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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a Special meeting on April 9, 2014, in Hearing Room #1, at the Board's offices.

2. **ROLL CALL**

Glenn Stevens, President and Public Member, called the meeting of the Board to order at 10:05 a.m.

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

Absent: Ryan Brooks
David C. Lizárraga

Observers: Anthony A. Batarse, Dealer Member
Rahim Hassanally, Dealer Member

3. **PLEDGE OF ALLEGIANCE**

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

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

Mr. Stevens read the following statement "comments by the parties or by their counsel that are made regarding any proposed decision, ruling, or order 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. GUARANTEE FORK LIFT, INC., dba GFL, INC. v. CAPACITY OF TEXAS, INC.
Protest No. PR-2361-13

Gavin M. Hughes, Esq. of the Law Offices of Michael J. Flanagan represented Protestant and was available to answer questions. No appearance was made on behalf of Respondent.

- b. McCONNELL CHEVROLET BUICK, INC. v. GENERAL MOTORS, LLC
Protest Nos. PR-2382-14 and PR-2383-14

Oral comments were presented before the Public Members of the Board. Kent Steffes in Pro Per represented Protestant. Gregory R. Oxford, Esq. of Isaacs Clouse Crose & Oxford LLP represented Respondent.

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

GUARANTEE FORK LIFT, INC., dba GFL, INC. v. CAPACITY OF TEXAS, INC.
Protest No. PR-2361-13

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. Ms. Doi moved to amend the Proposed Decision as follows:

1. The word "Protestant" in Paragraph 5, page 3, line 6 is added before "GFL" to read: "Protestant GFL is located at 689 Fourth Street, Oakland, California."
2. Footnote 2 on page 3, lines 23-24 is amended to read: "...; Mr. Hughes was substituted as counsel on July 12, 2013."

Mr. Obando seconded the motion. The motion carried unanimously.

Mr. Obando moved to adopt the Administrative Law Judge's Proposed Decision. Mr. Stevens seconded the motion. The motion carried by a 2-to-1 vote with Ms. Doi dissenting.

b. **CONSIDERATION OF PROPOSED ORDER**

McCONNELL CHEVROLET BUICK, INC. v. GENERAL MOTORS, LLC
Protest Nos. PR-2382-14 and PR-2383-14

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss Protests for Lack of Jurisdiction, 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 Order as amended:

1. The word "fact" in Paragraph 28, page 8, line 9 is replaced with the word "face".
2. Paragraphs 80-102 are stricken.
3. The Proposed Order of Remand Regarding the Motion for Award of Sanctions on page 23, lines 13-16 is stricken.
4. The Proposed Order Adopting the Recommendation Regarding the Motion to Dismiss the Protests on page 23, lines 17-20 is stricken.

After consideration of the pleadings, exhibits, and oral arguments, IT IS HEREBY ORDERED that Respondent's Motion to Dismiss is granted. Protest Nos. PR-2382-14 and PR-2383-14 (McConnell Chevrolet Buick, Inc. v. General Motors, LLC) are dismissed with prejudice.

After consideration of the pleadings, exhibits, and oral arguments of counsel, IT IS HEREBY ORDERED that Respondent's Motion for an Award of Sanctions is denied.

Mr. Obando 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) and 5(b).

7. ADJOURNMENT

With no further business to discuss, the meeting was adjourned at approximately 11:55 a.m.

Submitted by



WILLIAM G. BRENNAN
Executive Director

APPROVED:



Glenn E. Stevens
President
New Motor Vehicle Board