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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

In the Matter of the Protest of)
AMERAN ENTERPRISES, LTD.,)
a California Corporation,)
doing business as LAIL BROS.,)
Franchisee,)
vs.)
PEUGEOT, INC., a Corporation,)
Franchisor.)

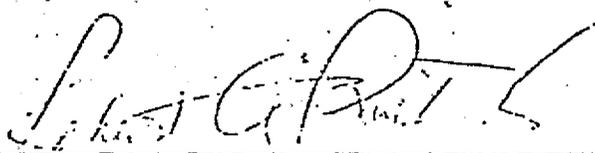
PROTEST NO. PR-12-75
L-8164

CORRECTED DECISION

The attached Proposed Decision of the Hearing Officer is hereby adopted by the NEW MOTOR VEHICLE BOARD as its Decision in the above-entitled matter.

This decision shall become effective forthwith.

IT IS SO ORDERED May 7, 1975



President

BEFORE THE NEW MOTOR VEHICLE BOARD

STATE OF CALIFORNIA

In the Matter of the Protest of:

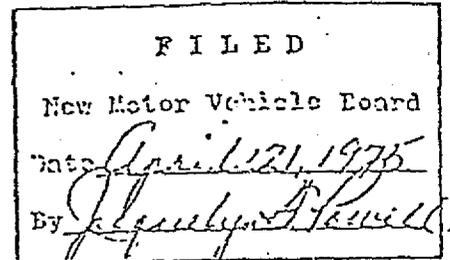
AMERAN ENTERPRISES, LTD.,
a California Corporation,
doing business as Lail Bros.,

Against the Establishment of an
Additional Motor Vehicle Dealer-
ship by:

PEUGEOT, INC., a Corporation,
Respondent.

NO. PR-12-75

L-8164



PROPOSED DECISION

This matter came on regularly for hearing before John A. Willd, Hearing Officer with the Office of Administrative Hearings, at Los Angeles, California, on March 27, 1975, at the hour of 9:00 a.m. Charles H. Mann, Counsel, appeared on behalf of protestor Ameran Enterprises, Ltd. Pamela Ann Rymer, Counsel, appeared on behalf of Peugeot, Inc., a corporation, Respondent. Evidence both oral and documentary having been received the matter was submitted and the Hearing Officer finds the following facts:

I

Respondent Peugeot, Inc., a corporation, hereinafter referred to as Peugeot, gave notice to the New Motor Vehicle Board and to protestor franchisee of its intention to establish an additional dealership at 1537 Ocean Avenue, Santa Monica, California. A timely protest was filed by Ameran Enterprises, LTD, a California corporation, doing business as Lail Bros. and hereafter referred to as Lail Bros. Thereafter all procedural requirements were complied with and this matter is now pending before the New Motor Vehicle Board of the State of California.

II

In its protest Lail Bros. raises the following issues.

- A. There is little likelihood of permanency of investment in said vicinity as the location thereof would probably

- have to be altered in the relatively near future.
- B. The establishment of such a dealership will have a detrimental effect on the retail motor vehicle business in the relevant market area.
 - C. The franchisees of the same line-make in the relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of said line-make in said market area.
 - D. The establishment of such a dealership will be injurious to the public welfare as it will tend to weaken rather than strengthen the ability of the existing dealers to provide consumer services and satisfy consumer needs.

III

Respondent Peugeot intends to establish a new motor vehicle dealership at 1537 Ocean Boulevard, in Santa Monica, California. Mr. Ralph Cutright has been selected to be the franchised dealer at this location. This location is currently under lease to Mr. Cutright and was recently the site of a B.M.W. franchise also held by Mr. Cutright. The B.M.W. franchise has been relocated to a larger facility in Santa Monica.

Ocean Avenue is a major thoroughfare in the City of Santa Monica and it is within an area that has been considered as a downtown redevelopment project. Efforts to establish this area as a redevelopment project commenced some years ago. At the present time relatively little if any action is being taken to establish the redevelopment project. It does remain a possibility however, that the franchise location may one day lay within the area of the proposed redevelopment project.

Protestor Lail Bros. currently is franchised at two locations by Peugeot. The closest location to the proposed franchise is 1422 South La Cienega Boulevard in Los Angeles. The distance by surface streets from the proposed location to the nearest location

of protestor is 9.3 miles. The normal driving time during non-peak driving hour is approximately thirty minutes.

IV

Protestor has been franchised as a Peugeot dealer for the past four or five years. It has sold Peugeot automobiles to individuals who reside in the greater Santa Monica marketing area. It has also serviced vehicles of Peugeot owners who reside in this marketing area. Protestor urges that a dealership in Santa Monica is not necessary for the reason that protestor is fully capable of providing all necessary service to the public and that if a franchise is established it will seriously weaken the economic ability of protestor and other franchised Peugeot dealers to remain in business and serve the public. Within recent years two Peugeot dealerships have terminated their relationship with Peugeot. Protestor also points out that competition is very severe between existing Peugeot dealers and that there is considerable price cutting. This does become a particular problem because the sales of Peugeot vehicles are relatively low when compared to certain other imported automobiles. It is protestor's position that if it suffers serious financial injury as a result of the proposed new location protestor will not have adequate funds to continue appropriate investment for needed tools and equipment and under these circumstances protestor will be unable to adequately serve the public.

