



New Motor Vehicle Board

In-Site

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Autumn



JOSEPH PUTNAM HONORED



Joseph Putnam, fourth from left, is joined by Executive Director, Tom Novi, Board members Wendy Brogin, Fritz Hitchcock, Tom Flesh, Solon Soteras, Glenn Stevens and Alan Skobin.

On September 6, 2001, Board President Robert T. (“Tom”) Flesh presented a framed resolution and glass sculpture to former Dealer member Joseph D. Putnam for his outstanding service on behalf of the people of the State of California.

Mr. Putnam served on the Board from December 1997 through March 2001. He was Chair of the Board’s Internal Operations Oversight Committee and later the Fiscal Committee. In addition, Mr. Putnam was a member of the Board Development Committee, along with Committee Chair, Sol Soteras, where he was instrumental in the creation of Board member educational seminars.

Mr. Putnam is a veteran auto dealer and businessman. His first franchises were with General Motors in 1960. He participates in many community activities, serves on many boards, and is a member of his local city council. He is the President of Putnam Mazda/Volvo, Putnam Buick/Pontiac/GMC, Putnam Toyota, Putnam Chevrolet and Putnam Lexus.

ROBIN PARKER APPOINTED

Robin P. Parker, Esq., has been appointed Senior Staff Counsel for the New Motor Vehicle Board. In her new position, Ms. Parker will direct the processing and case management of all protests, petitions, and appeals. She will also function as the Board’s expert on complicated case management issues and provide legal advice and guidance to the Executive Director, Administrative Law Judges, and Board members.

Ms. Parker joined the Board as a Graduate Student Assistant while attending McGeorge School of Law. Upon graduation and passing the State Bar, she was promoted to Graduate Legal Assistant, and from there to Staff Counsel.

Ms. Parker has exceptional knowledge of statutes, regulations, and policies related to the Board’s dispute resolution process, and has developed excellent relations with attorneys that appear before the Board. The Board extends a well deserved congratulations to Ms. Parker.

DINGWELL LEAVES BOARD

Staff Counsel, Mike Dingwell, Esq., left the Board on August 31, 2001, to pursue a career in the private sector. Mr. Dingwell will be remembered for his instrumental influence in developing the Board’s educational program, his work as editor of the newsletter, “In-Site”, his efforts in streamlining the case management procedures utilized in processing Board cases, and many other projects with the various Board committees.

Mr. Dingwell first joined the Board in August 1992, as a Graduate Student Assistant while attending Lincoln Law School. After his graduation and subsequent passing of the State Bar, Mr. Dingwell was promoted to Graduate Legal Assistant. In August 1997, he was then again promoted to the position of Staff Counsel. His quick wit (and sometimes insistent demeanor) will be sorely missed by his co-workers. All staff extend their sincere wishes for his future success.



BOARD TO HOST NAMVBC

The National Association of Motor Vehicle Boards and Commissions ("NAMVBC") will hold its annual Fall Workshop from October 16 through 18, 2001, at the Holiday Inn Capitol Plaza in downtown Sacramento. This workshop provides a forum for the exchange of information and ideas of common interest to all States. Representatives from all over the United States are expected to attend.

New Motor Vehicle Board President Robert T. "Tom" Flesh, will open the meeting by welcoming the Association's members to California. Several significant items concerning the motor vehicle industry will be discussed at the workshop. Peter Welch, Director of Governmental Affairs for the California Motor Car Dealers Association, will talk about emerging trends related to car dealers. Ann Hanson, Manager of Marketing and Sales for Th!nkMobility, will discuss Ford Motor Company's Th!nk Franchise, and Ronald F.

Sobrero, General Manager of Dealer Network Planning and Investment for General Motors Corporation will discuss GMC's view of the future of the franchise. Other topics of discussion will include Ford Motor Company's Blue Oval Program, the future of Daewoo, low speed vehicles, combating curbstoning and public auto auctions.

The Board looks forward to welcoming the NAMVBC to Sacramento, and hopes the members will take the time to visit some of the highlights available, such as historic Old Town Sacramento, the many museums, and superb restaurants.



IN-SITE

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State of California
Gray Davis, Governor



*Business, Transportation
and Housing Agency*
Maria Contreras-Sweet, Secretary

Department of Motor Vehicles
Steven Gourley, Director

New Motor Vehicle Board

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Wendy Brogin
Alan J. Skobin
Solon C. Soterias
Glenn E. Stevens
David W. Wilson

Executive Director
Tom Novi

Senior Staff Counsel
Robin P. Parker, Esq.

