

1 NEW MOTOR VEHICLE BOARD
1507 - 21st Street, Suite 330
2 Sacramento, California 95814
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 FULLER FORD, a Corporation,) **Appeal No. A-129-91**
dba FULLER FORD,)
13)
Appellant,) **DECISION**
14)
vs.)
15)
STATE OF CALIFORNIA,)
16 DEPARTMENT OF MOTOR VEHICLES,)
17 Respondent.)
18

19 TO: George John Murphy, Esq.
Attorney for Appellant
20 Law Offices of George John Murphy
4180 La Jolla Village Drive
21 La Jolla, California 92037

22 Marilyn Schaff, Esq., Chief Counsel
Attorney for Respondent
23 Department of Motor Vehicles
Legal Office
24 Post Office Box 932382
Sacramento, California 94232-3820
25

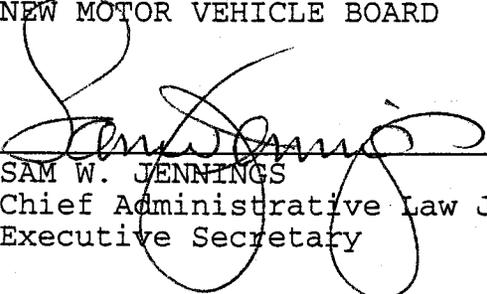
26 Pursuant to Stipulation of counsel for the parties, this matter
27 is remanded to the Department of Motor Vehicles.

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1 This Decision shall become effective forthwith.

2 **IT IS SO ORDERED THIS 20th day of July 1994**

3 NEW MOTOR VEHICLE BOARD

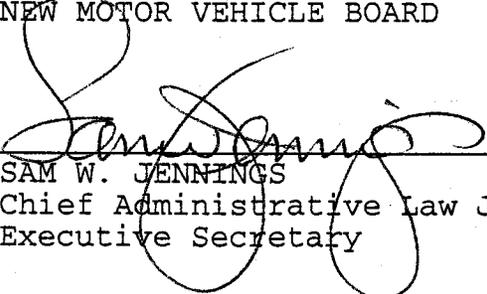
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5 BY  _____
6 SAM W. JENNINGS
7 Chief Administrative Law Judge/
8 Executive Secretary

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27 Frank Zolin, Director, DMV
28 Mario Balbiani, Program Manager
Occupational Licensing, DMV

1 This Decision shall become effective forthwith.

2 **IT IS SO ORDERED THIS 20th day of July 1994**

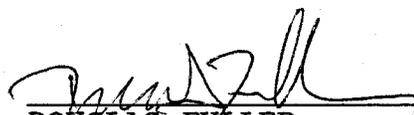
3 NEW MOTOR VEHICLE BOARD

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5 BY  _____
6 SAM W. JENNINGS
7 Chief Administrative Law Judge/
8 Executive Secretary

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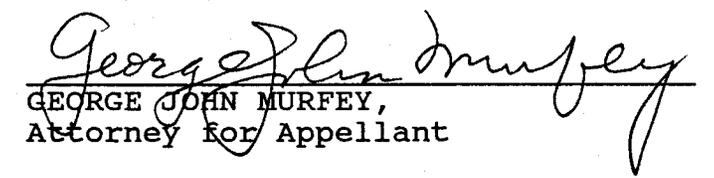
1 including the Order, shall become null and void in the event that
2 the New Motor Vehicle Board decides not to remand the matter back
3 to the Department. In the event the underlying Stipulation and
4 Waiver in Case No. D-4162 is not adopted by the Director of the
5 Department, this Stipulation shall also be considered null and
6 void, and notwithstanding the provisions of Vehicle Code Section
7 3050 et seq., or any other provision of law, respondent shall be
8 entitled to pursue its filed Appeal No. A-129-91 pending before the
9 New Motor Vehicle Board as if this Stipulation had not been
10 executed.