Protestor contends that the anticipated operation of the franchisee is not likely to be profitable. As of this time Peugeot has captured a rather small percentage of the automobile market. Protestor anticipates that the proposed location will sell relatively few new vehicles and that the gross profit on each unit sold will be approximately \$600.00. Under these circumstances protestor concludes that the franchisee may not remain long in business. However, he will manage to create a financial hardship for existing Peugeot dealers and should the operation ultimately terminate then customers will be disappointed with respect to their future service needs.

Respondent Peugeot, Inc. is a major importer of the French made Peugeot automobile. Respondent is currently in a five year expansion program and will soon have their national headquarters located in a newly purchased office building in New Jersey. New regional offices are being created throughout the country and a substantial increase in advertising effort is contemplated. In 1973 respondent sold 3,800 units nationwide. In 1974 this number was raised to 7,700 and it is projected that 13,800 units will be sold during 1975. Respondent's advertising budget in 1973 was 1.7 million dollars; in 1974 this was increased to 2.9 million dollars and it is anticipated that approximately 5 million dollars will be spent for advertising during 1975. In 1973 respondent had franchised 200 dealers nationally and in 1974 there were 275 dealers nationally. On the west coast there were 53 franchised dealerships in 1973 and at the present time there are approximately 60 dealerships on the west coast.

VI

Respondent imports one basic model known as a 504. This model comes as a sedan and as a stationwagon and more recently a diesel version of this vehicle has been introduced. The diesel model has thus far been available only in limited quantities. Peugeot dealers have been successful in selling the diesel automobiles they have been able to obtain.

VII

The Santa Monica marketing area is one which has been designated by the Los Angeles Times in its yearly new car sales analysis. It includes generally the coastal area from Redondo Beach to the Los Angeles County line. Actually, however, this marketing area would extend somewhat beyond the Los Angeles County line. A profile of the typical Peugeot buyer has been prepared and this profile has been compared with the population residing in the Santa

Monica marketing area. This comparison would indicate that there are many potential customers of the Peugeot automobile who reside in this particular marketing area. Vehicle registrations in this area indicate, however, that the number of Peugeot owners is substantially below the normally anticipated Peugeot registration when compared with other areas. There is no Peugeot dealership within this particular marketing area. It is the opinion of respondent that it must have market exposure in this marketing area in order to achieve an expected market penetration. Respondent does point out that potential Peugeot owners who reside in the Santa Monica marketing area may be reluctant to purchase the Peugeot automobile unless there is a convenient facility which can properly service the Peugeot automobile. Actually Peugeot registration in this marketing area has fallen considerably over the past two years and the Santa Monica area has been the weakest market for Peugeot automobiles in Los Angeles County.

VIII

Respondent proposes to franchise Mr. Ralph Cutright at the subject location. Mr. Cutright has been in the automobile business in the Santa Monica community for approximately twenty-two years. He was a volkswagen dealer for approximately twenty years and he recently sold this operation. Mr. Cutright formerly had a B.M.W. dealership at the subject location. His agreement with B.M.W. however, required that he obtain a larger facility for the sale of that automobile. Mr. Cutright has now transferred his B.M.W. franchise to another larger location in Santa Monica and he desires to use the proposed location for the sale of the Peugeot automobile. The facility includes fourteen stalls for mechanical service as well as four showroom spaces for new vehicles. He proposes to employ two full time salesmen plus a sales manager as well as three mechanics and a service manager. The anticipated capitalization will be approximately \$150,000.00. Mr. Cutright does advertise in the Santa Monica marketing area and he does propose to adequately advertise the Peugeot automobile.

* * * * *

Pursuant to the foregoing findings of fact, the Hearing Officer makes the following determination of issues:

I

It does appear that there will be a permanency of investment. While an ultimate municipal development may effect the proposed franchise the ultimate development at this point is rather speculative.

II

It was not established that there would be any substantial detrimental effect on the retail motor vehicle business in the relevant marketing area. There would not be any detrimental effect to the consuming public in the relevant marketing area.

III

It would not be injurious to the public welfare for an additional franchise in this location to be established.

IV

It is true that franchisees of the same line-make are in general competition throughout Los Angeles County. It does not appear, however, that there is adequate competition within the particular marketing area. At the present time service facilities, equipment and supply of vehicle parts and qualified service personnel are inadequate in the particular marketing area.

V

The establishment of the proposed franchise would to some degree increase competition and would therefore be in the public interest.

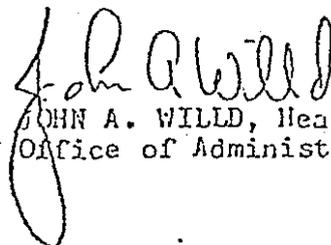
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WHEREFORE, THE FOLLOWING ORDER is hereby made:

The protest is overruled. The respondent is entitled to establish the proposed franchise.

I hereby submit the foregoing which constitutes my Proposed Decision in

the above-entitled matter, as a result of the hearing had before me on March 27, 1975, at Los Angeles, California, and recommend its adoption as the decision of the New Motor Vehicle Board.



JOHN A. WILLD, Hearing Officer
Office of Administrative Hearings

DATED: April 8, 1975
JAW:mh