

1 NEW MOTOR VEHICLE BOARD  
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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 PIONEER OLDSMOBILE CO., INC., dba ) Appeal No. A-106-89  
13 PIONEER HYUNDAI, )  
14 Appellant, )  
15 vs. ) ORDER MODIFYING PENALTY  
16 DEPARTMENT OF MOTOR VEHICLES, )  
17 Respondent. )

18  
19 TO: James G. Lewis, Esq., Cheri B. Lemons, Esq.  
20 Attorneys for Appellant  
21 Gilbert, Kelly, Crowley & Jennett  
22 1200 Wilshire Boulevard, Sixth Floor  
23 Los Angeles, California 90017

24 Alan Mateer, Esq., Chief Counsel  
25 Bernard Lu, Esq., Staff Counsel  
26 Attorneys for Respondent  
27 Legal Office  
28 Department of Motor Vehicles  
Post Office Box 932382  
Sacramento, California 94232-3820

29 The appeal of Pioneer Oldsmobile Co., Inc., dba  
30 Pioneer Hyundai vs. Department of Motor Vehicles, Appeal No.  
31 A-106-89, was heard by the New Motor Vehicle Board at its

1 meeting of March 28, 1990.

2 The Board considered the administrative record, the  
3 briefs filed by the parties, and the arguments of counsel.

4 The Board specifically took into consideration the  
5 following:

6 1. The length of time that appellant has been a  
7 licensee and that appellant has not previously been subject to  
8 discipline; and

9 2. The individual who authorized the conduct giving  
10 rise to the accusation is no longer employed by the appellant.

11 After consideration of the above, the Board determined  
12 that the penalty as provided in the decision of the department  
13 is not commensurate with the findings.

14 The Department's order is modified as follows:

15 The dealer's license and special plates no. D-1947 issued to  
16 appellant Pioneer Oldsmobile Co., Inc., dba Pioneer Hyundai, are  
17 suspended for a period of five (5) days; provided however, that  
18 said suspension is stayed for a period of one (1) year under the  
19 following terms and conditions:

20 (1) Appellant shall, with respect to the allegation  
21 contained in Paragraph III of the Accusation, do the following  
22 within ten (10) days of the effective date of this order:

23 (a) Rescind and cancel the February 9, 1989  
24 sale of the 1988 Hyundai (VIN: KMHLA2J7JU257014) to Gary Steiner.

25 (b) Cause the Ownership Certificate on the  
26 vehicle and any sums collected as down payment or any other  
27 payment on the conditional sales contract to be remitted to the  
28 trustee in bankruptcy for Grand Motors, Irving Sulmeyer.

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26 vehicle and any sums collected as down payment or any other  
27 payment on the conditional sales contract to be remitted to the  
28 trustee in bankruptcy for Grand Motors, Irving Sulmeyer.

1 (c) Pay restitution to Gary Steiner in the sum  
2 of \$2,500.00

3 (d) Appellant must submit proof of compliance  
4 with the above three requirements to the Legal Office of the  
5 Department of Motor Vehicles within thirty (30) days of the  
6 effective date of this order.

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

18 (3) Any license issued to appellant during a period  
19 of one (1) year shall be issued as a probationary license and  
20 then only if it is determined that appellant has fully complied  
21 with the terms and conditions hereof and that no cause for  
22 refusal to issue, suspend or revoke has intervened or exists.

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

9                   If an accusation is filed against appellant during the  
10 probationary period, the Director shall have continuing  
11 jurisdiction over this matter until the accusation is resolved  
12 and the period of this probation shall be extended until such  
13 resolution.

14                   (5)    Appellant shall permit free and ready access to  
15 business records pertaining to the purchase, sale, rental or  
16 leasing of vehicles at the request of a departmental  
17 investigator during normal business hours and without prior  
18 notice.

19                   This order shall become effective May 1, 1990.

20  
21                   SO ORDERED.

22 DATED:   April 3, 1990

NEW MOTOR VEHICLE BOARD

23  
24                   By John B. Vandenberg  
25                   JOHN B. VANDENBERG  
                    President

26                   A. A. Pierce, Director, DMV  
27                   John Lancara, Acting Program Manager  
                    Occupational Licensing, DMV  
28                   Legal Office, DMV

