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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

In the Matter of the Protests of)	
DEL AMO SUZUKI ENTERPRISES, INC.;)	Protest Nos. PR-163-78
DALE BROWN and DALE BROWN MOTORS;)	PR-164-78
RONALD RUFFALO and RUFFALO ENTER- PRISES, INC., dba SUZUKI SMITH; and)	PR-165-78
JOE KOONS MOTORCYCLES,)	PR-166-78
Protestants,)	
vs.)	
U.S. SUZUKI MOTOR CORPORATION,)	
Respondent.)	

DECISION

1. Protestants in this matter are: Del Amo Suzuki Enterprises, Inc., dba Del Amo Suzuki, 19040 Hawthorne Boulevard, Torrance, California; Dale Brown and Dale Brown Motors, 2441 Long Beach Boulevard, Long Beach, California; Ronald Ruffalo and Ruffalo Enterprises, Inc., dba Suzuki Smith, 2330 Pacific Coast Highway, Lomita, California, and Joe Koons Motorcycles, 1350 East Anaheim Boulevard, Long Beach, California.

2. All Protestants, franchisees of U. S. Suzuki Motor Corporation ("Suzuki"), filed protests with the New Motor

Vehicle Board ("Board") pursuant to Vehicle Code Section 3062^{1/}, protesting the establishment of an additional Suzuki franchise at 1505 Pacific Avenue, San Pedro, California. The additional franchisee is Michael Ralph Dailey, dba DMG Enterprises ("DMG").

3. The protests were consolidated for a hearing held before Anthony M. Skrocki, Hearing Officer of the Board in Los Angeles on April 4, 1978. Protestants were represented by A. Albert Spar, Esq., of the law office of Sidney I. Pilot. Respondent was represented by Duffern H. Helsing, Esq. of the law office of Rimel and Helsing who attempted to specially appear solely to contest the Board's jurisdiction on the grounds that Sections 3062, 3063, 3066 and 3067 violate the supremacy, commerce, due process, and equal protection clauses of the United States Constitution.

4. The Proposed Decision of the Hearing Officer was considered at the Board's regularly scheduled meeting, April 18, 1978 in Sacramento, California.

Issues Presented

5. Protestants contend that the Respondent has established an additional franchise without complying with the provisions of

^{1/}All references are to the Vehicle Code.

Section 3062, in that no written notice of intention to establish the additional franchise was sent to the Protestants, or to the Board.

Findings of Fact

6. Suzuki has established an additional franchise at DMG Enterprises, 1505 Pacific Avenue, San Pedro, California.

7. Protestants are within the relevant market area of the additional franchise.

8. Suzuki represented to the Department of Motor Vehicles that it had complied with the provisions of Section 3062 prior to establishing the franchise. Such representation was contained on State Form OL-124, dated January 26, 1978.

9. It was stipulated by Respondent that it did not comply with the provisions of Section 3062 prior to establishing the additional franchise. Suzuki failed to provide written notice to protestant or the Board. No notice was received by protestants or by the Board prior to establishing DMG as a Suzuki franchise.

Determination of Issues

1. Suzuki established an additional franchise at DMG Enterprises, 1505 Pacific Avenue, San Pedro, California in violation of Vehicle Code Section 3062.

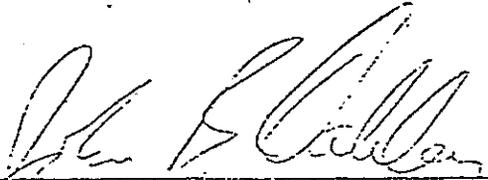
2. Respondent may have violated Section 20 in submitting a false OL-124 to the Department of Motor Vehicles.

* * * * *

The protests are returned to the protesting parties since the matter is not subject to a protest absent notice of intention by Suzuki pursuant to Section 3062. The Executive Secretary is hereby directed to file a Petition concerning the activities or practices of U. S. Suzuki Motor Corporation pursuant to Vehicle Code Section 3050(c).

This Decision shall become effective forthwith.

IT IS SO ORDERED this 18th day of April, 1978.



JOHN B. OAKLEY
Vice-President
New Motor Vehicle Board