



*New Motor Vehicle Board*

# *In-Site*

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09.1 Edition

## **PRESIDENT'S YEAR END WRAP**

As my second year as president comes to a close, I would like to express what a pleasure it has been to serve the industry and public as a member of the New Motor Vehicle Board. I hope you agree that the Board and staff have upheld our mission of resolving disputes in an efficient, fair, and cost-effective manner.



Alan Skobin

The Board is working hard to stay up to date with the rapidly evolving issues facing this industry so that we can fulfill our legislative mandate in an exemplary manner. Both manufacturers and dealers throughout California and the nation are struggling with financial problems, industry downsizing and a weak economy. Please rest assured that the Board and its staff are committed to providing expedited services so that participants before the Board can resolve their differences timely and get back to work or otherwise move forward.

It is also important to note that as a fully industry-funded entity, the Board has continued to develop and implement creative ways to cut costs while remaining responsive to the automotive industry.

As president, I am very proud of the tireless work of each of our Board members. Each is successful in their own right and busy either running their own business or working for companies that understand the importance of public service; yet they are willing to devote significant time and energy to public service with only token compensation. In fact, when you compare the \$100 stipend per meeting they receive against the true value of their time, it costs them quite a bit to serve. Even beyond their devotion, they are great people who are fun and interesting to be with.

Special thanks also go to the NMVB staff for their outstanding performance. As a team, they have been instrumental in providing first rate service at the Board.

I have always regarded public service as an honor, and I have indeed felt honored to serve as a Member of the Board for eleven years, having been appointed by Governors Wilson, Davis and Schwarzenegger. At the same time, I have always felt that appointed positions of public trust belong to the public, and not to any individual. As such, it is my view that those who want to contribute to the public good should step into public service, make their contribution, and then step out to allow new blood and fresh ideas to come in. That is healthy in a democracy, and I believe it is unhealthy from a public policy perspective for any individual to stay too long or to the point where they become a fixture at the institution.

While I still truly enjoy serving as a member of the Board, hope that my service has been a benefit for the people of California, and especially enjoy the people on the Board, I have to be true to my beliefs. As such, I have informed Governor Schwarzenegger's office that I will not be seeking reappointment to another term. I thank Governor Schwarzenegger, as well as Governors Wilson and Davis, for the opportunity to serve. It has truly been my pleasure and honor.

Having expressed my views about staying too long in an appointed position, it is important to also recognize the importance of continuity and experience. Because I am leaving the Board shortly, it is critical that the Board not lose the continuity and experience that comes with years of service, and the lessons learned from what have been many significant challenges for the Board over the years. As such, I have urged Tom Flesh, the current Vice President and former President of the Board, to seek reappointment. Tom first came on the Board a number of years after I did. He is a dedicated, conscientious, fair and knowledgeable Board Member, and has been through all of the twists and turns at the Board that I have. The public would be well served if he is appointed to another 4 year term, and I believe that it would be a big setback to the Board if we both end our service at the same time. His wisdom, experience and mentoring are vital to the continuity, stability and development of the Board and the other outstanding Members who serve so selflessly.

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Thank you to all those who have been supportive over the years. My wonderful wife Romi and children have made sacrifices so I can serve, and I am grateful to them. They are a true blessing. I have been the beneficiary of many wonderful people who were generous with their time and wisdom, not the least of whom is Bert Boeckmann. He has allowed me to serve even when my services were also needed at the dealerships, and he has been a role model for the past 32 years like no other. And in my eyes, there is no other like him!

May God Bless You and those you care about, and may the upcoming year bring all that you hope for...including a better economy!

## NOVEMBER 20, 2008 BOARD MEETING NOTES

The New Motor Vehicle Board ("Board") held a General Meeting on November 20, 2008, in Los Angeles. A number of staff reports were given on a variety of topics, including the following:

In light of the current fiscal situation, out-of-state trips for the 2<sup>nd</sup> half of fiscal year 2008-2009, were reduced from seven trips to one for Executive Director, Bill Brennan to attend the National Automobile Dealers Convention and Expo in New Orleans, Louisiana, January 24-27, 2009.

Also, if any Public Board Member wanted to attend the Convention, the Board would pay only their registration fee; if any Dealer Board Member wanted to attend, the Board would not pay any fees or expenses.