Questions or comments: Kathy Tomono, Editor, nmvb@pacbell.net



ELECTRONIC PUBLIC MAILING A 'HIT'

In January 2001, the Board developed an electronic mail pilot project for the purpose of providing Board public notices via e-mail to volunteer recipients from the Board's public mailing list. The project was scheduled to run from April through September 2001. After six months elapsed, a short survey was sent to e-mail recipients to determine if they found any problems, and also whether or not they would like to continue to receive routine notices via e-mail. Some of the comments received are listed below:

- "The e-mail service is terrific as it gets information to me in a timely, paperless manner. I support this initiative."

- "It is convenient for me and I assume cost effective for the Board to send routine notices by e-mail. I would encourage the Board to make the program permanent and to expand it to non-routine notices such as pre-hearing conference orders, if the regulations could be put into place."

- "Overall, I find the e-mail service very useful and helpful."

- "The Board should be praised for its progressive efforts."

The success of the pilot project was communicated to the Board at its September 6, 2001, General meeting. At that time, the Board voted unanimously to make the Electronic Public Mailing List permanent. In the future, when a new request is received, the individual or entity will be given the option of e-mail or U.S. Postal Service mail notification. In addition, our existing public mailing list will also be given this option. It is the goal of the Board to ultimately provide all public notices via e-mail.



WAIVER OF ANNUAL BOARD FEE

At its September 6, 2001, General meeting, the members of the Board considered several manufacturer requests to waive the annual Board fee. As you may recall, the fee paid by manufacturers and distributors is \$.45 per vehicle with a minimum of \$300.00. The Board determined that a manufacturer or distributor of motor vehicles (including motorcycles) within the purview of the Board's jurisdiction that does not have independent dealers in California, has not sold any vehicles in the preceding calendar year, or does not sell vehicles in California, is exempt from collection of its annual fee. The Board exempted 34 licensees from collection of the annual Board fee for sales of vehicles in calendar year 2000. Although a manufacturer or distributor may be exempt from collection of the annual Board fee, the Board continues to exercise jurisdiction over these licensees. Given that a number of the fee exempt manufacturers are planning to establish a dealer network and sell vehicles in California, an annual questionnaire will be sent concerning whether they have independent dealers or sold vehicles in California during the prior calendar year.



REVENUE

*Fiscal Year 2001-2002**

NEW MOTOR VEHICLE DEALER Annual Fee:	\$ 93,869.00
NEW MOTOR VEHICLE BOARD Filing fees:	800.00
NEW MOTOR VEHICLE BOARD Manufacturer/Distributor Annual fee:	-0-
NEW MOTOR VEHICLE BOARD Hearing Transcripts:	393.60
Arbitration Cert. Program Reimbursement	2,527.44
Total	\$ 97,590.04

*July 1, 2001 thru August 31, 2001

HEARINGS**

December 10, 2001 - PR-1765-01 Corning Truck & Radiator Service, Inc. vs. International Truck & Engine Corporation

December 17, 2001 - PR-1774-01 West Covina Mazda vs. Mazda Motor of America, Inc.

March 25, 2002 - PR-1766-01 San Diego Dodge vs. DaimlerChrysler

**Dates are subject to change.

JUDICAL MATTERS UPDATE

David J. Phillips Mazda filed a petition with the Board asserting that Mazda failed to act within the statutorily prescribed time to either approve or disapprove a proposed buy-sell, and therefore by operation of law, the buy-sell is deemed approved. Mazda filed a motion to strike the petition. Administrative Law Judge Marilyn Wong issued a ruling that denied Mazda's motion and held that the dealership's claims are "precisely the types of claims which this Board has particular knowledge and expertise to hear."

Mazda filed a petition for writ of administrative mandate and prohibition contending that the Board lacks jurisdiction to preside over petition disputes between licensees (dealer vs. manufacturer/distributor) and that the Board's petition jurisdiction is limited to disputes between "any member(s) of the public" and licensees. On September 25, 2001, the Sacramento County Superior court issued a ruling granting the petition for writ of mandate and prohibition. The court determined that "there is no statutory authority permitting the Board to exercise jurisdiction over the matter at issue here: a petition filed by a dealer against a manufacturer/distributor asking the Board to rule that the latter improperly refused its consent to a transfer of ownership." The court's ruling would limit the Board's petition jurisdiction to consumer versus licensee matters.

