

NEW MOTOR VEHICLE BOARD  
1507 - 21st Street, Suite 330  
Sacramento, California 95811  
Telephone: (916) 445-1888

STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

In the Matter of the Protest of

DEPOT GARAGE, INC.,

Protestant,

v.

GENERAL MOTORS,

Respondent.

**Protest No. PR-2315-11**

DECISION

At its regularly scheduled meeting of May 22, 2012, the Public Members of the Board met and considered the administrative record and Administrative Law Judge's "Proposed Order Granting Respondent's Motion to Dismiss for Lack of Jurisdiction", in the above-entitled matter. After such consideration, the Board adopted the Proposed Order as its final Decision in this matter.

This Decision shall become effective forthwith.

IT IS SO ORDERED THIS 22<sup>nd</sup> DAY OF MAY 2012.

  
BISMARCK OBANDO  
Vice President  
New Motor Vehicle Board

1 NEW MOTOR VEHICLE BOARD  
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2 Sacramento, California 95811  
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**CERTIFIED MAIL**

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8 STATE OF CALIFORNIA  
9 NEW MOTOR VEHICLE BOARD

10  
11 In the Matter of the Protest of

12 DEPOT GARAGE, INC.,

13 Protestant,

14 v.

15 GENERAL MOTORS,

16 Respondent.

**Protest No. PR-2315-11**

**PROPOSED ORDER GRANTING  
RESPONDENT'S MOTION TO  
DISMISS FOR LACK OF  
JURISDICTION**

17  
18 To: Jose Reynoso  
General Manager  
19 In Pro Per  
DEPOT GARAGE, INC.  
20 435 Fourth Avenue  
Gustine, California 95322

21 Gregory R. Oxford, Esq.  
22 Attorney for Respondent  
ISSACS CLOUSE CROSE & OXFORD LLP  
23 21515 Hawthorne Boulevard, Suite 950  
Torrance, California 90503

24 L. Joseph Lines, III, Esq.  
25 Attorney for Respondent  
GENERAL MOTORS LLC  
26 Mail Code 482-026-601  
400 Renaissance Center  
27 P.O. Box 400  
Detroit, Michigan 48265-4000

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1 ISSUES AND FACTS PERTAINING TO THE MOTION

2 11. General Motors asserts that the protest should be dismissed as Protestant is no longer a  
3 franchisee and therefore the Board does not have jurisdiction to conduct a hearing on the merits of the  
4 protest.

5 12. In support of this is the Declaration of Ryan R. Henry, General Motors Zone Manager  
6 stating that:

7 At the time the present termination protest was filed, Protestant was in the process of  
8 completing a buy-sell transaction with a GM-approved successor dealer. That buy-sell  
9 transaction was consummated on December 22, 2011 and Protestant simultaneously  
10 requested, and GM granted, voluntary termination of Protestant's GM Dealer Agreement.  
11 As a result, Protestant is no longer a GM "franchisee". (Henry Declaration, page 3 lines 5-  
12 11, attached to Motion to Dismiss)

13 13. General Motors refrained from filing the motion at an earlier time as General Motors  
14 expected that Protestant would file a written request for dismissal with the Board. The Board's staff was  
15 also in contact on several occasions with Protestant's representative. Mr. Reynoso confirmed that the  
16 buy-sell had occurred and assured the Board's staff that Depot would request that the protest be  
17 dismissed.

18 14. However, despite the above, no written request to dismiss the protest was received prior to  
19 the hearing on the Motion to Dismiss.

20 DETERMINATIONS

21 15. It is uncontested that Protestant, Depot has consummated a buy-sell with a third-party  
22 successor franchisee, that this was done with the approval of General Motors, and that General Motors  
23 and Depot have agreed to a "voluntary termination" of the franchise.

24 16. There is no longer a franchise in existence between Depot and General Motors.

25 17. Depot is no longer a franchisee of General Motors.

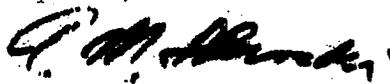
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1 PROPOSED ORDER

2 After consideration of the pleadings and oral arguments of counsel for Respondent, and the  
3 records of the Board, it is hereby ordered that Respondent General Motors' "Motion to Dismiss [the  
4 Protest] for Lack of Jurisdiction" is hereby granted. Protest No. PR-2315-11 (*Depot Garage, Inc. v.*  
5 *General Motors*) is dismissed with prejudice.

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7  
8 I hereby submit the foregoing which constitutes my  
9 proposed order in the above-entitled matter, as the  
10 result of a hearing before me, and I recommend this  
11 proposed order be adopted as the decision of the  
12 New Motor Vehicle Board.

13 DATED: April 25, 2012

14 By:   
15 ANTHONY M. SKROCKI  
16 Administrative Law Judge  
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27 George Valverde, Director, DMV  
28 Mary Garcia, Branch Chief,  
Occupational Licensing, DMV