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New Motor Vehicle Board

In-Site

12th INDUSTRY ROUNDTABLE

The Board hosted its Industry Roundtable event on Thursday, March 26, 2015, at the Department of Motor Vehicles' Headquarters in Sacramento. The purpose of the event is to educate the industry and members of the Board on industry-related issues and to provide them with an opportunity to interface with dealer and factory personnel. Many topics of interest were presented.

The event opened with welcoming remarks from Jean Shiimoto, Director of the Department of Motor Vehicles (DMV).

The first topic was a discussion on whether

"lemons" are at the root of dealer litigation. Jonathan Morrison, President of Auto Advisory Services, spoke about the pitfalls of "lemon law" suits being filed against dealerships. In 2014, more than 1,000 lawsuits were filed against licensed California car dealers. 410 of those raised "lemon law" issues as the primary allegation. Unfortunately for dealerships, the violations that occurred generally do not coincide with the allegations in the complaint. Several case examples were mentioned which included various "lemon law" issues at the root of the lawsuits, but resulted in

major class action lawsuits unrelated to the "lemon law" issues. Mr. Morrison provided practical approaches for dealers to avoid "lemon law" issues resulting in larger lawsuits and guidance for automakers to also assist in fewer "lemon law" cases being filed in court. In conclusion, Mr. Morrison emphasized that getting dealers, consumers and manufacturers on the same page regarding consumer concerns results in a beneficial outcome for all parties.

Next was a discussion with Curt Augustine, the Director of California State Affairs for the Alliance of Automobile

Manufacturers, and Gary Gutierrez, Project Manager of Special Projects with CalTrans, regarding the status of DMV's implementation of Senate Bill 1077, which is California's Road Usage Fee Pilot Program. The Road Usage Fee Pilot Program creates a committee tasked to identify and evaluate issues in creating a program which will charge motorists for the use of roadways based on the distance they travel. This new program is being considered because the current gas tax system is not meeting California's revenue needs due to the increased use of more fuel efficient cars as well as alternative fuel vehicles. A road usage charge program would distribute the gas tax burden across all vehicles, regardless of fuel source, in order to collect the revenues needed to preserve and maintain California's roadways.

Mr. Augustine and Mr. Gutierrez provided information on the different options for tracking mileage and payment of fees that are being considered by the advisory committee for the pilot program. Several audience questions were asked and answered and this topic will likely be on everyone's radar in the months and years to come. Finally, Michael Quigley, Deputy Director at the California Alliance for Jobs, gave an update on additional proposals made in the legislature in support of supplementation to the current gas tax.

The final presentation before lunch came from Tam Le, Paul Yim and Gerald Zielinski of the Policy and Information Privacy Section of the Information Services Branch at DMV, and Jonathan Michaels, an attorney with MLG Automotive Law, about the unprecedented "year of the recall". The presenters discussed NHTSA's recall policy and procedures, as well as the role DMV plays in assisting manufacturers and dealers in locating vehicles

needing recall repairs. Mr. Michaels also addressed the issues with current recall procedures from the perspective of consumers in need of protection from situations created by unrepaired recalled vehicles.

After lunch, Bill Elrick of the California Fuel Cell Partnership and Josh Boone of the PEV Collaborative had a very informative discussion on the status of hydrogen fuel cell and plug-in technology. Mr. Elrick spoke about the current fuel cell infrastructure in California, which includes 18 new or developing hydrogen refill stations available in Northern California and 37 new or developing stations in Southern California. Mr. Elrick also pointed out that there are a growing number of fuel cell buses being used for public transportation. Given the positive feedback from hydrogen fuel cell vehicle owners thus far, once the infrastructure is expanded even more, the popularity of hydrogen fuel cell vehicles on the road is sure to increase. Mr. Boone spoke regarding plug-in electric vehicles as well as battery electric vehicles. He shared the different types of models available for each category, as well as upcoming models to be expected in each category. Mr. Boone also discussed charging stations and the infrastructure available in California. Additionally, he identified the following emerging market trends: vehicle sales will continue upwards, automakers will begin to announce longer range vehicles at lower price points, inductive (wireless) charging will become available and automakers will invest further in infrastructure which will hopefully result in more "DC" high current, fast charging stations.

There was a short presentation made by Tim Corcoran, the new Branch Chief of Occupational Licensing at DMV. He comes to DMV with extensive knowledge of the industry given his previous employment at the Bureau of Automotive Repair. He has already been a useful resource to the New Motor Vehicle Board and we look forward to working with him more in the future.

