



New Motor Vehicle Board

In-Site

July 2006

A Publication of the California New Motor Vehicle Board

06.3 Edition

JUNE 16, 2006 GENERAL MEETING HIGHLIGHTS

The New Motor Vehicle Board (“Board”) held a General Meeting on June 16, 2006, in Newport Beach. At that meeting, the members considered a number of case management as well as administrative matters.

Pacific Honda

The Public members considered the Proposed Decision After Remand overruling the protests in the consolidated matter of *PH Automotive Holding Corporation dba Pacific Honda v. American Honda Motor Co., Inc.* (Protest No. PR-1945-05), *Tipton Enterprises, Inc., dba Tipton Honda v. American Honda Motor Co., Inc.* (Protest No. PR-1947-05), and *Ball Automotive Group dba Ball Honda v. American Honda Motor Co., Inc.* (Protest No. PR-1948-05). American Honda sought to establish a new Honda franchise in Lemon Grove, California. The Remand Hearing was held commencing on March 27, through March 29, 2006, and April 7, 2006, before Administrative Law Judge (“ALJ”) Merilyn Wong.

After considering the briefs and oral arguments, the Public members of the Board unanimously adopted the Decision of ALJ Wong. American Honda can establish a Honda dealer in Lemon Grove.

Thompson’s Chrysler-Jeep

The Public members considered the Proposed Decision overruling the protest in the matter of *Thompson’s Auto & Truck Center, Inc., dba Thompson’s Chrysler-Jeep v. DaimlerChrysler Motors Company, LLC* (Protest No. PR-1965-05). DaimlerChrysler sought to terminate Protestant’s Chrysler and Jeep franchises. The hearing was held February 27, through March 6, 2006 before ALJ Jerold A. Prod.

After considering the briefs and oral arguments, the Public members of the Board unanimously adopted the

Decision of ALJ Prod. DaimlerChrysler can terminate Thompson’s Chrysler and Jeep franchises.
Administrative Matters

A number of staff reports were given on a variety of topics. The members were informed that the Board remains in full compliance with all of the audit findings and corrective plans that resulted from its 1996 Business, Transportation & Housing Agency audit.

At the July 18, 2000, meeting, the members adopted an Employee Recognition Award Program to recognize staff for their accomplishments. The program was renamed the Solon C. Soteras Employee Recognition Award. The staff submitted employee nominations to the Board Development Committee, Haig Papaian, who ultimately recommended Robin Parker as the Employee Recognition Award recipient.

The members were provided with the Board financial condition report for the 3rd quarter of fiscal year 2005-2006. The Board has expended 61% of its appropriated budget for the current fiscal year.

The members approved 13 out-of-state trips for fiscal year 2006-2007. Seven of the trips requested are for the Board’s five public members to attend the National Association of Motor Vehicle Boards and Commissions Fall Workshop in Park City, Utah in September 2006, along with the Board’s Executive Director and Staff Manager. An additional six trip requests are for the Board’s five public members to attend the National Automobile Dealer’s Association Annual Convention and Exposition in Las Vegas, Nevada in February 2007, along with the Board’s Executive Director.

The Board is required by statute to administer the collection of fees to fully fund the Department of Consumer Affairs, Arbitration Certification Program. These fees are collected from all manufacturers and distributors licensed in California that distribute passenger vehicles weighing less than 10,000 pounds. The staff collected approximately \$870,000 to fund the program including \$5,000 in administrative fees to cover its costs. All but one manufacturer, Western Golf Car Manufacturing, Inc., have paid the fee.

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CAR BUYER'S BILL OF RIGHTS WENT INTO EFFECT JULY 1

The January 2006 issue of the In-Site featured an article on AB68, Car Buyer's Bill of Rights. The bill went into effect on July 1, 2006. Below is a recap of the bill:

The changes from the bill include a 2-day contract cancellation option on used cars; a yield spread cap; payment packing prohibition and numerous disclosure requirements. The following paragraphs give an abbreviated summary of AB68, but are not all encompassing of the bill's content.

The 2-day cancellation *does not* apply to new vehicles, motorcycles, recreational vehicles, wholesale or commercial transactions, nor does it apply to leases. This is not an automatic right of rescission. The contract cancellation option agreement is a separate document with specific terms and mandated disclosures.

