

1 NEW MOTOR VEHICLE BOARD
2 1507 - 21st Street, Suite 330
3 Sacramento, California 95814
4 Telephone: (916) 445-1888

CERTIFIED MAIL

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8 STATE OF CALIFORNIA
9 NEW MOTOR VEHICLE BOARD
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11 In the Matter of the Appeal of)
12 EL CAJON MOTORS, INC. dba) Appeal No. A-102-89
13 EL CAJON FORD,)
14 Appellant,) ORDER OF THE BOARD
15 vs.)
16 DEPARTMENT OF MOTOR VEHICLES,)
17 Respondent.)

18 TO: Marguerite Mary Leoni, Esq.
19 650 California Street, Suite 2650
20 San Francisco, California 94108

21 Paul H. Dobson, Esq.
22 770 L Street, Suite 800
23 Sacramento, California 95814

24 Alan Mateer, Esq. ✓
25 Chief Counsel
26 Legal Office DMV
27 P.O. Box 932382
28 Sacramento, California 94232-3820

1 On October 20, 1989, the Public Members of the New
Motor Vehicle Board met and took action in regard to the above
captioned appeal.

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ORDER

The Board orders that the matter be remanded to the Department of Motor Vehicles for further action pursuant to the stipulated request for remand.

The Board retains jurisdiction to hear the appeal should this matter not be resolved between the parties.

IT IS SO ORDERED.

DATED: October 20, 1989

NEW MOTOR VEHICLE BOARD

By: Robert J. Beckus
ROBERT J. BECKUS
President

A. A. Pierce, Director, DMV
John Lancara, Acting Program Manager
Occupational Licensing, DMV

NMVB

RECEIVED
NOV 15 1989
New Motor Vehicle Board

FILED
DEPT. OF MOTOR VEHICLES
NOV 09 1989
BY *L. J. Johnson*

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STATE OF CALIFORNIA
DEPARTMENT OF MOTOR VEHICLES

In the Matter of the Accusation of)	
EL CAJON MOTORS,)	CASE NO. D-3564
A Corporation, dba)	
EL CAJON FORD,)	ORDER AFTER REMAND
)	
)	
Respondent.)	

WHEREAS, the New Motor Vehicle Board has remanded this matter to the Department of Motor Vehicles for further action pursuant to the Stipulated Request for Remand of the parties; and

WHEREAS, the Department of Motor Vehicles and Respondent have entered into the attached Stipulation and Waiver;

THEREFORE, IT IS HEREBY ORDERED that the Decision filed on January 18, 1989 is modified to delete the Order and substitute therefor the Order set forth in the attached Stipulation and Waiver. The Decision, as so modified, shall become effective on November 14, 1989.

DATED: NOV 09 1989 .

A. A. Pierce
A. A. PIERCE
Director

FILED
 DEPT. OF MOTOR VEHICLES
 NOV 09 1989
 BY *S. J. Johnson*

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STATE OF CALIFORNIA
 DEPARTMENT OF MOTOR VEHICLES

In the Matter of the Accusation of) EL CAJON MOTORS,) A Corporation, dba) EL CAJON FORD,) <div style="text-align: right; padding-right: 10px;">Respondent.)</div>)	CASE NO. D-3564 STIPULATION AND WAIVER
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WHEREAS, the Decision of the Director of Motor Vehicles was filed on January 18, 1989; and

WHEREAS, an appeal of said Decision was filed by Respondent with the New Motor Vehicle Board; and

WHEREAS, pursuant to the Stipulated Request for Remand of the parties, the New Motor Vehicle has remanded this matter to the Department of Motor Vehicles (hereinafter the Department) for further action;

THEREFORE, the Department and Respondent do hereby stipulate that:

(a) Respondent waives the right, in the above-entitled matter, to any further hearing or reconsideration, any and all appeals, and all rights which may be afforded pursuant to the Vehicle Code, the Administrative Procedure Act, or any other provision of law.

///

1 (b) The Order contained in the Decision filed on
2 January 18, 1989 shall be deleted, and, in lieu thereof, the
3 following Order shall be entered by the Director of Motor
4 Vehicles.

5 ORDER

6 The dealer's license and special plates no. 13492,
7 heretofore issued to Respondent, EL CAJON MOTORS, A Corporation,
8 dba EL CAJON FORD, are hereby suspended for a period of fifteen
9 (15) days; provided however, that eight (8) days of said
10 suspension are stayed for a period of two (2) years under the
11 following terms and conditions:

12 (1) Respondent's license and special plates shall be
13 suspended for a period of seven (7) days. Respondent has
14 the option to pay to the Department a monetary penalty of
15 \$5,000 per day in lieu of serving up to five (5) days of
16 said suspension. Respondent elects to pay a monetary
17 penalty of \$25,000, thereby reducing the actual
suspension to a period of two (2) days. The suspension
of Respondent's license and special plates shall occur on
November 14 and 15, 1989, and during said period
Respondent shall not exercise any of the privileges
granted under the license and special plates.

18 (2) Respondent further agrees that if, in connection
19 with any advertising, representation, or dissemination
20 made to the public or any member thereof during the
21 period of actual suspension, such advertising,
22 representation, or dissemination states or reasonably
23 implies that Respondent's dealer's license has or is
24 suspended for any reason other than by order of the
Department, such advertising, representation, or
dissemination shall be deemed to be untrue or misleading
advertising within the meaning of Vehicle Code Section
11713(a) and shall also be deemed a violation of the
conditions of probation as agreed herein.

