

1 NEW MOTOR VEHICLE BOARD
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9 STATE OF CALIFORNIA
10 NEW MOTOR VEHICLE BOARD

11 In the Matter of the Petition of)

12 JMC MOTORS, INC. dba ALHAMBRA)
13 MAZDA/PONTIAC/OLDSMOBILE/)
14 GMC TRUCK,)

15 Petitioner,)

16 vs.)

17 GENERAL MOTORS CORPORATION,)
18 OLDSMOBILE DIVISION,)

19 Respondent.)

Petition No. P-274-93

PROPOSED DECISION RE:
MOTION TO DISMISS

20
21 TO: Sidney I. Pilot, Esq.
A. Albert Spar, Esq.
Attorneys for Petitioner
22 Parker, Milliken, Clark,
O'Hara & Samuelian
23 A Professional Corporation
333 South Hope Street
24 27th Floor
Los Angeles, California 90071-1488
25

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27 Keith Landenberger, Esq.
General Motors Corporation
515 Marin Street
28 Thousand Oaks, California 91359-5070

1 transpired.

2 6. On February 28, 1994, Petitioner filed its Response to
3 Respondent's Motion to Dismiss Petition arguing Respondent's
4 actions effectively rescinded the notice of termination by
5 extending the termination date for an additional 90 days from
6 August 24, 1993 to November 24, 1994. Petitioner further asserts
7 that, due to Respondent's actions and representations subsequent to
8 the issuing of the notice of termination, Respondent was estopped
9 from relying on the May 24, 1993, termination notice. Lastly,
10 Petitioner argues that, because the May 24, 1993 termination notice
11 had no force and effect, the time limits for filing a protest are
12 not applicable and thus the Petition, having no time limits for
13 filing, was properly filed in a timely manner.

14 7. A hearing was held on May 12, 1994, before Michael M.
15 Sieving, Administrative Law Judge and Assistant Executive Secretary
16 of the Board, at the Board's offices at 1507 21st Street, Suite
17 330, Sacramento, California. Petitioner was represented by A.
18 Albert Spar, Esq., Parker Milliken, Clark, O'Hara & Samuelian, 333
19 South Hope Street, 27th Floor, Los Angeles, California. Respondent
20 was represented by Keith Landenberger, Esq., General Motors
21 Corporation, 515 Marin Street, Thousand Oaks, California.

22 ISSUES PRESENTED

23 8. Did the May 24, 1993 notice of termination comply with
24 all statutory form and content requirements?

25 9. Was the May 24, 1993 termination notice rescinded by
26 Respondent, or otherwise invalidated by Respondent's actions?

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1 FINDINGS OF FACT

2 1. The Notice of Termination, dated May 24, 1993, complied
3 with all form and content requirements delineated in section 3060,
4 and thus had full legal force and effect.

5 2. Respondent did not rescind the Notice of Termination by
6 extending the termination date for three months.

7 3. Petitioner failed to prove Respondent acted in any manner
8 or made any representations that would support a finding that
9 Respondent is estopped from relying on the May 24, 1993 notice of
10 termination.

11 PROPOSED DECISION

12 1. The Petition of JMC Motors, Inc. dba Alhambra
13 Mazda/Pontiac/Oldsmobile/GMC Truck is dismissed. There shall be no
14 further proceedings in this matter before the Board.

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16 I hereby submit the foregoing
17 which constitutes my proposed
18 decision in the above-entitled
19 matter, as a result of a hearing
20 before me on the above dates and
21 recommend the adoption of this
22 proposed decision as the decision
23 of the New Motor Vehicle Board.

24 DATED: July 8, 1994

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By Michael M. Sieving

MICHAEL M. SIEVING
Administrative Law Judge/
Assistant Executive Secretary