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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a General meeting on February 11, 2015, at Rusnak Mercedes-Benz, 55 West Huntington Drive, Arcadia, California.

2. **ROLL CALL**

Glenn Stevens, President and Public Member, called the meeting of the Board to order at 10:37 a.m.

Present: Anthony A. Batarse Jr. William G. Brennan, Executive Director
Kathryn Ellen Doi Robin P. Parker, Senior Staff Counsel
Rahim Hassanally Danielle R. Vare, Staff Counsel
David C. Lizárraga
Bismarck Obando
Victoria Rusnak
Glenn E. Stevens

Absent: Ramon Alvarez C.
Ryan L. Brooks

3. **PLEDGE OF ALLEGIANCE**

Ms. Parker led the members and staff in the Pledge of Allegiance.

4. **APPROVAL OF THE MINUTES FROM THE DECEMBER 11, 2014, GENERAL MEETING**

Ms. Rusnak moved to adopt the December 11, 2014, General Meeting minutes. Mr. Obando seconded the motion. The motion carried unanimously.

5. **2015 ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT - EXECUTIVE COMMITTEE**

Ms. Doi moved to nominate Mr. Stevens as President. Mr. Lizárraga seconded the motion to nominate Mr. Stevens as President. Mr. Obando moved to close the nominations, with Mr. Lizárraga seconding the motion. This motion to close the

nominations carried unanimously. The motion to nominate Mr. Stevens as President carried unanimously with Mr. Stevens abstaining.

Ms. Doi moved to nominate Ms. Rusnak as Vice President. Mr. Stevens seconded the motion to nominate Ms. Rusnak as Vice President. Mr. Obando moved to close the nominations, with Mr. Lizárraga seconding the motion. This motion to close the nominations carried unanimously. The motion to nominate Ms. Rusnak as Vice President carried unanimously.

6. **APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE, BOARD DEVELOPMENT COMMITTEE, FISCAL COMMITTEE, GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE, AND POLICY AND PROCEDURE COMMITTEE, BY THE INCOMING BOARD PRESIDENT**

After a brief discussion off the record, President Stevens made the following committee appointments:

- ADMINISTRATION COMMITTEE
Rahim Hassanally, Chair
Ryan Brooks, Member
- BOARD DEVELOPMENT COMMITTEE
David C. Lizárraga, Chair
Ramon Alvarez C., Member
- EXECUTIVE COMMITTEE
Glenn E. Stevens, President
Victoria Rusnak, Vice President
- FISCAL COMMITTEE
Anthony A. Batarse, Jr., Chair
Bismarck Obando, Member
- GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE
Victoria Rusnak, Chair
Glenn E. Stevens, Member
- POLICY AND PROCEDURE COMMITTEE
Bismarck Obando, Chair
Kathryn Ellen Doi, Member

7. **APPOINTMENT OF BOARD MEMBER DESIGNEE IN COMPLIANCE WITH THE BOARD'S 1997 "REVISED BOARD POLICY REGARDING REPRESENTATION IN COURT ACTIONS", BY THE INCOMING BOARD PRESIDENT**

This matter was pulled from the agenda since the incoming President is a Public Member and the incoming Vice President is a Dealer Member. If both the incoming President and Vice President were Dealer Members this designation would be necessary to comply with

the Board adopted policy.

8. **ANNUAL UPDATE ON CONSUMER MEDIATION PROGRAM - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Jackie Grassinger concerning the annual update on the Board Consumer Mediation Program. As indicated in the memo the program received a total of 359 cases and handled 824 telephone calls during fiscal year 2013-2014. Of the 359 cases received, 302 were mediated; 67% were mediated successfully. Mr. Brennan reported that the mediators successfully resolve cases by persuasion since they do not have enforcement authority and through the Board's efforts their caseload has increased.

There was a discussion concerning dealers that fail to respond to requests for information regarding a pending mediation. Mr. Hassanally suggested that the Dealer Members could reach out to the dealer involved in the mediation to ensure awareness and hopefully result in participation. Ms. Doi suggested that the staff use discretion in this regard. Mr. Brennan indicated that he would work with the Dealer Members where appropriate to seek their assistance. Ms. Doi suggested that follow-up letters be sent to all referral sources; Mr. Brennan indicated that he would.

