



*New Motor Vehicle Board*

# *In-Site*

October 2010

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## **AUGUST 24, 2010 SPECIAL MEETING**

The New Motor Vehicle Board (“Board”) held a Special meeting on August 24, 2010, in Commerce, California. At that meeting, the members considered two cases.

McMahon’s RV v. Roadtrek (Protest Nos. PR-2234-10, PR-2235-10, and PR-2236-10)

At the May 5, 2010, General Meeting, the Board considered similar protests involving the same parties. The Board unanimously adopted ALJ Skrocki’s proposed orders which dismissed without prejudice the protests of McMahon’s Palm Desert. The protests were permitted to be re-filed in the event that evidence of a franchise was discovered.

On May 11, 2010, Protestant filed three new protests for McMahon’s Palm Desert for modification, warranty claims reimbursement, and franchisor incentive program reimbursement. Respondent filed a Motion to Dismiss Protests. A telephonic hearing was held before ALJ Skrocki on June 17, 2010.

At the August meeting, oral comments were presented before the Public and Dealer members because these protests involve recreational vehicles. Tina Hopper, Esq. of the Law Offices of Michael M. Sieving represented Protestant. Louis S. Chronowski, Esq., of Seyfarth Shaw LLP represented Respondent.

The Public and Dealer Members unanimously adopted the Proposed Order granting Respondent’s motion to dismiss. The dismissals were without prejudice to the right of McMahon’s Palm Desert to again bring such protests if McMahon’s Palm Desert discovers or can prove the existence of a written agreement signed by both parties and constituting a franchise as defined in Vehicle Code Section 331 or Section 331.3.

At Public Member Stevens’ request, whether to designate the Board’s decision as a precedential decision will be considered at the next General Meeting.

Jackson Ford-Mercury v. Ford (Protest No. PR-2180-09)

On September 16, 2009, Protestant filed a termination protest with the Board. As a result of Bankruptcy proceedings, this protest was stayed for a number of months. On April 16, 2010, the Bankruptcy Court entered a Final Decree closing the Bankruptcy Case. During the June 8, 2010, telephonic Status Conference re: Status of Bankruptcy, the parties indicated that the Bankruptcy case had been concluded and established a briefing schedule on Respondent’s motion to dismiss protest. A telephonic hearing was held before Administrative Law Judge Anthony M. Skrocki on July 14, 2010.

Pursuant to Vehicle Code section 3050(d), Protestant in pro per, Charles Smith, and counsel for Respondent stipulated to allow Dealer Member participation.

At the August meeting, oral comments were presented before the Public and Dealer Members of the Board. There was no appearance on behalf of Protestant. Donald H. Cram, Esq. of Severson & Werson represented Respondent.

The Public and Dealer Members unanimously adopted the Proposed Order granting Respondent’s motion to dismiss the protest with prejudice.



**GOING GREEN SOON!**

In the very near future, the printed version of the In-Site will be discontinued and will be available only online. Staff is in the process of creating an “email alert” option on the website for those who would like to subscribe to get immediate notifications of new or updated items via email.

## BOB FRISCH RETIRES FROM BMW

Bob Frisch, Vice President of the Western Region of BMW of North America retired on September 30, 2010. He began his 34+ year career in 1976 as a Customer Relations representative in the Eastern Region. His distinguished dossier spans a multitude of management positions and accomplishments. He has held significant roles at the regional level and the national level as National Customer Relations Manager, Manager Aftersales Development, Manager Center Development and served an expatriate assignment at BMW AG headquarters in Munich, Germany.

In 2003, Bob was promoted to Regional VP in the Western Region where he led the dealers to unprecedented growth in both Sales and Facility investments for both the BMW and MINI Brands.

Bob left his impact on the Western Region dealers. The dealers have weathered the stormy economy well with strong profitability. Most importantly, they are well positioned to seize business when economic conditions rebound.

## CSECC 2010 KICKOFF

The kickoff for the 2010 California State Employees Charitable Campaign ("CSECC") officially began on September 2, 2010. For Board staff, however, fundraisers started at the end of 2009 and have continued throughout the year. The on-going honor bar stocked with candy, chips and other snacks, is still popular and profitable. Considering the small number of staff, the Board has been very successful over the years and has always reached 100% participation. The theme for this year is "Pledge Today. Change Tomorrow!"