Howard Weinberg, General Counsel, was unanimously appointed the Board's Audit Compliance Officer and charged with reporting annually on the 1996 Performance Audit conducted by Business, Transportation & Housing Agency.

In addition to receiving an annual report concerning the development and use of the Board's website, the members were provided with the top 10 hits on the website, which included the Home page; Business, Transportation & Housing Agency; published decisions; Board Member bios; *Guide to the New Motor Vehicle Board*; FAQs; Consumer Mediation Program; and mediation request form.

In an effort to clarify that participation in the Board's Consumer Mediation Services Program is voluntary, and to ensure all of the form letters are consistent, the members approved revised form letters that have been implemented by the staff.

The members were provided with an overview of the hiring process of Board Administrative Law Judges (ALJs).

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*State of California*  
Arnold Schwarzenegger  
Governor

### IN-SITE

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*Department of Motor Vehicles*  
George Valverde, Director



*Business, Transportation  
and Housing Agency*  
Dale E. Bonner  
Secretary

### *New Motor Vehicle Board*

**Officers**

Alan J. Skobin,  
President  
Robert T. (Tom) Flesh,  
Vice-President

**Members**

Ramon Alvarez C.  
Ryan L. Brooks  
Robert T. (Tom) Flesh  
David C. Lizárraga  
Haig Papaian  
Alan J. Skobin  
Glenn E. Stevens  
David W. Wilson

**Executive Director**

William G Brennan  
bbrennan@nmvb.ca.gov  
**General Counsel**  
Howard Weinberg  
hweinberg@nmvb.ca.gov  
**Senior Staff Counsel**  
Robin P. Parker  
rparker@nmvb.ca.gov

Mr. Brennan explained that the Board utilizes two sources for hiring its ALJs: retired annuitants and the competitive exam process.

The Board unanimously decided to request that DMV withhold the renewal and/or suspend the existing occupational license of Motoman Distributing until the Annual Board Fee of \$225.00 had been paid.

Bill Brennan reported that the Board is fiscally sound having expended 91% of its appropriated budget for Fiscal year 2007-2008. The Board expended 93% of its budgeted expenditures on payroll. With regards to general operating expenses, the Board spent 62% of its budgeted amount.

At the June 16, 2006, General Meeting, the members authorized the legal staff to accept, subject to stipulation of the parties, the offer to use litigants' conference rooms or offices for purposes of conducting a Mandatory Settlement Conference so long as all of the requirements of now repealed Section 18944.2 of Title 2 of the California Code of Regulations were met. A Fair Political Practices Commission informal letter dated September 2, 2008, advised that recently adopted section 18944.2 of Title 2 of the California Code of Regulations does not apply to the Board's use of a conference room provided by a party to a pending action for a settlement conference or other proceedings. In light of this letter, the Board policy adopted on June 16, 2006, is moot. The Board will still require the parties to stipulate in writing to the use of a conference room provided by one of the parties before the Board will agree to use it.

Case management surveys were sent to counsel for all protests closed from August 1, 2007, through July 31, 2008. During this time period, there were 75 individual protests for a total of 53 consolidated matters closed. There were 37 surveys returned for 32 protests. Ms. Parker summarized the results of the surveys as follows:

- √ Counsel for the parties found the Board's case management processes effective and efficient in resolving the protest dispute;
- √ Those attorneys that reference the Board's website found it informative;
- √ Board staff attorneys managing the protests are knowledgeable and assist in the expeditious resolution of the protest;
- √ About half of those that responded participated in Mandatory Settlement Conferences and found them, for the most part, useful in the resolution of protests; and
- √ More than half of those that responded participated in telephonic hearings.

The members were provided with a report on the assignment of cases to Board ALJs as follows:

Archibald, Prod and Woodward Hagle - Preside over Merits Hearings in a rotation.

Waits - Once fully trained, will also preside over Merits Hearings in a rotation.

Skrocki - Presides over all law and motion, discovery hearings and procedural matters.

Wong and Riggerbach - Preside over Mandatory Settlement Conferences in a rotation.

Parker - Back-up for Mandatory Settlement Conferences, law and motion and discovery hearings.

