



New Motor Vehicle Board

In-Site

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JUNE 5, 2009

GENERAL BOARD MEETING

The New Motor Vehicle Board (“Board”) held a General meeting on June 5, 2009, in Riverside, California. At that meeting, the members considered two case management matters as well as several administrative matters.

Platinum Motors v. Lamborghini

The Public Members of the Board considered the “Proposed Order Granting Respondent’s Motion to Dismiss Protest” in *Platinum Motors LLC v. Automobili Lamborghini*, Protest No. PR-2140-08. This matter was originally scheduled for the March 24, 2009, General Meeting but due to a Chapter 11 Bankruptcy filing on behalf of Protestant on March 23rd, this matter was postponed given the automatic stay. On April 7, 2009, counsel for Respondent indicated that the Bankruptcy stay had been modified and the Board was authorized to consider the Proposed Order. At the April 23, 2009, General Meeting, this matter was postponed because on April 22, 2009, Protestant filed a Notice of Removal in the United States Bankruptcy Court, Central District of California, Santa Ana Division. The filing of the Notice of Removal removed jurisdiction of the Board so it did not take any action. On May 4, 2009, the Bankruptcy Court issued an Order Granting Emergency Motion of Automobili Lamborghini America LLC to Remand Improperly Removed Action. This order remanded the matter to the Board.

Mr. Flesh, President of the Board, recused himself from consideration of this matter. He indicated that he had utilized the services of Mr. Resnick’s firm, Jeffer, Mangels, Butler & Marmaro, LLP, but had no relationship with Mr. Resnick. Mr. Stevens presided over this matter.

Oral comments were presented before the Public Members of the Board (excluding Mr. Flesh). Carlos Negrete of the Law Offices of Carlos Negrete and Michael J. Flanagan of the Law Offices of Michael J. Flanagan made an appearance on behalf of Protestant. Allen S. Resnick of

Jeffer, Mangels, Butler & Marmaro, LLP and Randall L. Oyler, Esq. of Barack Ferrazzano made an appearance on behalf Respondent.

The members voted to overrule the Administrative Law Judge’s Proposed Order and sent the matter to a full hearing on the merits. Subsequent to the meeting, a September 28, 2009, tentative hearing date was established. Powerhouse Motorsports v. Yamaha

The Public members of the Board considered the “Proposed Order Granting Respondent’s Motion to Dismiss Protest” in *Powerhouse Motorsports Group, Inc. v. Yamaha Motor Corporation, U.S.A.*, Protest No. PR-2122-08. Respondent filed a motion to dismiss alleging the protest was not filed within the statutorily required time. A telephonic hearing was held before Administrative Law Judge Anthony M. Skrocki on September 25, 2008. On October 24, 2008, Judge Skrocki issued an “Order Deferring Ruling on Respondent’s Motion to Dismiss Protest, and Referring Motion for Evidentiary Hearing.” An evidentiary hearing was held March 16-17, 2009, before Administrative Law Judge Marybelle D. Archibald. Judge Archibald issued a “Proposed Order Granting Respondent’s Motion to Dismiss Protest.”

Oral comments were presented before the Public Members of the Board. Dennis D. Law of Andre, Morris & Buttery and Michael J. Flanagan of the Law Offices of Michael J. Flanagan represented Protestant. Kevin M. Colton, Esq. of Baker & Hostetler LLP represented Respondent.

The Public Members of the Board considered the Proposed Order, deliberated in closed Executive Session, and unanimously adopted the Proposed Order authorizing the dismissal of the protest.



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Connor, Christina, David, Mason and Bryan

2009 KIDS DAY

The Board held its Annual Kids Day on July 13, 2009. This event offers the children of Board employees a “hands on” opportunity to actually see what their parent’s jobs are, and also allows them to better understand the demands of their workday.

This year, the New Motor Vehicle Board celebrated Kids Day with the children of Executive Director, Bill Brennan (son Bryan), Senior Staff Counsel, Robin Parker (son Connor) and Management Services Technician, Nicole Angulo (son David and daughter Christina). Linda Lighter, Associate Governmental Program Analyst, brought her grandson, Mason.

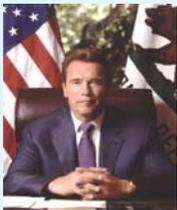
The group helped out by organizing stacks of binder tabs that needed to be put in numerical and alphabetical order. Christina was fascinated with the typewriter, having never seen one! Staff provided homemade cupcakes and coffee cake for their “pretend” breaks.