At the Board's November 20, 2001, General meeting, it will consider whether to file an appeal. Given the

potential erosion to the Board's petition jurisdiction, this case will be monitored closely and future updates on this litigation will be provided in the In-Site.

Nader Chrysler-Plymouth filed a protest with the Board in response to DaimlerChrysler's discontinuance of its Plymouth line. Nader sought relief in the form of a new Jeep dealership, which is not a relief the Board has authority to grant. A motion to dismiss filed by DaimlerChrysler argued that the Board has no jurisdiction over a franchise termination caused by a manufacturer's discontinuance of an entire line-make, or, in the alternative, that discontinuance would constitute "good cause" for termination as a matter of law. DaimlerChrysler's motion to dismiss was granted and the Board dismissed the protest without prejudice because it was possible for Nader to file a protest containing a request for relief within the Board's jurisdiction.

In June 2001, Nader filed a Petition for Writ of Administrative Mandamus in Sacramento County Superior Court, contending that the Board acted in excess of its jurisdiction by granting the motion to dismiss and committed prejudicial abuse of discretion by denying Nader's statutory right to a hearing on the merits of the protest. Oral arguments were presented on September 28, 2001, the judge disagreeing with Nader, orally denied its writ petition.

COURT CASES

The Board does not participate in any action unless a state interest is implicated. The Board, as represented by the Attorney General's Office, is participating in the following court cases :

Duarte & Witting Inc., dba Nader Chrysler-Plymouth vs. New Motor Vehicle Board; DaimlerChrysler Motors Corporation, Real Party in Interest

Mazda Motor of America, Inc. vs. New Motor Vehicle Board; David J. Phillips Buick Pontiac, Inc., Real Party in Interest

Sterling Truck Corporation vs. New Motor Vehicle Board; Sacramento Valley Ford Truck Sales, Inc., Real Party in Interest



Sara Rogers with Executive Director and Board Members

BOARD TOURS NUMMI PLANT

On September 6, 2001, the Board members and selected legal staff toured the New United Motor Manufacturing, Inc. (“NUMMI”) plant located in Fremont, California. The tour was scheduled as part of the Board’s ongoing Board Development Program. Upon arrival at the plant, the Board members were surprised by Sara Rogers (Tour Coordinator) at a request to remove their ties. It was then explained that it is NUMMI’s goal to create an environment of trust and teamwork that includes management not wearing ties. In addition, managers share the same lunch and break areas with the rest of the employees.

NUMMI is a joint effort between General Motors and Toyota Motor Corporation created in 1982. General Motors wanted to learn about Toyota’s manufacturing process while Toyota needed manufacturing capacity in the United States. Operating on a “Just-in-Time” production system, NUMMI is able to eliminate waste that is created by maintaining large inventories, by replenishing materials that have just been sold, rather than trying to sell what was produced. Supplies are delivered to work stations every two hours. Only the exact number of parts needed for two hours of production are delivered to the stations.

The production teams focus on quality and efficiency in their production. The workers are encouraged to create new ways to improve processes in both environment and product by eliminating waste. This process called “Kaizen”, which in Japanese simply means improvement, is a practice that works successfully for NUMMI.

The Board and staff gained valuable information from the tour.

LEGAL CASES

PROTESTS

<u>Vehicle Code Section</u>	<u>Active</u>
3060	21
3062	4
3064	0
3065	0
3065.1	1
TOTAL PROTESTS:	26

PETITIONS

3050(c)	3
TOTAL PETITIONS:	3

APPEALS

3050(b)	0
TOTAL APPEALS:	0

RESOLVED MATTERS

Since the last edition of the In-Site, 18 protests and seven petitions have been resolved without the necessity of an evidentiary Board hearing. All of the dealer protests concerning BMW’s modification of its franchise agreement have now been resolved.

Of the 20 protests concerning General Motor’s modification of its franchise agreement and Vehicle Terms of Sale Bulletin No. 00-1, 12 protests have been resolved. Most of the cases filed with the Board are resolved without the need of an evidentiary hearing.