The final presentation of the day was an update on the implementation of testing Autonomous Vehicles and the regulations by Bernard Soriano, Deputy Director of Enterprise Risk Management at DMV. He provided information on NHTSA's four levels of autonomous vehicles. Mr. Soriano discussed the current issues faced by DMV in creating regulations regarding testing requirements, safety standards, operator license requirements, vehicle registration requirements, and other feasible regulations for autonomous vehicles as they inch closer to use on public roadways.

The Roundtable was interesting and informative, as always. The topics and information were well-received by those in attendance. If you are interested in the PowerPoint presentations from the event, you can find them on the Board's website at www.nmvb.ca.gov.



FEBRUARY 11, 2015 GENERAL BOARD MEETING

The New Motor Vehicle Board ("Board") held a General meeting on February 11, 2015, in Arcadia, California. At that meeting, the members addressed a number of administrative matters.

Glenn E. Stevens, Public Member, was unanimously re-elected Board President and Victoria Rusnak, Dealer Member, was unanimously re-elected Vice President. The new officers will serve on the Executive Committee.

The Board Consumer Mediation Program received a total of 359 cases and handled 824 telephone calls during fiscal year 2013-2014. Of the 359 cases received, 302 were mediated; 67% were mediated successfully. The mediators successfully resolve cases by persuasion since they do not have enforcement authority.

Mr. Bill Brennan met with the DMV's Communi-

cation Program, which is responsible for social media channels, to explore options regarding outreach to promote the Consumer Mediation Program. They helped the Board advise the public about the program through Facebook and Twitter.

The revised *Guide to the New Motor Vehicle Board* and *Informational Guide for Manufacturers and Distributors* was unanimously adopted.

The members were updated on manufacturer and distributor compliance with the Board's request that statutorily mandated schedules or formulas be filed with the Board, and received 100% of compliant filings.

For the 1st quarter of fiscal year 2014-2015, the Board expended 24% of its appropriated budget of \$1.6 million. With regards to annual fees, \$922,161.60 was collected from 151 manufacturers and distributors within the Board's jurisdiction.

Administrative matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status was reported by Mr. Brennan.

Ms. Robin Parker reported that since the members received their written report, there had been one new protest filed and the oldest protest, *Mother Lode Kia*, was dismissed. Additionally, three 60-day notices of termination have been filed. With regards to judicial matters, Ms. Parker reported that at a hearing date in *Santa Cruz Nissan* has been set for September 4. Additionally, *Mega RV* is still in bankruptcy and there is a May 1 hearing date set for the writ in *Capacity of Texas*.

FEBRUARY 11, 2015 SPECIAL BOARD MEETING

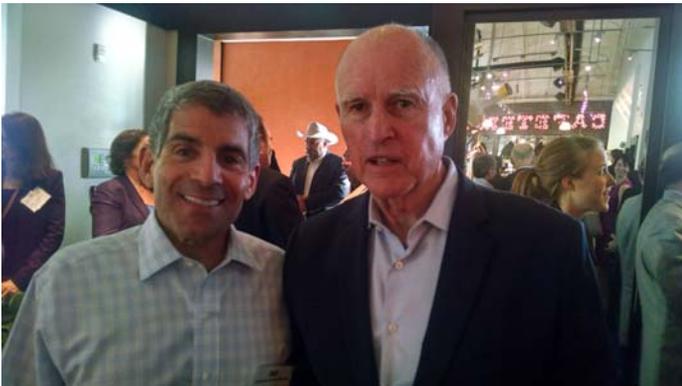
The Board held a Special meeting on February 11, 2015, at Rusnak Mercedes-Benz in Arcadia, California. At that meeting, Victoria Rusnak, Dealer Member, and her staff spoke about each department's goals and challenges. They provided a thorough understanding of a modern new motor vehicle dealership, including new vehicle sales, finance and insurance, and service and parts departments.

CNCDA 2015 DEALER DAY

The California New Car Dealers Association (“CNCDA”) held their 2015 Dealer Day on March 25, 2015, at the Hyatt Regency in Sacramento. CNCDA is the country's largest state association of franchised new car and truck dealers.