Promoting the Consumer Mediation Program at the upcoming California New Car Dealers Association ("CNCDA") Dealer Day event by inserting a one page summary on the mediation program in the materials and having a Dealer Member make a brief presentation was also discussed. Monica Baumann, Director of Legal and Regulatory Affairs for the CNCDA indicated she would pass this request to Brian Maas, President of the CNCDA.

9. **DISCUSSION CONCERNING THE USE OF SOCIAL MEDIA TO PROMOTE THE CONSUMER MEDIATION PROGRAM - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan concerning the use of social media to promote the Consumer Mediation Program. Mr. Brennan reported that he met with the DMV's Communication Programs Division staff, which is responsible for DMV's social media channels, to explore options regarding this type of outreach. He indicated that they do a remarkable job and are available to help the Board advise the public on the Consumer Mediation Program through Facebook and Twitter. Mr. Brennan indicated that the results of this outreach will be monitored on a real-time basis and can be adjusted depending on the Board's caseload. Periodic reports will be provided by Mr. Brennan to the members.

10. **CONSIDERATION OF THE REVISED GUIDE TO THE NEW MOTOR VEHICLE BOARD TO INCLUDE INFORMATION ON STATUTORY AND REGULATORY CHANGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum and revised *Guide to the New Motor Vehicle Board* from Bill Brennan and Robin Parker. Ms. Parker reported that the Guide was thoroughly reviewed. As indicated in the memo, the pertinent changes are:

- The section “New as of 2015” has been updated to reflect Assembly Bill 988, which amends the definition of all-terrain vehicle (Veh. Code § 111) to include recreational off-highway vehicles (ROHVs) as defined in Section 500 and utility terrain vehicles (UTVs) as defined in Section 531. Dealers, manufacturers and distributors of these vehicles are now subject to DMV’s licensing requirements and fall within the jurisdiction of the Board. It was also updated to reflect that the decision in *Powerhouse Motorsports Group, Inc., et al. v. Yamaha Motor Corporation, U.S.A.* (2013) 221 Cal.App.4th 867 [164 Cal.Rptr.3d 811] was final.

Mr. Obando moved to adopt the revised Guide. Mr. Batarse seconded the motion. The motion carried unanimously.

11. **STATUS REPORT CONCERNING MANUFACTURER AND DISTRIBUTOR COMPLIANCE WITH VEHICLE CODE SECTIONS 3064/3074 AND 3065/3075 (THE FILING OF STATUTORILY REQUIRED SCHEDULES AND FORMULAS) - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Nicole Angulo updating manufacturer and distributor compliance with the Board’s request that statutorily mandated schedules or formulas be filed with the Board. Mr. Brennan reported that there was 100% compliance from the manufacturers/distributors which fall within the Board’s jurisdiction that are required to file schedules and formulas.

12. **STATUS REPORT CONCERNING THE BOARD’S FINANCIAL CONDITION FOR THE 1ST QUARTER OF FISCAL YEAR 2014-2015 AND STATUS ON THE BOARD’S COLLECTION OF ITS ANNUAL FEES - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan, Dawn Kindel and Suzanne Luke concerning the Board’s financial condition for the 1st quarter of fiscal year 2014-2015 and the status of the Board’s collection of its annual fee. Mr. Brennan indicated that the Board was on pace with its appropriated budget having expended 24%. The Board completed its collection from 151 manufacturers and distributors with fees totaling \$922,161.60. Additionally, the Board collected \$220,000 in dealer fees for the 1st quarter and \$425,000 for the 2nd quarter; the Board is on track to increase revenues by about \$160,000 or more for current fiscal year. Mr. Brennan remarked that the Board has “weathered the storm” and a fee increase is not warranted. The Board needs to focus on building a reserve.