Mediation Statistics

July 2001 thru September 2001

Mediation Phone Calls Received	1,311
Mediation Request Forms Sent to Consumers	224
Cases Filed	108

*You can reach
Mediation Services Staff at
(916) 445-1888*

CONSUMER MEDIATION SPOTLIGHT

On June 5, 2001, the Board's Consumer Mediation Services Program received a request for mediation regarding a consumer's 2002 Isuzu Axiom that was purchased on April 8, 2001. The basis of the consumer's complaint was that she had originally asked the dealership whether or not she could purchase the vehicle with factory leather seats and sunroof. She was informed that the Axiom was not manufactured with those options but they could install the items aftermarket. The consumer agreed and was provided with various leather color options and ultimately picked out a "camel" color



which she felt would complement the interior of the vehicle. In addition to the leather and the sunroof, she also ordered an aftermarket locking gas cap and tow hitch. On May 12, 2001, the dealership informed the consumer the color she had previously picked out didn't exist, and requested that she go down to the subcontractor's establishment to pick out another color. The dealership acknowledged that they must have shown the consumer the wrong color options for the leather seats. When the consumer went to pick out a different color, she realized the two color options that were actually available didn't match her vehicle's interior, but having no other option, she had the leather installed. Five days later the consumer picked up the vehicle and was extremely dissatisfied with the mismatched interior colors.

On May 21, 2001, the vehicle's "check engine" light came on. The consumer notified the dealership and requested they have the vehicle towed to the dealership. The dealership offered to drop off a rental vehicle at the consumer's home and retrieve the Axiom at the same time.

At this point, the consumer requested mediation through the New Motor Vehicle Board, and her case was assigned to Mediation Services Representative Scott Aitchison. Immediately following receipt and review of the case, Mr. Aitchison directed an inquiry letter to the dealership. On July 6, 2001, the dealership responded to Mr. Aitchison's inquiry with an offer to unwind the deal and refund the consumer the purchase price of the vehicle.

On July 17, 2001, Mr. Aitchison received a thank you letter from the consumer that expressed her appreciation for Mr. Aitchison's assistance in successfully resolving her complaint.



Isuzu Axiom

UPCOMING BOARD MEETINGS

General Board Meeting
***November 20, 2001**
Sacramento



General Board Meeting
***January 2002**
(date to be determined)

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

UNITED CALIFORNIA STATE EMPLOYEES CAMPAIGN

C*ompassion in Action* is the theme for this year's United California State Employees Campaign ("UCSEC"). As in years past, the Board plans to kick off its campaign week on October 22, 2001, by inviting two speakers, selected from the many non-profit agencies, to inform Board staff of how their organization serves the community. Staff will also hold its very popular Dollar-A-Dip Potluck, Opportunity Basket drawing, and conduct other fund raising events. Individual donations by staff will also be solicited. The Board actually began the campaign earlier this year with a variety of fund-raising events, which we plan to keep ongoing into next year's campaign. This year, long time Board employee Kathy Tomono is the Chair of the campaign, with Jackie Grassinger filling the role of Co-Chair. Both are working hard to make this year's campaign a success.

The Board is proud to display the several awards it has received for past campaigns on our award wall. In 1997 the Board received the Golden Award for 82% participation. In 1998 the Board received a Platinum Award for 93% participation and a Red Shoe Award which represents a 20%

donation increase over the previous year were received. In 1999 the Board received the coveted Achievement Award which represents 100% employee participation along with another Red Shoe Award. Last years campaign earned the Board yet another Red Shoe Award along with another Platinum Award.

In light of the September 11th tragedy, several staff members have suggested that all proceeds from this year's campaign be designated to one of the many agencies assisting in the recovery efforts in New York City.

Why not visit us

on the web...



...at www.nmvp.ca.gov

AUTO INDUSTRY CONTRIBUTES IN TIME OF GREAT TRAGEDY

On September 11, 2001, this country suffered a national tragedy. More than five thousand people are missing and presumed dead in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon. The automotive industry immediately responded to the needs of those affected by offering donations.

- DaimlerChrysler donated \$10 million to support the children of victims
- United Auto Workers union and DaimlerChrysler jointly pledged \$1 million to the Red Cross
- Ford Motor Company donated \$1 million to the Red Cross and 10 Excursions to the New York Fire Department
- General Motors donated \$250,000 to the red Cross and has made a fleet of vehicles available for disaster recovery efforts
- BMW donated \$1 million to the Red Cross and \$250,000 in tires for emergency vehicles
- Some dealerships are donating an amount for each car sold at their stores to the Red Cross Relief Fund

The National Automobile Dealers Association (“NADA”) has created a relief fund for the families of those who were killed or injured, and the Greater New York Automobile Dealers Association made a pledge of \$250,000. Rental car agencies have come through by donating vehicles, and lowering one-way rate programs for long distance travelers.

There are many, many others that are too numerous to mention that are in some way contributing in this time of need, which makes each and every one of us proud to be an American. There is no greater country in the world than the United States of America.

