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NEW MOTOR VEHICLE BOARD

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FILED
NEW MOTOR VEHICLE BOARD
DATE 1-22-15
BY ES

8 **STATE OF CALIFORNIA**
9 **NEW MOTOR VEHICLE BOARD**

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12 In the Matter of the Protest of
13 **ADRENALINE POWERSPORTS,**
14 Protestant,
15 v.
16 **POLARIS INDUSTRIES, INC,**
17 Respondent.

Protest No. PR-2418-15

PROTEST

[Vehicle Code Section 3062]

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20 Protestant ADRENALINE POWERSPORTS, through its attorney, files this Protest under the
21 provisions of California Vehicle Code section 3062¹ and alleges as follows:

22 1. Protestant ADRENALINE POWERSPORTS is a new motor vehicle dealer, as that
23 term is defined in Section 426, and is licensed as such by the California Department of Motor
24 Vehicles. Protestant maintains a dealership at 7640 Sunrise Boulevard, Citrus Heights, California
25 95610, with a telephone number of (916) 729-7433.

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28 ¹ All further statutory references are to the California Vehicle Code, unless otherwise noted.

1 2. Respondent POLARIS INDUSTRIES, INC. (hereinafter "Respondent" or "POLARIS")
2 is a new motor vehicle manufacturer, as that term is defined in Section 672, and is licensed by the
3 California Department of Motor Vehicles. Respondent's business address is Polaris Industries, Inc.,
4 2100 Highway 55, Medina MN 55340, with a telephone number of (763) 542-0500.

5 3. Protestant and Respondent are parties to a franchise, as that term is defined by Section
6 331, pursuant to which Protestant is afforded the right to sell as new and service various products
7 manufactured by Respondent, including recreational off-highway vehicles (as defined in Section 500),
8 and utility-terrain vehicles (as defined in Section 531).

9 4. Protestant is represented in this matter by the attorneys indicated above.

10 5. Protestant is informed and believes that Respondent intends to establish an additional
11 franchisee for its recreational off-highway and utility-terrain vehicles at an existing motorcycle
12 dealership located at 2014 Taylor Road, Roseville, California (the "proposed location"), which
13 currently operates under the name Roseville Yamaha Kawasaki. Protestant is within the relevant
14 market area of the proposed location. To date, Respondent has not provided Protestant with notice of
15 such a proposed establishment as required by Section 3062.²

16 6. There is good cause for not permitting the establishment of the franchise by reason of
17 the following facts:

- 18 (a) Protestant has made a substantial and permanent investment in the dealership.
19 (b) The disruption of the business of Protestant by the establishment of an
20 additional franchise would have a deleterious effect on the retail motor vehicle
21 business and on the consuming public in the relevant market area.
22 (c) It would be injurious to the public welfare for an additional dealership to be
23 established.
24 (d) The Polaris franchisee in the relevant market area is providing adequate
25 competition and convenient customer care for Polaris vehicles, including
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28 ² Vehicle Code Section 111 was amended, effective January 1, 2015, to include recreational off-highway vehicles and utility-terrain vehicles within the definition of what constitutes an "all terrain vehicle" for purposes of Section 3000 et seq. and Section 11700 et seq. As such, any establishment of a new franchisee of these vehicles is subject to the requirements of (and protest rights afforded by) Section 3062. (Stats. 2014, Ch. 279, Sec. 1. Effective January 1, 2015).

adequate motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel.

(e) The establishment of an additional franchise would decrease competition and therefore it would not be in the public interest.'

7. Protestant and its attorneys desire to appear before the New Motor Vehicle Board, and estimate that the Hearing on this matter would take five (5) days to complete.

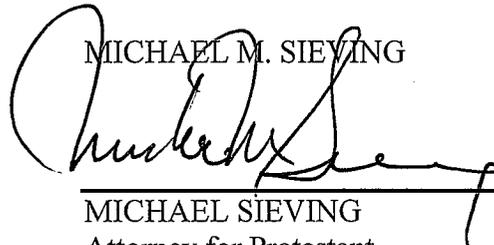
8. A Pre-Hearing Conference is requested.

WHEREFORE, Protestant ADRENALINE POWERSPORTS prays as follows:

1. That the New Motor Vehicle Board issue its decision, determining that good cause exists for not permitting such establishment;
2. That the New Motor Vehicle Board issue its order not permitting such establishment; and,
3. For such other and further relief as the New Motor Vehicle Board deems proper.

DATED: January 21, 2015

MICHAEL M. SIEVING



MICHAEL SIEVING
Attorney for Protestant

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PROOF OF SERVICE

STATE OF CALIFORNIA)
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NEW MOTOR VEHICLE BOARD)

I am employed in the County of Sacramento, State of California, I am over the age of 18 years and not a party to the within action; my business address is 8865 La Riviera Drive, Unit B, Sacramento, California.

On this date, January 22, 2015, I served the foregoing documents described as:

PROTEST [Vehicle Code Section 3062]

I enclosed a true copy of said documents in a sealed envelope or package addressed to the persons noted below.

XX (By United States Mail) I placed the envelope for collection and mailing, following our firm's ordinary business practices. I am familiar with our firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

____ (By overnight delivery) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

____ (By messenger service) I served the documents by placing them in an envelope or package addressed to the persons at the addresses below and providing them to a professional messenger service for service.

____ (By fax transmission) Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

____ (By electronic service) Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below.

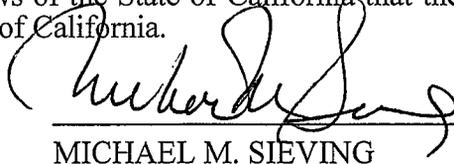
____ (By personal service) I served the documents by delivering the envelope, by hand, to the persons listed below.

____ (By [Insert Electronic Service Provider]) I caused the above-entitled documents to be served through [Insert Electronic Service Provider] addressed to all parties appearing on the [Insert Electronic Service Provider] electronic service list for the above-entitled case. The file transmission was reported as completed and a copy of the [Insert Name of Electronic Service Filing Receipt] pages will be maintained with the original documents in our office. Service will be deemed effective as provided for in the Electronic Case Management Order. I have complied with California Rules of

1 Court, Rule 2.257(a) and the original, signed Proof of Service is available for review and copying at
2 the request of the court or any party.

3 Executed on January 22, 2015, at Sacramento, California.

4 I declare under penalty of perjury under the laws of the State of California that the above is true and
5 correct and that I am a member of the State Bar of California.

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MICHAEL M. SIEVING

SERVICE LIST

13 Polaris Industries, Inc.
14 Legal Department
15 2100 Highway 55
16 Median, MN 55340
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