EMPLOYEE RECOGNITION AWARD

Each year, the Board recognizes a member of the staff for his or her outstanding performance with the Sol Soteras Employee Recognition Award. At its June 5, 2009, General meeting, the Board considered and unanimously approved the Development Committee’s recommendation that Polly Riggerbach receive the award for a job well done.

Polly is a staff counsel and performs duties related to management of protests. She regularly reviews court reporter transcripts of law and motion and administrative hearing cases. While performing her duties, she observed incidents of poor workmanship, professionalism and reporting inconsistencies contained within the transcripts she was reviewing. Not satisfied with simply demanding a higher standard of performance by our contractor, she inquired into the qualifications of reporters that were being sent to report on the Board’s activities. This inquiry led to further investigative work and diligence by Polly into the terms and conditions of the underlying Master Services Agreement between the contractor and the State of California. She discovered that under-qualified personnel were performing Board services and that the Board was being billed at higher rates than provided for in the contract. Her efforts led to a DMV

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Arnold Schwarzenegger
Governor

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New Motor Vehicle Board

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Employee Recognition, cont'd from page 2

analysis of the services rendered and subsequent cancellation of the Master Services Agreement for the contractor on a statewide basis. It is very likely that many other state offices were paying excessive fees to the contractor. A demand for reimbursement is presently being prosecuted against the contractor by the DMV legal department.

Polly was given the task of managing the effort to bring manufacturers into compliance with California Vehicle Code sections 3064, 3065, 3074 and 3075 which deal with Delivery and Preparation Obligations; Reimbursement for Dealer Delivery and Preparation Obligations; and Warranty Reimbursement Schedules and Formulas. At the time she was given the assignment, compliance was below 15%. Polly initiated an education program advising the industry of the legal requirement to comply and then went about gaining compliance. To date, nearly 70% of the manufacturers within the Board's jurisdiction in California now fully comply with the law, and a process is in place whereby full compliance is expected by the end of the year. Congratulations, Polly!

UPDATE ON MANDATORY FURLOUGHS

Beginning in February 2009, Governor Schwarzenegger ordered state employees to take two days off without pay each month due to the State's budget crisis. Since the last dated In-Site, there has been an additional day added, making a third day for each employee. These three mandatory furloughs are scheduled for the first, second and third Fridays of the month. Nearly all state offices will be completely shut down on these days.

The Board's offices will continue to provide its services with the same level of competence and expertise. Should you need to file a hand-delivered document with the Board on a furlough day, you can drop it in the mail box outside of our offices. Documents received on a furlough day will be considered received and/or filed on that day. The same will apply to filings received via U.S. mail that are deposited in the mailbox. If you have any questions regarding this please contact the Board's legal analyst, Kathy Tomono, for clarification.

BOARD COMMITTEES UPDATE

At the June 5, 2009, General Meeting, President Flesh created an Ad Hoc Public Comment Committee with Ryan Brooks as Chair and Glenn Stevens as Member.

The newly created committee is charged with addressing the Board's policy on public comments at noticed meetings in compliance with the Bagley-Keene Open Meeting Act (Gov. Code § 11120, et seq.) during the consideration of Proposed Decisions, Orders or Rulings conducted pursuant to the Administrative Procedure Act (Gov. Code § 11500, et seq.) This topic will be placed on the September 10, 2009, General Meeting agenda.

AWARD WINNER

FORD MOTOR CREDIT COMPANY
PARTNERS IN QUALITY
2008

Galpin Ford

Source: Automotive News, April 13, 2009 Edition

Save the Date NEW MOTOR VEHICLE BOARD

ATTORNEY ROUNDTABLE

Thursday, October 15, 2009, 10:00 a.m.

Ziggurat Building

707 3rd Street, West Sacramento, CA 95605

For additional information

Contact Robin Parker at (916) 445-1888 or email

rparker@nmvb.ca.gov

Upcoming NAMVBC Event

NATIONAL ASSOCIATION OF MOTOR VEHICLE BOARDS AND COMMISSIONS

Annual Fall Workshop October 3-7, 2009

Embassy Suites – Charleston Historic District

Charleston, South Carolina

For more information, please contact

Dawn Kindel at (916) 445-1888.