13. **DISCUSSION OF AN APPROPRIATE RESERVE BALANCE FOR THE BOARD TO MAINTAIN - FISCAL COMMITTEE**

The members were provided with a memorandum from Bill Brennan concerning an appropriate reserve balance for the Board to maintain. Mr. Brennan reported that he contacted the DMV and checked additional rules but found no guidelines on an appropriate reserve balance. Mr. Brennan suggested that a reserve balance of one year of operating expenses would be reasonable. The members were in agreement.

14. **DISCUSSION AND CONSIDERATION OF THE UPCOMING INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Danielle Vare concerning the March 26, 2015, Industry Roundtable. Ms. Vare reported that the staff secured a number of speakers including Jonathan Morrison, Curt Augustine and Gary Gutierrez. The topics were still being finalized but included: (1) a study of litigation between manufacturers and dealers regarding the Lemon Law and whether it leads to further class actions between consumers and dealers; (2) a status update on Senate Bill 1077 (road usage pilot program); (3) status of hydrogen fuel cell and plug-in technology; (4) an update on autonomous vehicle regulations; and (5) the year of the recall. Ms. Rusnak requested that the staff survey participants concerning the hours of the event and whether it should start and end earlier with a shorter lunch to allow for same day travel. Mr. Obando mentioned that a potential topic could be the “Enhanced Infrastructure Financing Districts” (Senate Bill 628), which is a new tool like redevelopment that offers incremental tax benefits. This was of interest to the members and something that will be agenzized for discussion at the March 25, General Meeting.

15. **CONSIDERATION OF REVISIONS TO THE INFORMATIONAL GUIDE FOR MANUFACTURERS AND DISTRIBUTORS, WHICH OUTLINES THEIR OBLIGATIONS TO PROVIDE NOTICES, SCHEDULES, AND FORMULAS MANDATED BY THE CALIFORNIA VEHICLE CODE AND CIVIL CODE TO THE NEW MOTOR VEHICLE BOARD AND/OR IMPACTED DEALERS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum and revised *Informational Guide for Manufacturers and Distributors* from Bill Brennan and Robin Parker. Ms. Parker reported that there were no substantive changes from the version adopted by the Board in April 2014.

Mr. Obando moved to adopt the revised Guide. Ms. Rusnak seconded the motion. The motion carried unanimously.

16. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Brennan provided the members with a report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Brennan mentioned that the Board staff completed the Biennial Review of its Conflict of Interest Code and reported that no changes were necessary. Additionally, he noted that three members (Batarse, Rusnak, and Stevens) are in their grace period. Mr. Brennan is meeting with the Governor’s Appointments Secretary.

Ms. Parker reported that since the members received their written report one new protest was filed and the oldest protest, Mother Lode Kia, was dismissed. Additionally, three 60-day notices of termination have been filed.

With regards to judicial matters, Ms. Parker reported that a hearing date in *Santa Cruz Nissan* had been set for September 4 with the Board's brief due on August 10. Additionally, she reported that *Mega RV* is still in bankruptcy so nothing is happening in the appeals and there is a May 1 hearing date set for the writ in *Capacity of Texas*.

17. **SELECTION OF BOARD MEETING DATES FOR 2015**

The members were provided with a memorandum from Bill Brennan concerning Board meeting dates for 2015. The members went off the record for this discussion. Mr. Stevens announced that the following meetings were scheduled for 2015:

- March 25, 2015, General Meeting, Sacramento;
- March 26, 2015, Industry Roundtable, Sacramento;
- June 17, 2015, General Meeting, Sacramento;
- October 14, 2015, General Meeting, Sacramento; and
- December 16, 2015, General Meeting, Sacramento, if there is case management.

18. **PUBLIC COMMENT** (Gov. Code § 11125.7)

Victoria Rusnak welcomed the members to her dealership and introduced Jason Kruckerberg, City of Arcadia, Assistant City Manager/Development Services Director. Mr. Kruckerberg provided public comments concerning the impact of automobile retailers in the community and the difficulties facing dealers when they need to expand and build new facilities.

19. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 12:19 p.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____
Glenn E. Stevens
President
New Motor Vehicle Board