operational costs to Hooman
19 as well as the inconvenience experienced by its customers visiting its current location. The result
20 would be an increase in Toyota brand sales and enhanced customer service to the overall benefit of the
21 retail motor vehicle business in the RMA. (RT Vol. 14, 63:6-16; Kong Depo. 62:1-9.)

22 Collectively, the Toyota dealers in the RMA are not providing adequate competition. In
23 addition to the facility constraints at Hooman Toyota, another source of inadequate competition is
24 evidenced by the fact that Cabe Toyota makes the majority of its sales outside of its PMA and the
25 RMA. Through December 2012, Cabe Toyota only made 130 sales, out of a total 1,514, inside its
26 PMA. In addition, of the 761 total sales made into Cabe's PMA, Cabe Toyota itself only made 120 of
27 those sales. Other dealers in the area and outside the market made 85% of the sales in Cabe's PMA in
28 2012. (RT Vol. 11, 120:23-126:24; Exs. 1219, 1220.) This is likely due to Cabe's focusing of its

1 advertising efforts on capturing internet sales, regardless of the customer's location, rather than
2 capturing sales in its own PMA. (RT Vol. 6, 139:2-9; 147:9-11.)

3 Cabe is also not providing an adequate level of service for its service customers. Cabe's
4 current service facility is highly deficient, according to Toyota's minimum facility standards. Cabe is
5 3,045 square feet below the recommended service department guideline. Cabe is lacking 170 parking
6 spaces at its service facility, as well as being 1.6 acres short of Toyota's suggested guidelines. (Ex.
7 2058.)

8 As Mr. Duddridge explained, in referring to Exhibit 2053, for year-end December 2011 there
9 were 6,306 units in operation ("UIO") in Cabe's PMA. Cabe only serviced 21.69% of the customers in
10 its PMA, as opposed to the region average of dealers servicing 29.28% customers in their PMAs. As
11 demonstrated through the data submitted into evidence, 78% of the UIO in Cabe's PMA are not being
12 serviced by Cabe. Mr. Duddridge admitted there is room for improvement for Cabe Toyota to capture
13 service business in its PMA. (RT Vol. 5, 209:1-214:3; Ex. 2053.) Cabe's Service Manager, Julio
14 Torres, acknowledged the same during his deposition: despite having the capacity to handle more
15 service business, Cabe is missing out on a significant amount of available service business within its
16 own PMA. (Torres Depo. 76:7-17; 78:15-18.)

17 **F. The evidence in the record demonstrates the lack of adequate competition currently**
18 **existing within the RMA, which can only be corrected through the proposed relocation. (Cal.**
19 **Veh. Code §3063(e))**

20 There are a number of ways in which the RMA would see an increase in competition through
21 the relocation of Hooman Toyota to the larger proposed location. This increase in competition does
22 not require an assumption of altruism on Hooman's part—only rational behavior. (RT Vol. 6, 70:12-
23 14; 75:2-7.) Not only would Hooman Toyota be able to provide greater and more competitive
24 customer care, it is easy to infer that the cost savings at the proposed facility will be passed along to
25 consumers. This is because the shuttling of customers, taking cars off-site to a car wash, and
26 management of the service lane would no longer be necessary. The cost savings considered do not
27 require a new business plan, just the elimination of obvious redundancies. (RT Vol. 6, 70:16-71:11;
28 Ex. 254, Tab 9, p. 1.)

1 There is no doubt that Hooman's current facility constrains its operations. The relaxation of a
2 supply constraint also has positive effects upon consumers. Economic theory states that the market
3 response to the relaxation of a supply constraint or restriction is a reduction in price and an increase in
4 quantity of the good or service supplied. This is also an increase in competition. (RT Vol. 6, 73:1-
5 74:15; Ex. 254, Tab 9, pp. 2-3.)

6 **i. The Cabe and Hooman Toyota locations have coexisted in close proximity for**
7 **approximately 36 years.**

8 Cabe Toyota has been operating from its current location in Long Beach, California since 1969.
9 (RT Vol. 1, 114:8-15.) It has competed with a second Long Beach Toyota dealership for roughly 36
10 years, the same franchise that is currently Hooman Toyota. Mr. Cabe testified that prior to its
11 relocation to the Traffic Circle sometime in the late 1970's, the dealership was located just one street
12 over from Cabe, north of the 405 freeway. (RT Vol. 1, 117:19-118:7.)