Mr. Brennan reported on several pending administrative matters, including a written report he will give to the members on the NAMVBC 2008 Fall meeting held in Seattle and the CalRVDA's 15<sup>th</sup> Annual Conference in November. Mr. Flesh requested information concerning the number of dealers closing at the next meeting; this matter is scheduled for the February 5, 2009, General Meeting.

Mr. Weinberg reported on judicial matters and indicated in the two *Nader Automotive Group* cases the Superior Court upheld the Board's decision. In *Forty-Niner Sierra Resources*, the court declared Mr. Wilmshurst (the dealer principal) and Forty-Niner Sierra Resources as vexatious litigants. The required \$50,000 bond was not filed.

The following meetings for 2009 were tentatively selected: February 5, 2009, General Meeting in Southern California; March 24, 2009, General Meeting in Sacramento; and June 5, 2009, General Meeting in Riverside. The remaining schedule will be set at the February, 5, 2009, meeting.

**The following summarizes the number of termination notices received in 2007 and 2008:**

Year	<u>15-day notices</u>	<u>60-day notices</u>
2007	<i>Automobile/motorcycle/bus</i>	
	<u>6</u>	<u>23</u>
2007	<i>Recreational vehicle</i>	
	<u>3</u>	<u>2</u>
2008	<i>Automobile/motorcycle/bus</i>	
	<u>30</u>	<u>17</u>
2008	<i>Recreational vehicle</i>	
	<u>5</u>	<u>0</u>

## CALIFORNIA RECREATION VEHICLE DEALERS ASSOCIATION 15th ANNUAL CONFERENCE

The California Recreation Vehicle Dealers Association (CalRVDA) held its 15<sup>th</sup> Annual Conference on November 12, 2008, at the Renaissance Esmeralda Resort & Spa in Indian Wells, California. The theme of the conference was “Preparing to Resolve Disputes at the New Motor Vehicle Board”.

Randy Taylor, Manager, eBay Motors, discussed the pros and cons of selling used RV’s on the internet through eBay Motors and provided the dealers with a variety of useful information.

Next, Robin Parker, Senior Staff Counsel, New Motor Vehicle Board (Board) discussed the nuts and bolts of practicing before the Board, provided a historical overview of RV protests filed with the Board, and discussed the revised OL 124 Form (Certificate of Proposed Franchise). She reported that since 2004, there have been 14 RV protests filed with the Board. Of those protests, seven were termination, three modification, two off-site sales, one establishment, and one warranty reimbursement. The following highlighted the percentage of RV protests compared to the Board’s entire caseload:

- 2004 – 11% (5 RV protests out of 45)
- 2005 – 6% (3 RV protests out of 49)
- 2006 – 2% (1 RV protests out of 49)
- 2007 – 6% (4 RV protests out of 65)
- 2008 – 2.5% (1 RV protest out of 42)

Howard Weinberg, Board General Counsel, explained the differences between the RV industry and the automobile industry. He reported on the legislation that resulted in RVs being within the Board’s jurisdiction, new laws for 2009 that affect the RV industry, and compared California’s current Lemon Law with the proposed Model Motorhome Lemon Law.

Following the morning speakers, attendees met with sponsors and supporters. Immediately after, there was a sponsor appreciation luncheon where awards were presented and the 2009 CalRVDA Board was installed. Speeches were given by Jim Sheldon, Chairman, Recreation Vehicle Industry Association, Phil Ingrassia, Vice President for Communications, Recreation Vehicle Dealers Association, Darrell Friesen, 2008 President, CalRVDA, and Skip Daum, Executive Director, CalRVDA.



Bill Brennan, Robin Parker, Howard Weinberg

In the afternoon, Robert Robards, Esq. of Automotive Systems Analysis made a presentation on advertising laws, the do’s and don’ts of advertising, and DMV enforcement. After the conclusion of Mr. Robards’ topic, a “Dealers Only” Town Hall, which included various topics concerning the RV industry, took place and lasted until adjournment.