The bill limits the amount of profit that dealers can retain when they sell conditional sales contracts for contracts up to 60 months, and 2% for deals exceeding that length.

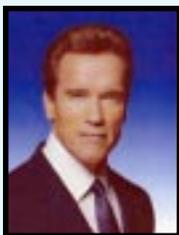
Dealers must provide the consumer with a document comparing the "Installment Payment INCLUDING Listed

Items" and the "Installment Payment EXCLUDING Listed Items." This will allow a side-by-side comparison of the proposed monthly payment.

The bill also puts restrictions on the use of the term "certified" or any other similar term if the dealers knows that the odometer is not accurate; the vehicle is a buyback, the title has the words salvage, flood, junk, or similar title designations; has sustained damage which would impair the use or safety of the vehicle; has frame damage; if the term "certified" or any other similar descriptive term is used in any manner that is untrue or misleading.

DAVID LIZÁRRAGA RECOGNIZED

Public Board member, David Lizárraga, was honored with the Doctor of Humane Letters Award on June 10, 2006, by the Board of Trustees of the California State University, Los Angeles for his lifetime achievements and extensive contributions to the community. Chancellor Charles B. Reed and President, James M. Rosser presented the award to Mr. Lizárraga. Congratulations, David!



State of California

Arnold Schwarzenegger, Governor

IN-SITE

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Andy Robles
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Glenn E. Stevens
David W. Wilson

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General Meeting, cont'd from page 1

The members were provided with feedback concerning the 5th Annual Industry Roundtable. A number of good topics suggestions were received and will be addressed by the Board at its September 28, 2006, General meeting in Los Angeles. The Board set March 27, 2007, as the tentative date for the 6th Annual Industry Roundtable in Sacramento. If you would like to receive information concerning this event, please contact Robin Parker at (916) 445-1888 or email at rparker@nmvb.ca.gov.

In response to Governor Schwarzenegger's Executive Order S-03-06, the staff reviewed the Board's Guidelines for Access to Public Records. The Board's Guidelines were amended to clarify that the Board may charge for the direct costs incurred by the Board in duplicating copies requested under the Public Records Act. A copy of the Board's Guidelines is available by contacting the legal staff at (916) 445-1888 or on its website at www.nmvb.ca.gov.

In an effort to respond to requests for changes of venue for Mandatory Settlement Conferences, the Board, subject to stipulation of counsel, authorized the use of litigants' conference rooms or offices for this purpose. The Fair Political Practices Commission has determined that if the requirements of Section 18944.2 of Title 2 of the California Code of Regulations are met, litigants' conference rooms may be used.

The Office of Administrative Law reviews and approves all proposed regulatory changes submitted by the Board. During this review, several nonsubstantive changes were suggested concerning proposed amendments to Sections 550.20, 551.11, and 551.12 of Title 13 of the California Code of Regulations. The members received a brief report concerning these changes. The Board's "Regulatory Actions" section on its website (www.nmvb.ca.gov) contains information concerning past and current regulatory amendments.

The members considered a draft for a waiver of the Board policy that Dealer Board members voluntarily recuse themselves from Article 5 recreational vehicle protests. The waiver would have allowed Dealer members to participate in recreational vehicle protests upon stipulation of the parties. Dealer members are allowed to participate in Article 4 protests (cars, motorcycles, ATVs, and heavy-duty trucks), if stipulated to by the parties. See Veh. Code §§ 3050(d) and 3066(d)). These statutory provisions are limited to Article 4 protests. There is no express statutory prohibition of Dealer member participation in Article 5 protests. The

members requested that the staff and the Policy and Procedure Committee review the Board's policy concerning this and agendize this matter for the September meeting.

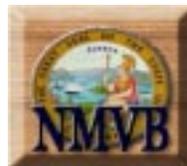
The staff reported that there is no pending legislation that directly impacts the Board, and it is tracking a number of bills of general interest to the automotive industry.

William Brennan, Executive Director, reported on a number of pending administrative projects. He reported that due to ongoing computer problems, the Board's information technology services were being transferred to the Department of Motor Vehicles ("DMV"). The DMV will provide support including data back up, recovery, server support, PC support, Internet, and e-mail connectivity. In light of this, all of the staffs' e-mail addresses will be changed effective July 1, 2006. Additionally, Mr. Brennan reported that the Board had entered into a new lease agreement for the Board's office space. The lease goes through July 2014.