25 (3) During the period of actual license suspension,
26 Department employees shall post notices of suspension, in
27 accordance with the provisions of Section 421.00 of Title
13 of the California Code of Regulations. Removal of
these notices prior to the termination of suspension
shall be deemed a violation of the conditions of

1 probation.

2 (4) Respondent shall obey all the laws of the United
3 States, the State of California, or its subdivisions, and
4 the rules and regulations of the Department of Motor
5 Vehicles now or hereafter in effect. If any of
6 Respondent's officers, directors or stockholders, if such
7 stockholders are active in the management, direction or
8 control of Respondent's licensed activity, are convicted
9 of a felony or a crime involving moral turpitude,
10 including a conviction after a plea of not guilty or nolo
11 contendere, such conviction shall be considered a
12 violation of the terms and conditions of any probationary
13 license issued to Respondent.

14 (5) Any license issued to Respondent during a period of
15 two (2) years shall be issued as a probationary license
16 and then only if it is determined that Respondent has
17 fully complied with the terms and conditions hereof and
18 that no cause for refusal to issue, suspend or revoke has
19 intervened or exists.

20 (6) Respondent shall permit free and ready access to
21 business records pertaining to the purchase, sale, rental
22 or leasing of vehicles at the request of a departmental
23 investigator during normal business hours and without
24 prior notice.

25 (7) Respondent shall pay to the Department the sum of
26 \$30,000 as a monetary penalty. Said amount, as well as
27 the monetary penalty of \$25,000 set forth in condition
(1) above, shall be paid to the Department of Motor
Vehicles, Accounting Section, P. O. Box 932382,
Sacramento, CA 94232-3820, within 30 days of the
effective date of the Decision in this matter.

(8) Should the Director of Motor Vehicles at any time
during the existence of said probationary license or the
renewal thereof, determine upon satisfactory evidence
that the Respondent has violated any of the terms and
conditions under which said license was issued, the
Director may, after notice and hearing, vacate the stay
order and reimpose the stayed portion of the penalty; and
if no such determination is made, the stay shall become
permanent.

28 DATED: 11-8-89


29 PAUL F. LEADER,
30 President, Respondent

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DATED: November 8, 1989 .

Marguerite Mary Leoni
MARGUERITE MARY LEONI,
Attorney for Respondent

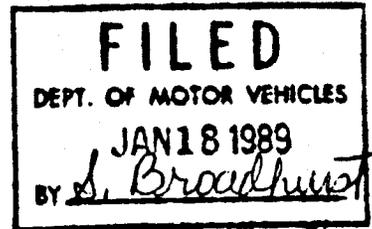
DATED: 11-9-89 .

for Diane Byrnes
JOHN C. LANCARA,
Acting Program Manager,
Division of Investigations
and Occupational Licensing

DATED: 11/9/89 .

Nancy L. Rasmussen
NANCY L. RASMUSSEN,
Senior Staff Counsel
Department of Motor Vehicles

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STATE OF CALIFORNIA

DEPARTMENT OF MOTOR VEHICLES

In the Matter of the Accusation)
Of:)
EL CAJON MOTORS,)
A Corporation, dba)
EL CAJON FORD,)
Respondent)

CASE NO. D-3564
OAH NO. L-41851

DECISION

WHEREAS, the PROPOSED DECISION in this matter was served upon the Respondent in accordance with Government Code Section 11517(b); and

WHEREAS, the Respondent was notified by a NOTICE CONCERNING PROPOSED DECISION that the Department considered, but did not adopt the PROPOSED DECISION; and

WHEREAS, Respondent was afforded the opportunity to and did present oral argument; and

WHEREAS, the Director of Motor Vehicles has considered the oral argument and the record, including the transcript, and now finds that:

GOOD CAUSE APPEARING THEREFOR, the PROPOSED DECISION of the Administrative Law Judge is hereby adopted as the DECISION in this matter except for DETERMINATION OF ISSUES III, and the ORDER, which are not adopted and the following are substituted therefor:

1 DETERMINATION OF ISSUES

2 III

3 By reason of the evidence or rehabilitation, a conditioned
4 revocation of Respondent's license is determined not to be
5 against the public interest. However, the seriousness of
6 Respondent's fraud and deceit upon purchasers, and the failure of
7 Respondent's top management to prevent further fraud after two
8 warnings by a department investigator and one small claims
9 judgment, require that an actual suspension of Respondent's
10 license be imposed as a condition of probation.

11 ORDER

12 The dealer's license and special plates No. 13492, issued to
13 respondent are revoked, separately and severally by reason of
14 each of Determination of Issues II A, II B, and II C, and are
15 revoked in the aggregate by reason of Determination of Issues II
16 D, II E, and II F; provided, however, that said revocation is
17 stayed for a period of 3 years on the following terms and
18 conditions of probation:

19 1. Respondent's license and special plates shall be
20 suspended for a period of 10 days from the effective date of this
21 Decision and during said period Respondent shall not exercise any
22 of the privileges granted under the license and special plates.

23 2. During the period of suspension any advertising,
24 representation, or dissemination made to the public or any member
25 thereof which states or reasonably implies that Respondent's
26 dealer's license has been or is suspended for any reason other
27 than by order of the Department, such advertising,