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Sacramento, CA 95809
(916) 445-1888

STATE OF CALIFORNIA

NEW CAR DEALERS POLICY AND APPEALS BOARD

In the Matter of)
)
PARK MOTORS, INC., a)
California corporation,)
)
Appellant,) Appeal No. A-27-72
)
v.) Filed: November 19, 1973
)
DEPARTMENT OF MOTOR VEHICLES)
OF THE STATE OF CALIFORNIA,)
)
Respondent.)
_____)

Time and Place of
Reconsideration:

November 14, 1973, 12:30 p.m.
Board Room, Port of Long Beach
Administration Building
925 Harbor Plaza
Long Beach, CA

For Appellant:

Harold C. Wright
Brown & Wright
Stanford Financial Square
2600 El Camino Real, Suite 411
Palo Alto, CA 94306

For Respondent:

R. R. Rauschert, Legal Adviser
Department of Motor Vehicles
By: Alan Mateer
Staff Counsel

FINAL ORDER AFTER RECONSIDERATION

Pursuant to the Judgment of the Superior Court of the
State of California for the County of Sacramento, dated
October 24, 1973, (No. 227660), and the Peremptory Writ of

of Mandamus and Findings of Fact and Conclusions of Law issued by said court and related thereto, all incorporated herein by reference, the Final Order of the New Car Dealers Policy and Appeals Board filed October 13, 1972, in the above-entitled case, is set aside and the following Findings of Fact, Determination of Issues and Order are hereby made.

FINDINGS OF FACT

The following Findings of Fact are deemed supported by the weight of the evidence and are affirmed: Findings of Fact IV, V, VII, VIII, IX, XI, XII and XIX.

The following Findings of Fact are deemed not supported by the weight of the evidence and are reversed: Findings of Fact X, XIII, XIV, XV, XVI and XVII.

Finding of Fact III is affirmed in part and reversed in part. So much of Finding of Fact III as relates to Items 6 and 7 in Exhibit B is affirmed. So much of Finding of Fact III as relates to Item 1 in Exhibit B is reversed.

Finding of Fact XVIII is affirmed except for the following language contained in paragraph 1 thereof which language is found untrue and is deleted:

"In this connection, it is noted that respondent [appellant] was quite slow in making the refunds. The explanation offered by its President that he was awaiting approval of the Department before making restitution is not satisfactory."

The following language is affirmed and substituted therefor:

"In this connection, it is found that appellant's president was being super-cooperative with the department in awaiting approval from the department before making the restitution."

DETERMINATION OF ISSUES

Determination of Issues 1, 2, 3, 4, 5, 7, 8 and 9 are affirmed.

Determination of Issues 6, 10, 11 and 12 are reversed.

THE ORDER

WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE:

The dealer's license, certificate and special plates (D-4227) heretofore issued to appellant, Park Motors, Inc., are, and each is hereby, revoked; provided, however, that the effectiveness of said order of revocation shall be stayed for a period of three (3) years from the effective date of this decision, during which time the appellant shall be placed on probation to the Director of Motor Vehicles of the State of California upon the following terms and conditions:

1. The dealer's license, certificate and special plates (D-4227) heretofore issued to appellant, Park Motors, Inc., are suspended for a period of ten (10) days on each cause of disciplinary action described in paragraphs 1, 2, 3 and 7 of

Determination of Issues above, considered separately and independently, but the said suspensions shall run concurrently.

2. The dealer's license, certificate and special plates (D-4227) heretofore issued to appellant, Park Motors, Inc., are suspended for a period of thirty (30) days on each cause of disciplinary action described in paragraphs 8 and 9, Determination of Issues above, considered separately and independently, and said suspensions shall run concurrently with each other and with the suspensions imposed by paragraph 1 of this ORDER for a total suspension of thirty (30) days.

3. The dealer's license, certificate and special plates (D-4227) heretofore issued to appellant, Park Motors, Inc., are suspended for a period of one (1) day on each cause of disciplinary action described in paragraphs 4 and 5, Determination of Issues above, considered separately and independently, and said suspensions shall run concurrently with each other and with the suspensions imposed by paragraphs 1 and 2 of this ORDER for a total suspension of thirty (30) days.

4. Appellant shall obey all of the laws of the State of California and all rules and regulations of the Department of Motor Vehicles governing the exercise of its privileges as a licensee.

5. If appellant is convicted of a crime, including a conviction after a plea of not guilty or nolo contendere,

such conviction shall be considered a violation of the terms and conditions of the probation imposed herein.

If, and in the event that, the Director of Motor Vehicles shall determine, after giving appellant notice and opportunity to be heard, that a violation of probation has occurred, the director may terminate the stay and impose the revocation or otherwise modify this order. In the event that appellant faithfully keeps the terms of the conditions imposed for the period of three (3) years, the stay shall become permanent and the respondent shall be fully restored to all of its license privileges.

This FINAL ORDER AFTER RECONSIDERATION shall become effective November 29, 1973.

GILBERT D. ASHCOM

PASCAL B. DILDAY

MELECIO H. JACABAN

AUDREY B. JONES

JOHN ONESIAN

ROBERT A. SMITH

WINFIELD J. TUTTLE

A-27-72

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This FINAL ORDER AFTER RECONSIDERATION shall become effective November 22, 1973.

GILBERT D. ASHCOM

PASCAL B. DILDAY

MELECIO H. JACABAN

AUDREY B. JONES

JOHN ONESIAN

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WINFIELD J. TUTTLE

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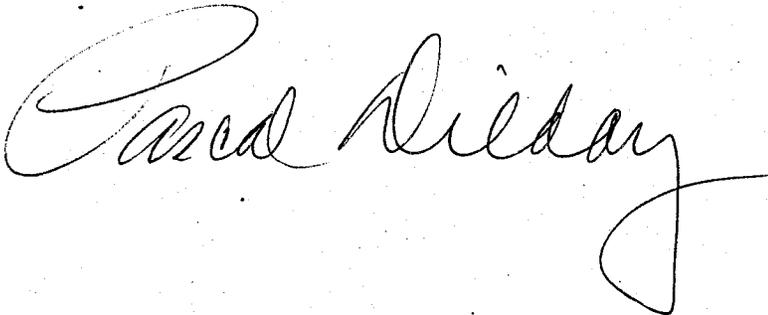
This FINAL ORDER AFTER RECONSIDERATION shall become effective Gilbert D. Ashcom.

A-27-72

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A handwritten signature in cursive script, appearing to read "Carol Ridday". The signature is written in black ink and is positioned below the line for the effective date.

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This FINAL ORDER AFTER RECONSIDERATION shall become effective Audrey B Jones

A-27-72

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A handwritten signature in black ink, appearing to be "John A. ...", written in a cursive style.

A-27-72

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A handwritten signature in cursive script, appearing to read "Robert Paul H", is written over the signature line.

A-27-72

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A handwritten signature in cursive script, reading "Winfield J. Little". The signature is written in dark ink and is positioned to the right of the main text block.

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