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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a Special meeting on November 12, 2013, in Hearing Room #1, at the Board’s offices.

2. **ROLL CALL**

Bismarck Obando, President and Public Member, called the meeting of the Board to order at 1:02 p.m.

Present: Ryan Brooks William G. Brennan, Executive Director
Kathryn Ellen Doi Robin Parker, Senior Staff Counsel
David C. Lizárraga
Bismarck Obando
Glenn E. Stevens

3. **PLEDGE OF ALLEGIANCE**

Mr. Stevens led the members and staff in the Pledge of Allegiance.

4. **ORAL PRESENTATION BEFORE THE PUBLIC MEMBERS OF THE BOARD**

Mr. Obando read the following statement “comments by the parties or by their counsel that are made regarding any proposed decision, proposed order, or proposed ruling must be limited to matters contained within the administrative record of the proceedings. No other information or argument will be considered by the Board.” Furthermore, he indicated that since this is an adjudicative matter as described in Government Code section 11125.7(e), therefore members of the public may not comment on such matters.

- a. ALDON, INC., a California corporation, dba CARSON TOYOTA v. TOYOTA MOTOR SALES U.S.A., Inc., a California corporation; H.T.L. AUTOMOTIVE INC., dba HOOMAN TOYOTA OF LONG BEACH and HOOMAN SCION OF LONG BEACH
Protest No. PR-2339-12

ALDON, INC., a California corporation, dba CARSON SCION v. TOYOTA MOTOR SALES U.S.A., Inc., a California corporation; H.T.L. AUTOMOTIVE INC., dba HOOMAN TOYOTA OF LONG BEACH and HOOMAN SCION OF LONG BEACH

Protest No. PR-2340-12

CABE BROTHERS, a California corporation, dba CABE TOYOTA and CABE SCION v. TOYOTA MOTOR SALES U.S.A., Inc., a California corporation; H.T.L. AUTOMOTIVE INC., dba HOOMAN TOYOTA OF LONG BEACH and HOOMAN SCION OF LONG BEACH

Protest No. PR-2341-12

Oral comments were presented before the Public Members of the Board. James Ferruzzo, Esq. of Ferruzzo & Ferruzzo, LLP represented Protestant Cabe Toyota and Cabe Scion. Halbert B. Rasmussen, Esq. of Manning, Leaver, Bruder & Berberich represented Protestant Carson Toyota and Carson Scion. Steven A. McKelvey, Jr., Esq., of Nelson Mullins Riley & Scarborough, LLP represented Respondent Toyota. Michael J. Flanagan, Esq. of the Law Offices of Michael J. Flanagan represented Intervenor Hooman Toyota and Hooman Scion.

- b. BURBANK KAWASAKI, INC. v. KAWASAKI MOTORS CORP., U.S.A., a Corporation

Protest Nos. PR-2328-12 and PR-2333-12

Oral comments were presented before the Public Members of the Board. Michael M. Sieving, Esq. of Callahan Thompson Sherman & Caudill, LLP represented Protestant Burbank Kawasaki. Leon Bellissimo, the president and owner of Burbank Kawasaki addressed the Board. Maurice Sanchez, Esq. of Baker & Hostetler LLP represented Respondent Kawasaki. Bruce Gill, the Regional Business Director, West Region for Kawasaki, also addressed the Board.

- c. McCONNELL CHEVROLET BUICK, INC. v. GENERAL MOTORS, LLC

Protest Nos. PR-2369-13 and PR-2370-13

Oral comments were presented before the Public Members of the Board. No appearance was made on behalf of Protestant. Gregory R. Oxford, Esq. of Isaacs Clouse Crose & Oxford LLP represented Respondent General Motors. Mr. Oxford did not present oral comments and submitted on the Proposed Decision.

5. CLOSED EXECUTIVE SESSION DELIBERATIONS

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Pursuant to Government Code section 11517(c)(2), the Board could adopt the proposed decision, make technical or other minor changes, reject the proposed decision and remand the case, or reject the proposed decision and decide the case upon the record.

a. **CONSIDERATION OF PROPOSED DECISION**

ALDON, INC., a California corporation, dba CARSON TOYOTA v. TOYOTA MOTOR SALES U.S.A., Inc., a California corporation; H.T.L. AUTOMOTIVE INC., dba HOOMAN TOYOTA OF LONG BEACH and HOOMAN SCION OF LONG BEACH

Protest No. PR-2339-12

ALDON, INC., a California corporation, dba CARSON SCION v. TOYOTA MOTOR SALES U.S.A., Inc., a California corporation; H.T.L. AUTOMOTIVE INC., dba HOOMAN TOYOTA OF LONG BEACH and HOOMAN SCION OF LONG BEACH

Protest No. PR-2340-12

CABE BROTHERS, a California corporation, dba CABE TOYOTA and CABE SCION v. TOYOTA MOTOR SALES U.S.A., Inc., a California corporation; H.T.L. AUTOMOTIVE INC., dba HOOMAN TOYOTA OF LONG BEACH and HOOMAN SCION OF LONG BEACH

Protest No. PR-2341-12

Consideration of the Administrative Law Judge's Proposed Decision, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Mr. Stevens moved to adopt the Administrative Law Judge's Proposed Decision. Ms. Doi amended the motion to delete the last sentence of footnote 18 and to delete in its entirety footnote 22. Mr. Obando seconded the motion. The motion carried unanimously.

b. **CONSIDERATION OF PROPOSED DECISION FOLLOWING REMAND**

BURBANK KAWASAKI, INC. v. KAWASAKI MOTORS CORP., U.S.A., a Corporation

Protest Nos. PR-2328-12 and PR-2333-12

Consideration of the Administrative Law Judge's Proposed Decision Following Remand, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Mr. Brooks moved to adopt the Administrative Law Judge's Proposed Decision Following Remand. Ms. Doi seconded the motion. The motion carried

unanimously.

c. **CONSIDERATION OF PROPOSED DECISION**

McCONNELL CHEVROLET BUICK, INC. v. GENERAL MOTORS, LLC
Protest Nos. PR-2369-13 and PR-2370-13

Consideration of the Administrative Law Judge's Proposed Decision, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Mr. Brooks moved to adopt the Administrative Law Judge's Proposed Decision. Mr. Stevens seconded the motion. The motion carried unanimously.

6. **OPEN SESSION**

The Public Members returned to Open Session. Ms. Parker announced the decisions in Agenda Items 5(a), 5(b), and 5(c).

7. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 4:32 p.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____

Bismarck Obando
President
New Motor Vehicle Board