

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

In the Matter of the Protests of)	
ALLEC BROS. YAMAHA,)	Protests No. PR-263-80
ANAHEIM MOTORCYCLES, INC., and)	PR-264-80
ORANGE COUNTY CYCLE,)	PR-265-80
Protestants,)	
vs.)	
YAMAHA MOTOR CORPORATION, U.S.A.,)	
Respondent.)	

DECISION

The attached Proposed Decision of the Administrative Law Judge 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 this 17th day of December, 1980.

Kathleen O. Turner
KATHLEEN O. TURNER
President
New Motor Vehicle Board

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Respondent.)	

PROPOSED DECISION

Procedural Background

1. By letter dated January 8, 1980, Yamaha Motor Corporation, U.S.A. (Yamaha) gave notice to Protestants, Allec Bros. Yamaha (Allec), Anaheim Motorcycles, Inc. (Anaheim), and Orange County Cycle (Orange County), of Yamaha's intention to enter into a franchise establishing Orange Yamaha (Orange) as a franchisee at 541 W. Chapman Avenue, Orange, California. Notice was given to the New Motor Vehicle Board (Board) on January 22, 1980.

2. Protests were filed pursuant to Vehicle Code section 3062 ¹/_{as follows:}

1. All references are to the Vehicle Code unless otherwise indicated.

<u>Protestant</u>	<u>Date Filed</u>
Allec	January 18, 1980
Anaheim	January 21, 1980
Orange County	January 21, 1980

3. At the Prehearing Conference held on February 8, 1980, Yamaha contended that the Board had no jurisdiction to hear the protests. Yamaha's contentions were rejected at the Prehearing Conference.

4. Following the Prehearing Conference, Yamaha filed a Writ of Mandate in the Superior Court for the County of Los Angeles seeking a determination that the Board did not have jurisdiction to hear and consider the protests.

5. This writ was denied by the Superior Court on August 15, 1980.

6. Following this denial, Yamaha filed a Petition for Writ of Prohibition with the Court of Appeal, Second Appellate District, again challenging the Board's jurisdiction to hear the protests. The Court of Appeal denied relief to Yamaha.

7. A hearing on the protests was held on October 6, 7, and 8, 1980, before Gloriette C. Fong, Administrative Law Judge for the Board.

Stipulated Facts

8. On the third day of the hearing, Yamaha determined that it would not oppose the protests. Yamaha stipulated, "There is good cause for not permitting the establishment of (sic) dealership at 541 W. Chapman Ave., Orange, California, as the term good cause is applied in Vehicle Code section 3063."

9. The stipulation was agreed to by the Protestants and accepted by the Administrative Law Judge.

DETERMINATION OF ISSUE

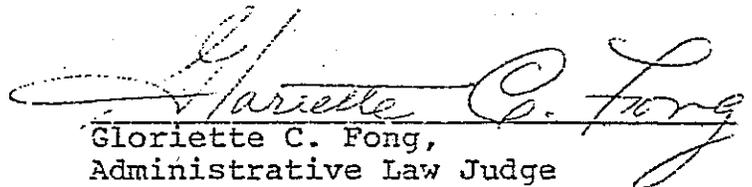
Based upon the above stipulation, it is determined that there is good cause for not allowing the establishment of the proposed dealership.

It is therefore determined that:

The protests are sustained.

I hereby submit the foregoing which constitutes my proposed decision in the above-entitled matter, as a result of a hearing had before me on the above dates, and recommend its adoption as the decision of the New Motor Vehicle Board.

Dated: November 19, 1980


Gloriette C. Fong,
Administrative Law Judge
New Motor Vehicle Board