<h1>REVENUE</h1>	
<b>NEW MOTOR VEHICLE DEALER</b>	
Annual Fee:	\$ 404,498.00
<b>NEW MOTOR VEHICLE BOARD</b>	
Manufacturer/Distributor Annual fee:	742,782.10
<b>NEW MOTOR VEHICLE BOARD</b>	
Filing fees:	9,600.00
Document Requests:	197.40
Arbitration Cert. Program Reimbursement:	-0-
<b>As of December 31, 2008</b>	<b>\$1,157,077.50</b>



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## MEDIATION SPOTLIGHT

On August 6, 2008, Mediation Representative, Jackie Grassinger, received a complaint from a consumer who had purchased a 2008 Land Rover LR2 vehicle. The consumer requested assistance regarding repairs made to the air bag light, a problem with starting the vehicle, a fuel gauge malfunction, and a malfunction with the Terrain Response feature. Ms. Grassinger promptly sent a letter to Jaguar Land Rover North America, Inc. (JLRNA) to attempt to mediate the dispute.

On August 8, 2008, the consumer took the vehicle in for another repair on the air bag light and fuel gauge fluctuation for which the vehicle was at the dealership for 6 days. On August 14, 2008, Ms. Grassinger received a response from JLRNA requesting 30 days to review the dispute. The consumer picked the vehicle up from the dealership on August 14, 2008, and needed to fill the gas tank. While fueling the vehicle, the consumer noticed that gas was pouring out onto the concrete under the vehicle. Again, the consumer took the vehicle back to the dealership and it was determined that the gas tank was not properly connected. The vehicle was repaired and subsequently returned to the consumer. Ms. Grassinger conveyed this information to JLRNA on August 15, 2008.

On September 15, 2008, JLRNA sent a letter stating that it had reviewed the repair history of the vehicle and, as a result, offered the consumer relief.

On September 29, 2008, the consumer signed an offer agreement with JLRNA. The consumer was initially happy with the offer, but because JLRNA's repurchase process requires that the consumer surrender the vehicle before a check could be issued (a 10 to 15 day period), the consumer expressed to Ms. Grassinger that this would be a hardship, only having the one vehicle. Ms. Grassinger discussed this with the JLRNA representative and it was determined that JLRNA would do everything possible to provide the consumer a check within a 1 to 2 day period after the vehicle had been surrendered, so as not to further inconvenience the consumer. The vehicle was surrendered on October 15, 2008, and JLRNA sent a check to the consumer on October 17, 2008.

Ms. Grassinger did an outstanding job facilitating a resolution in this matter. The consumer was very thankful and appreciative for the support received and the time spent resolving the dispute.

**210 Cases Filed  
July 2008 through December 2008**



### Mediation Statistics

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

*or*

*[nmvbmediation@nmvb.ca.gov](mailto:nmvbmediation@nmvb.ca.gov)*

## 46<sup>TH</sup> ANNUAL NATIONAL RV TRADE SHOW

Executive Director Bill Brennan, attended the 46<sup>th</sup> Annual National RV Trade Show in Louisville, Kentucky, December 2-4, 2008. The theme of the show was "Outlook 2009: We've Got Heart!" an expression of the RV industry's resilience and "heart" in the face of difficult economic times. Bill toured the exhibition hall with Jay Landers and Diane Farrell of the Recreation Vehicle Industry Association ("RVIA"), where he was introduced to many manufacturers and inspected a full range of RVs.

Speakers included the newly elected RVIA Chairman Jim Sheldon, RVIA President Richard Coon, RVIA Vice President and Chief Marketing Officer Gary LaBella, *Washington Times* columnist Tara Wall, diversity experts Gary and Valerie Berman, National Geographic Channel Personality, Dr. Brady Barr, and Go RVing Coalition Co-Chairmen Don Walter and Tom Stinnett.

One major and important subject discussed at the show, was a detailed assessment of the industry's future and the new political environment. The industry urged "preparing

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now” for the market’s eventual recovery, stressing that RV manufacturers press forward with their plans for the market of tomorrow with exciting designs and innovative products. Newly created slogans included, “Heartening Words from Go RVing,” which emphasized the national advertising campaign’s continued success in communicating its messages to consumers, even in stormy economic times, and “Go Affordably. Go RVing,” which sets the tone for the 2009 hard copy print and Internet ad campaign. In effect, the slogan is geared at how to convince consumers that by buying now, they will ultimately be saving money as a result.

Other significant subjects included adding more lightweight vehicles and offering more green vehicles to their product lines. New studies commissioned by RVIA this year found RV vacations to be both more affordable and “greener” than many other types of travel.