13 These two dealers have been successfully competing for Long Beach customers for decades.
14 Given the tremendous Toyota brand growth and the tremendous amount of available Toyota sales and
15 service business available to each of the existing dealers, there is no reason to expect the relocation of
16 Hooman Toyota, just 1.14 miles from its current location, will have any significant adverse impact
17 upon Cabe Toyota.

18 **ii. The proposed relocation is just beyond the one mile exclusion of protest rights.**

19 Pursuant to Vehicle Code section 3062(b)(1), dealer protest rights do not apply to "[t]he
20 relocation of an existing dealership to a location that is both within the same city as, and within one
21 mile from, the existing dealership location." Hooman Toyota is moving only 1.14 miles from its
22 current location, within the city of Long Beach, to the proposed relocation site. (Ex. 254, Tab 4, p. 1.)
23 This is just outside the protest exception stated in Vehicle Code section 3062(b)(1). Toyota's proposed
24 relocation site is still within its current PMA and there will be no change in how Toyota leads are
25 allocated following the relocation. (Ex. 254, Tab 3, p. 3; Kong Depo. 80:18-21; Hearne Depo. 146:3-8;
26 147:9-14.) The one mile exception suggests the legislature presumed that a relocation of such a
27 minimal distance would not threaten any potential adverse impact to existing dealers. It is important
28 to note that the proposed relocation under consideration in these protests is just .14 of a mile beyond

1 the legislative exception.

2 The evidence in the record convincingly reflects the fact that the proposed relocation will result
3 in increased competition that will benefit the public interest. Any argument to the contrary is
4 unsupportable by the evidence before the Board.

5 **iii. Carson has high gross profit per new vehicle sold compared to the other dealers in**
6 **the LA Region.**

7 In contrast with Cabe, Hooman and the other Toyota dealers in the LA Region, Carson Toyota
8 proportionally relies on more of its gross profit to come from its new car department. In relation to
9 gross profit per vehicle sold, not including fleet sales, Carson's margins are substantially higher than
10 the retail margins being reported by the other dealers in the LA Region. (RT Vol. 12, 122:12-123:21;
11 Ex. 2087, Attachment Carson 7-8.) This evidence demonstrates that adequate competition does not
12 exist within the RMA currently. The relocation of Hooman Toyota closer to the 405 will provide
13 RMA customers, namely potential Carson customers, a convenient opportunity to cross-shop between
14 Carson and Hooman. (Ex. 254, Tab 3, p. 3.) Ultimately, the relocation of Hooman Toyota will result
15 in increased competition to the benefit of the public.

16 **iv. Cabe's focus and reliance on internet sales is further evidence that any adverse**
17 **impact will in no way lead to ruinous competition within the RMA.**

18 The evidence introduced at the hearing in this matter demonstrates that Cabe has embarked on
19 an internet driven sales approach. Cabe's focus on making sales to customers outside its PMA has
20 severely impeded its ability to develop service business within its own PMA. (RT Vol. 6, 146:21-
21 147:11; RT Vol. 7, 95:2-15.) It is well known in the automotive industry that a dealer's new car sales
22 business feeds the dealer's service business. (RT Vol. 7, 82:25-84:5; 94:19-95:1.) The reverse is also
23 true to the extent that service customers are regularly visiting the dealership, thus increasing the
24 dealer's chance of capturing that customer's sales business when they are ready to trade in their old
25 vehicle for a new one. (*Id.*)

26 Cabe heavily focuses its sales on internet sales programs, such as TrueCar and others. (RT
27 Vol. 2, 38:1-17; 38:25-39:11.) True Car is a service that is used by some dealerships to generate
28 internet sales. (RT Vol. 2, 38:13-39:24.) Many dealerships avoid using True Car because it takes away

1 from the focus on capturing local customers. (RT Vol. 6, 127:17-18.) Since Hooman is not a True Car
2 dealership, Cabe does not face competition from Hooman because True Car customers and potential
3 customers use other online services not necessarily geared to geographic proximity. Thus, these new
4 vehicle transactions would be largely unaffected by the relocation. (RT Vol. 6, 127:15-128:24.)

5 **v. Cabe's own witnesses concede it is missing out on a considerable amount of available**
6 **service business.**

7 Cabe's Service Manager, Julio Torres, acknowledged in his deposition that, despite having the
8 capacity to handle more service business, Cabe is missing out on a significant amount of available
9 service business within its own PMA. (Torres 76:7-17; 78:15-18; 103:16-104:1) Moreover, additional
10 evidence introduced during the hearing demonstrates that customers in Cabe's PMA are choosing to
11 seek service from Toyota dealers outside of Cabe's PMA, in less proximate locations. (Ex. 2053.)