Robin Parker, Senior Staff Counsel, reported on case management. She indicated that there were a number of matters scheduled for hearing between July and November 2006. Typically there are 3-5 hearings per calendar year. For 2006, there have already been three (3) merits hearings for a total of 14 days. There is a 10-day hearing set for July 10th, and currently there are 10 more hearings set for a total of an additional 58 days of hearing. As of June 28, 2006, out of 19 new protests for calendar year 2006, 12 were establishment cases.

Howard Weinberg, General Counsel, reported on judicial matters in which the Board is a named party. He reported that the Sacramento County Superior Court denied the writ in *Forty-Niner Sierra Resources, Inc. v. New Motor Vehicle Board; Subaru of America, real Party in Interest*. Mr. Weinberg also reported that the *Camarilla* case was closed. The Board having complied with the writ after withdrawing its appeal in *Kia Motors America, Inc. v. New Motor Vehicle Board; S&C Motors, Inc., Real Party in Interest*, resulted in this case closed, as well.

Lastly, the Board President, David Wilson, appointed Ryan Brooks, the newest Public member, to the Board Development Committee. The vacancy on the Government and Industry Affairs Committee was not filled at the request of Committee Chair, Tom Flesh.



**THE GUIDE TO THE
NEW MOTOR VEHICLE
BOARD IS AVAILABLE ON
THE BOARD'S WEB-SITE
WWW.NMVB.CA.GOV.**

BOARD HIRES



Diana Woodward-Hagle

NEW ALJ DIANA WOODWARD HAGLE

The Board is pleased to announce the appointment of Diana Woodward Hagle as its newest Administrative Law Judge, and welcomes her to the staff. Judge Hagle received a Bachelor of Arts degree from Stanford University in 1964, and her Juris Doctorate from UCLA Law School in 1969. She attended various military service schools, including U.S. Army Command and General Staff College, and U.S. Air Force War College.

Judge Hagle was a Deputy Attorney General for the Department of Justice from 1969 to 2004. At the same time, she was enlisted in the California National Guard (1975-1999), the United States Army Reserves (1999-2002), and was a Colonel in the Judge Advocate General Corps, retiring in 2002. She is a member of the Marine's Memorial Club and the Commonwealth Club in San Francisco. She is married and lives in Davis, California.

EMPLOYEE RECOGNITION AWARD

Each year, the Board recognizes a member of the staff for his or her outstanding performance. At its June 16, 2006, General meeting, the Board considered and unanimously approved the Development Committee's

recommendation that Robin Parker receive the Sol Soteras Employee Recognition Award for a job well done. Ms. Parker is the Senior Staff Counsel with the Board. She is being recognized for her outstanding job on the planning, coordination, and implementation of the 2006 annual New Motor Vehicle Board Industry Roundtable, her exceptional legal knowledge related to Board operations, her effectiveness in answering questions regarding the civil code and vehicle code, her ability to manage and complete projects effectively, her conscientious work habits, and her positive attitude in working with and helping her co-workers. Ms. Parker's outstanding performance has contributed greatly to the Board's operations. Congratulations, Robin!



Theresa Adame

NEW STAFF MEMBER

The Board recently hired Theresa Adame as an Office Assistant. She transferred to the Board from the State Controller's office. She is providing clerical and reception support and replaces Service Assistant Susanna Badalyan-Deus. Susanna was with the Board for nine years and took a promotion at DMV. The Board is happy to welcome Theresa to the staff.

Why not visit us



on the web...

...at www.nmvb.ca.gov

BOARD RECOGNIZES DMV STAFF



The Board recently underwent the complex transition of changing its computer LAN system to be fully supported by the Department of Motor Vehicles (DMV) network. The successful conversion of this complicated project was handled competently by DMV staff, Ed Rogala, Randy Hollingsworth, Monty Stewart, Jim Goodnight, Bryan Doan, John Behringer, Tony Cardona, Bill Lynn, Bob Maser, Alfredo Sanchez, Ted Kresinski, Greg Muszynski and Frank Andrade. The staff wishes to extend many thanks to all who were involved.

