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ATTORNEYS FOR PROTESTANT

STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

In the Matter of the Protest of:

SANTA CRUZ NISSAN, INC., dba SANTA CRUZ NISSAN, Protestant, v. NISSAN NORTH AMERICA , INC., Respondent.	**PROTEST NO: PR-** **Vehicle Code Section 3060**

Protestant, Santa Cruz Nissan, Inc., dba Santa Cruz Nissan, a California corporation, qualified to do business in California, through its attorneys, files this protest under provisions of California Vehicle Code Section 3060 and alleges as follows:

1. Protestant is a new motor vehicle dealer selling Nissan vehicles and parts, is duly licensed as a vehicle dealer by the State of California, and is located at 1616 Soquel Avenue, Santa Cruz, California 95062. Protestant's telephone number is (831) 420-3810.

2. Respondent distributes Nissan products and is the franchisor of Protestant.

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

4. On or about January 15, 2013, Protestant received from Respondent a notice dated January 14, 2013, that Respondent intends to terminate Protestant's franchise agreement.

5. Protestant generally denies each and every allegation contained in the written notice of termination.

6. Respondent does not have good cause to terminate the franchise by reason of the following facts:

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

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

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

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

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

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

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

7. Protestant and its attorneys desire to appear before the Board and/or its designated hearing officer and estimate that the hearing in this matter will take seven (7) days to complete.

WHEREFORE, Protestant prays as follows:

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

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

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

4. That Protestant be awarded such other and further relief as the Board deems just and proper.

Dated: January 22, 2013

LAW OFFICES OF
MICHAEL J. FLANAGAN

By: _____
Michael J. Flanagan
Attorneys for Protestant

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 22, 2013, I caused to be served a true and complete copy of:

PROTEST

Santa Cruz Nissan v Nissan

Protest No. PR-Unassigned

By First Class Mail

Albert Castignetti
Vice President
General Manager, Nissan Division
NISSAN NORTH AMERICA, INC.
20 Pacifica
Suite 1200
Irvine, CA 92618

Eric Rodgers
Regional Vice President
NISSAN NORTH AMERICA, INC.
20 Pacifica
Suite 1200
Irvine, CA 92618

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

Executed this 22 January, 2013, Sacramento, California.

Valerie A. Coffey