12 Given that Cabe captures such a small percentage of the service business available to it in its
13 own PMA, there exists more than adequate service business opportunity available to Cabe to offset any
14 impact to its service business that might potentially result from the proposed relocation. This is
15 especially clear considering Cabe's Service Manager's admission that the dealership is currently
16 missing out on a significant amount of existing service business opportunities. (Torres Depo. 76:7-17;
17 78:15-18.) Based upon the evidence in the record, it is reasonable to conclude that any potential
18 impact could easily be offset through the capture of a portion of the existing opportunity. In the
19 alternative, it is equally reasonable to conclude that any increase in Hooman's service business will
20 come from the substantial available opportunity already not being captured in the market, and not at
21 the expense of Cabe.

22 **G. Balancing of the Interests per *Piano*.**

23 The exhaustive record, compiled over the course of three weeks of hearing, contains
24 overwhelming evidence of the fact that, upon balancing the interests of the public, the Toyota brand,
25 the existing dealers and Hooman Toyota, the inescapable conclusion is that good cause does not exist
26 to prevent the proposed relocation of Hooman Toyota.

27 The public will benefit in a number of ways upon the relocation of Hooman Toyota, including,
28 but not limited to, enhanced access, increased parking, reduced service wait times, greater selection of

1 Toyota products, vastly improved customer waiting areas and more competitive pricing. Moreover,
2 the City of Long Beach will benefit from ensuring that it maintains one of its largest tax revenue
3 generators, preserving a significant portion of its tax base that helps provide for the needs of its
4 residents. (O'Donnell Depo. 22:7-23:13.)

5 The Toyota brand will benefit from increased brand awareness and enhanced branding
6 elements to help maintain its position as the top performing brand in the Orange County Market Area.
7 (Hearne Depo. 77:15-19; 81:3-5. The proposed relocation will also provide Toyota the opportunity to
8 capture those sales opportunities currently being lost to competitors in census tracts located proximate
9 to Hooman Toyota. (RT Vol. 6, 133:13-20; Ex. 254, Tab 17.)

10 Similarly, existing Toyota dealers will also benefit from the enhancement of the Toyota brand
11 and greater brand awareness within the RMA and surrounding areas that will result from the proposed
12 relocation. The claim that any adverse impact might result from the proposed relocation is simply not
13 supported by the evidence in the record.

14 Finally, the proposed relocation will permit Hooman Toyota to escape the restraints of its
15 current location that currently prevent it from providing the elite level of customer service that itself,
16 Toyota and Toyota customers demand.

17 **IV. CONCLUSION**

18 Based upon the foregoing, and the totality of the evidence in the record, it is plain to see that
19 Protestants have failed to demonstrate the existence of good cause to prevent the proposed relocation
20 of Hooman Toyota. The evidence demonstrates that the proposed relocation will result in significant
21 benefits to the public welfare, the City of Long Beach, Hooman Toyota and the Toyota brand, with
22 little, if any, adverse impact to the existing dealers. Moreover, to the extent the relocation results in
23 any impact to Protestants, Toyota and Hooman presented credible expert opinions and evidence
24 conclusively demonstrating that any potential impact to the protesting dealers will be so slight it will
25 certainly not threaten the continued viability of Cabe, Carson or any of the existing Toyota dealers in
26 the RMA.

1 Conversely, if either of the Protests is sustained, the public interest, Hooman Toyota's interest
2 and TMS' interest will suffer unnecessarily, and disproportionately to any perceived benefits to
3 Protestants. The Protests should be denied.

4
5 Dated: August 15, 2013

LAW OFFICES OF
MICHAEL J. FLANAGAN

6
7 By: 
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9 Attorneys for Protestant

DECLARATION OF SERVICE BY ELECTRONIC 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 August 15, 2013, I caused to be served a true and complete copy of:

INTERVENER'S POST HEARING BRIEF

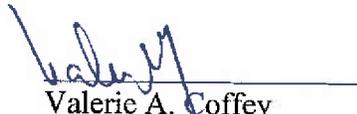
Carson Toyota v Toyota Motor Sales U.S.A., Inc.

Protest No. PR-2339-12 Consolidated

By Electronic Mail:
Also First Class Mail
See Attached Service List

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

Executed this 15 August, 2013, Sacramento, California.


Valerie A. Coffey

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1 Service List

*Carson Toyota v Toyota Motor Sales U.S.A., Inc.
Protest No. PR-2339-12 Consolidated*

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