As we did last year, we also would again like to recognize Information Services Specialist, Darrell Carter for his superior knowledge of the technical aspects of the Board's website. Darrell never hesitates to tackle the toughest projects, and will persist until the most complex issues are resolved and Board staff is satisfied with the outcome. As a result of his most recent work, the Board has implemented a link to a Spanish version of the Consumer Mediation Pamphlet (Folleto en Español) and has ensured that all links to the Board's statutes and regulations are accurate and refer to the most current law. He is now developing an online version of the Mediation Request Form so consumers may electronically fill out and submit the form to initiate the mediation process.

DMV PAPERLESS DISTRIBUTION

The Department of Motor Vehicles has recently gone to a paperless distribution of its Vehicle Industry News memos and industry handbook revisions. The memos are now available on the Department's website www.dmv.ca.gov under [Publications](#), and handbook revisions are available by navigating to [Vehicle Industry & Commercial Permits](#) then to [Vehicle/Vessel Registration Procedures](#) under Industry Information.

For immediate e-mail notification when a new memo or handbook update has been placed on the website, subscribe to the new E-Mail Alert Service by selecting the [Subscribe to Email Alerts](#) button on the [Vehicle/Vessel Registration Procedures](#) page mentioned above and following the simple instructions



Megan Takehara, Bryan Brennan, Anthony Vela and David Angulo

KIDS DAY AT THE BOARD

The Department of Motor Vehicles holds an Annual Kids Day each year in April, allowing employees to bring their children to their work place. This gives the children an opportunity to actually see what their parent's jobs really are and also allows them to better understand the demands of their workday.

This year, the New Motor Vehicle Board celebrated Kids Day with the children of the Executive Director, Bill Brennan, Executive Assistant, Suzanne Takehara and Management Services Technician, Nicole Angulo. Bill's son, Bryan, Suzanne's daughter, Megan and Nicole's sons, Anthony and David, were each given a spot to set up the own "pretend" office, with a cardboard name tag and nameplate. They were immediately put to work stuffing envelopes for a public mailing that was to be mailed that day. By the end of the day they were pretty tired and complained that their hands were sore from the envelope stuffing. Other than that, they had a good time and are anxious to come back next year.



Hard at work.



Wayne Kaweski and Eugene Ohta

BOARD STAFF ATTENDS GOVERNMENT EXPO

Consumer Mediation Representatives, Eugene Ohta and Wayne Kaweski, attended a California State Government Expo at Westfield Mall in Arcadia California on April 22, 2006, hosted by Senator Bob Margett. The Expo was designed for various State agencies to educate the general public as to what services are available to them.

Eugene and Wayne used this opportunity to directly interact with the public and distribute mediation request forms and informational packets about the board. The Expo proved to be a valuable experience and a great way to reach out to the people of California regarding the Board's purpose and its mission.

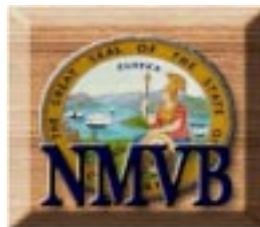
CADILLAC ESCALADE MOST STOLEN CAR

For the fourth straight year, GM's luxury Cadillac Escalade topped the list of late model vehicles most coveted by thieves, according to an analysis of theft claims in 2005 by the insurance industry. Investigators affiliated with the Insurance Institute for Highway Safety, which represents insurance companies on safety and consumer issues, examined claims for vehicles between 1 and 3 years old. The results showed the Escalade represented the most theft insurance claims at more than 13 per 1,000 vehicles in 2005. It also had the most expensive claims at \$17,913. Nearly one-quarter of theft claims for the Escalade are for \$40,000 or more, indicating that thieves often are stealing the whole vehicles and not just their parts. The Escalade's theft losses have been highest in recent years even though it is equipped with a device supposed to prevent starting without the proper key. GM has redesigned the Escalade for 2007 and upgraded its electronic anti-theft system but the insurance group said it is too soon to know if that will reduce the theft rate.



UPCOMING BOARD MEETINGS

General Board Meeting
*September 28, 2006
Los Angeles



General Board Meeting
November 17, 2006*
San Francisco

(*Board Meeting dates and locations are subject to change. A meeting agenda with time and location details is mailed 10 days prior to the meeting and is posted on the Board's website.)