11
12 DATED: 4/26/94



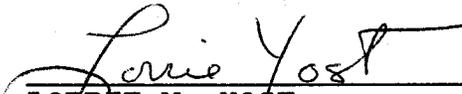
DOUGLAS FULLER
President of Appellant, Fuller Ford

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15 DATED: 4/28/94



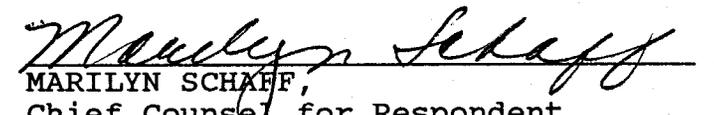
GEORGE JOHN MURFEY,
Attorney for Appellant

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18 DATED: 5-1-94



LORRIE M. YOST,
Staff Counsel for Respondent
Department of Motor Vehicles

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21 DATED: 5/17/94

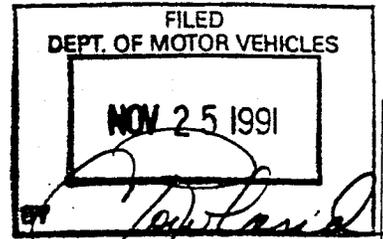


MARILYN SCHAFF,
Chief Counsel for Respondent
Department of Motor Vehicles

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STATE OF CALIFORNIA
DEPARTMENT OF MOTOR VEHICLES

In the Matter of the Accusation of

FULLER FORD,
A Corporation, dba
FULLER FORD,

CASE NO. D-4162
OAH NO. L-51550

DECISION

Respondent.

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, 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 FINDINGS OF FACT IV and VIII, and the ORDER, which are not adopted and the following are substituted therefor:

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1 FINDINGS OF FACT

2 IV

3 During the spring and summer of 1989, Johnny Hildreth
4 looked for a car. He visited nearly a dozen dealerships
5 between Escondido and Chula Vista, California, and tested many
6 cars.

7 On August 20, 1989, Hildreth went to respondent's
8 dealership looking for a car or truck, new or used, and met a
9 salesman named Jack Latham. Hildreth told Latham he wanted a
10 car which got the same or better mileage than the Dodge Colt he
11 was then driving. Latham directed Hildreth to the Ford Festiva
12 referred to in Finding III. The car was located on the new car
13 side of the dealership and was surrounded by other cars which
14 appeared to Hildreth to be new. The manufacturer's new car
15 sticker and the dealer's new car sticker were on the Ford.
16 There were 111 miles on the odometer. Hildreth discussed with
17 Latham each of the features listed on the manufacturer's
18 sticker and expressed an interest in purchasing the car.
19 Hildreth testified Latham told him the car was new. Hildreth
20 did not test drive the car and said he would have to check out
21 a few things before he bought the car.

22 Hildreth returned to respondent's dealership on August
23 22, 1989, met Latham, and told him he wanted to purchase the
24 car. They negotiated a price for the Ford and also a price for
25 the trade-in of Hildreth's Dodge Colt. They agreed on a price
26 of \$8,099.00 plus \$995.00 for the Ford, and respondent gave
27 Hildreth \$500.00 as the trade-in value for the Dodge. Hildreth
28 also received a manufacturer's new car rebate in the amount of
\$600.00 from Ford. Hildreth applied the \$500.00 from the
trade-in of the Dodge, the \$600.00 rebate, and an additional
\$500.00 to make the down payment. The remainder of the
purchase price of the car was financed through Far Western
Bank. The financing arrangement was based upon the belief by
the lender that the car was a new car. Respondent then
prepared the necessary paperwork.

29 One of the documents Hildreth signed was the Contract
30 and Security Agreement. This document indicated the Ford
31 Festiva was new. Another document he signed was a Report of
32 Sale Used Vehicle, which is a document prepared for and
33 submitted to the Department. Hildreth then gave Latham a check
34 for part of the remaining \$500.00 for the down payment, and a
35 friend of Hildreth's wrote a check for the difference. He
36 drove the car that night.

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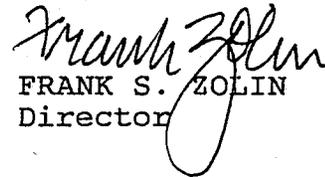
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5. Respondent shall permit free and ready access to business records pertaining to the purchase, sale, rental or leasing of vehicles at the request of a departmental investigator during normal business hours and without prior notice.

This DECISION shall become effective JAN 6 - 1992.

DATED: NOV 21 1991.


FRANK S. ZOLIN
Director