Stay tuned for a full report on the events and campaign donations in the January 2011 issue of the In-Site.



Forty years ago on August 21, 1970, Governor Ronald Reagan signed legislation authorizing California to issue Environmental License Plates; thus the personalized plates. What was the word on the first personalized plate?

See page 3 for the answer.



*State of California*  
Arnold Schwarzenegger  
Governor

### IN-SITE

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## NAMVBC 2010 FALL WORKSHOP

The National Association of Motor Vehicle Boards and Commissions (“NAMVBC”) held its Fall Workshop in Biloxi, Mississippi, October 9-13, 2010. For the first time in the history of the NAMVBC, a joint workshop session was held with the International Association of Lemon Law Administrators (IALLA). Previous discussions with NAMVBC members who are also IALLA members, found it was apparent that both organizations have many issues in common and the idea of the joint workshop sessions was created. The workshop included a packed agenda of information and ideas of common interest to motor vehicle regulators, industry associations, manufacturers, and consumer advocates who attended. During the four days of the event, several keynote speakers discussed industry issues.

The Sunday workshop featured several speakers. First up was Tom Fullington with the Arizona Automobile Dealers Association (“AADA”). Mr. Fullington provided the attendees with an overview of how the AADA resolves franchise disputes. Chuck Redden with Auto Tec, LLC, was next on the agenda and spoke on his company’s Auction Access program which provides licensed dealers with secure access to auto auctions, with the goal of eliminating curbstoners. James A. Moors, Director of Franchising and State Law in NADA’s Legal and Regulatory Group brought the group up to date on federal franchising laws. Dave Braun with Comerica Bank, and Tom Miller with Toyota Financial Services, gave a joint presentation on automotive financing from both the dealer and consumers perspective.

Monday’s joint meeting with IALLA kicked off with an overview of each groups’ mission statements presented by Dan Devoe, President of the NAMVBC and Phil Nowicki, past president of IALLA. India Johnson with the American Arbitration Association discussed the GM and Chrysler Dealer Reinstatement Arbitrations. She was followed by a group presentation on the various state Lemon Laws by Ken Murphy and Melanie Joo with Arent Fox, and Beth McNellie, from Baker & Hostetler LLP. Richard Boyd with the National Highway Traffic Safety Administration spoke about how and why vehicle defects are investigated, as well as the steps taken to order a recall. The joint workshop ended with a presentation on vehicle

history reports and the use of the National Motor Vehicle Title Information System (“NMVTIS”).

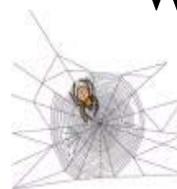
On Tuesday, Ian Christman, with the Motor Vehicle Sales Authority of BC gave a presentation on British Columbia’s efforts to stop unlicensed dealers from selling vehicles. Greg DePasquale, with the online auto auction Copart spoke about the expansion of Copart and their use of NMVTAS to prevent fraud. Steve Kelso with Wheeler Trigg O’Donnell, LLP, and Wendy Mirkin-Fox, Christopher Zammit and Kevin Jones with Chrysler Group LLC, gave a presentation on the transition from the old Chrysler to the new Chrysler.

Next on the agenda was the roundtable discussion. Each attendee was given five minutes to speak about what is happening in their jurisdiction or company. The meeting concluded with the NAMVBC business meeting at which new officers for 2011 were elected. Dan Devoe, Administrator, Dealer Services for the Washington Department of Licensing was elected President; Greg Kirkpatrick, Executive Director of the Arkansas Motor Vehicle Commission was elected Vice-President; Molly Cost, Director, Motor Vehicle Division for the Texas Department of Transportation was elected Secretary; and Bill Brennan, Executive Director of the California New Motor Vehicle Board was elected Treasurer.

The NAMVBC will meet for the 2011 Fall Meeting in Reno, Nevada. If you would like to know more about the NAMVBC please visit their website at [www.namvbc.org](http://www.namvbc.org), or contact Bill Brennan at (916) 324-6197.

## Why not visit us

*on the web...*



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

You can also subscribe to one of the New Motor Vehicle Board’s “Information Feeds” (located at the bottom of the Home Page) and receive meeting agendas, minutes, news updates, and other NMVB information as it comes online.

Answer to quiz: AMIGO

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