CNCDA provided some interesting statistics for 2014: in the State of California there are 1,358 new car dealerships and last year (2014) those dealers sold 1,848,254 new vehicles, and paid a total of \$8.82 billion in taxes to the State. CNCDA also reviewed two bills it is currently sponsoring in the State Legislature. First, AB 287, the Consumer Automotive Recall Safety Act (CARS Act), is legislation that would require more urgent recalls to be fixed before a vehicle may be sold, leased or rented to the public. The bill would also provide consumers with replacement vehicles at no cost while their recalled vehicle is getting fixed. Second, CNCDA is also sponsoring AB 1178, which allows for criminal penalties to be placed upon manufacturers who are in violation of California law which prohibits threatening dealers with unreasonable manufacturer export policies.

The audience was provided with entertainment by comedian, Tom Cotter.



Glenn E. Stevens, Board President
and Governor Brown

MARCH 25, 2015 GENERAL BOARD MEETING

The Board held a General meeting on March 25, 2015, in Sacramento. At that meeting, the members addressed a number of administrative matters.

Sherrie Moffet-Bell, Bureau Chief, with the Arbitration Certification Program (“ACP”) and Telephone Medical Advice Services Bureau, along with Jose Escobar, Deputy Chief of the ACP provided an overview on ACP and how the Board collects its fees. ACP is a voluntary program and free for consumers. Decisions are conditionally binding on the consumer. If the consumer accepts the decision of an arbitrator then the manufacturer is bound by that decision. Vehicle manufacturers fund the ACP through a per vehicle fee whether they participate in the program or not. The Board collects ACP fees on its behalf annually. Ms. Moffet-Bell explained that as part of the certification of a manufacturer’s arbitration program, the manufacturer promises to disclose to customers that it has arbitration available to them at the time of sale, at the time of service, and if the consumer contacts the manufacturer directly.

Dan Carrigg, Legislative Director of the League of California Cities explained the loss of redevelopment program has been harmful to California cities and the community. A new tool called the “Enhanced Infrastructure Financing Districts” (EIFD) was approved by the Governor and effective January 1. EIFD is different than redevelopment because there is no blight requirement or additional eminent domain authority, and there is more flexibility. It will take longer to accumulate enough revenue to get anywhere near what there used to be with redevelopment agencies.

On March 20, 2015, the Board received Toyota Motor Sales USA, Inc., Lexus Division’s letter requesting an extension of the time period to audit Putnam Lexus’ warranty claims. The request to extend the warranty audit beyond nine months was denied. Lexus was informed that they could come back before the Board with a subsequent request.

The annual review of the Board's Mission and Vision Statements were discussed. Mr. Brennan recommended that the Board continue with the current statements.

The annual update on training programs attended by staff was presented to the members. Ms. Dawn Kindel reported that most of the training has been at no cost to the Board.

The Board was provided with information concerning using social media to promote the Consumer Mediation Program. Ms. Jackie Grassinger reported that on February 17, the Board started using Twitter and Facebook to promote the mediation program and staff is prepared to track any additional requests for mediation as a result of the social media posts.

A number of resource materials along with summaries of the Administrative Procedure Act, Bagley-Keene Open Meeting Act, Political Reform Act, and Public Records Act were provided to the Board members. Ms. Danielle Vare reported that with regards to the Political Reform Act, the Fair Political Practices Commission increased the limit on gifts that may be received by a Board Member or staff to \$460 from \$440. With regards to the Public Records Act, the case *Ardon v. City of Los Angeles* (2014) 232 Cal. App. 4th 175, has been depublished and is under review by the California Supreme Court. Ms. Parker indicated that there were no substantive changes to the Administrative Procedure Act or the Bagley-Keene Open Meeting Act.

The Board's financial condition for the 2nd quarter of fiscal year 2014-2015 was discussed. Ms. Luke indicated that the Board expended 42% of its appropriated budget through the second quarter of fiscal year 2014-2015. Mr. Bill Brennan indicated that the dealer fees continue to increase and there will be a small surplus this fiscal year.

The members adopted the revised 2015 edition of the *Administrative Law Judges' Benchmark*.

Mr. Brennan reported on the status of administrative matters identifying all pending pro-

jects, the Board staff and committee assigned, and estimated completion dates.

Ms. Angulo reported that since the members received their written report, one new establishment protest involving Fiat was filed and 27 protests are pending. With regards to judicial matters, Ms. Robin Parker reported that in *Capacity of Texas* briefs are being filed and the hearing is set for May 1, 2015. *Santa Cruz Nissan's* hearing in regards to the writ is supposed to be September 4, 2015, but there are two motions presently pending before the Board.



UPCOMING NAMVBC EVENT

National Association of Motor

Vehicle Boards and Commissions

Annual Workshop

September 9-12, 2015

Scottsdale, Arizona

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