In another discussion of breaking into the Hispanic market, strategies were offered to assist the industry in embracing the nation’s growing number of Hispanic consumers, what their leisure preferences are, and the best ways to market to the growing, upwardly-mobile, family-centric demographic.

Entertainment during the event included a welcome to the newly elected Chairman of the Board by Miss Kentucky 2008, a performance by the University of Louisville’s Spirit Band, Col. Sanders, and Churchill Charlie, the official mascot of Churchill Downs. Attendees were also treated to a performance by R&B icons and rock-and-roll Hall of Famers The Drifters.

## BOARD MEMBER RESIGNS

Dealer Member, Sossi Keuylian, has resigned from the Board effective January 13, 2009. She was appointed to the New Motor Vehicle Board on January 15, 2008, by Governor Arnold Schwarzenegger and was a member of the Board Development Committee. Her service to the Board was greatly appreciated.

### BOARD WEB “HITS”

The number of web users visiting the Board’s web since January 2000:

**3,555,592**

*Have you visited us yet?*

[www.nmvb.ca.gov](http://www.nmvb.ca.gov)

## DAVID WILSON – A HOLIDAY SPIRIT WINNER

David Wilson, Dealer Member with the Board, and Owner of The Wilson Automotive Group, Orange County’s largest automotive dealership groups, was voted by Orange County Register readers as the recipient of the 21<sup>st</sup> Annual Holiday Spirit Winner. He was nominated by Vikki Murphy, Vice President of The Wilson Group, on behalf of the employees. Vikki also stated that David has been a benefactor to nearly every school, hospital or charitable organization in Orange County in some way.



David Wilson accepting check

David is very proud of his employees for their continued generosity, especially with these difficult economic times. David, center in the above photo, accepted a check earlier this month for a holiday donation of over \$176,000 that his 1500 employees collected during 2008. The employees have been giving to charities in David’s name instead of giving him birthday and Christmas presents for the past 20 years. The donation went to Orangewood Children’s Foundation, Olive Crest, YMCA, United Cerebral Palsy, and the American Cancer Society among others.

## 2008 ANNUAL L.A. AUTO SHOW

The 2008 Annual L.A. Auto Show was held at the Los Angeles Convention Center November 21 through November 30, 2008. The international show exhibits many of the newest vehicles from world automobile manufacturers.

The show featured many environmentally friendly commuter cars along with exotic supercars, representing both green and glamorous with equal respect.

Executive Director Bill Brennan and Board Member Glenn Stevens attended the show along with former Board Member Robert Branzuela.

## UPCOMING BOARD MEETINGS

### \*GENERAL MEETING

February 5, 2009

Los Angeles

### \*GENERAL MEETING

March 24, 2009

Sacramento



\*All meeting dates are subject to change

### CNCDA 2009 DEALER DAY

The California New Car Dealers Association (“CNCDA”) Dealer Day Legislative Conference will be held on March 24, 2009 in Sacramento. Mark your calendars for this important event. Attend a variety of events, including Dealer Day, Annual Meeting of the Members, and informative seminars to learn about the current state of affairs in the industry and see dealers and dealership personnel outside the confines of the office. Contact the California New Car Dealers Association at (916) 441-2599 for more information.



### NAMVBC EVENT CANCELED

The National Association of Motor Vehicle Boards and Commissions’ (NAMVBC) 33<sup>rd</sup> Annual Breakfast Meeting and Winter Workshop has been canceled due to the national economic situation. The Winter Workshop was to be held in conjunction with the NADA Convention in New Orleans January 24-26, 2009. If you have any questions, please contact Bill Brennan at (916) 445-1888.

The Fall Meeting of the NAMVBC is tentatively scheduled for September 2009. If you would like to be put on NAMVBC’s mailing list or become a member, please contact Kathy Tomono at (916) 323-7203.

### NMVB HOLIDAY SPIRIT

Board staff showed their holiday spirit by donating canned food and other non-perishable food items to the Department of Motor Vehicles’ (“DMV”) annual food drive. The staff provided several items of food and money donations for bags of rice. All donations were distributed through Food Link, a network of food closets, emergency shelters, soup kitchens and senior sites in the greater Sacramento area.