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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board ("Board") held a General meeting on April 21, 2005, at the Miramonte Resort and Spa, Florentine 2 Room, 45-000 Indian Wells Lane, Indian Wells, California.

2. **ROLL CALL**

David W. Wilson, President of the Board, called the General meeting to order at 10:31 a.m.

Present:	Robert V. Branzuela	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	Andy Robles	Howard Weinberg
	Sushil K. Sharma	General Counsel
	Alan J. Skobin	Robin Parker
	Glenn E. Stevens	Senior Staff Counsel
	David W. Wilson	

Absent: David C. Lizárraga  
Haig Papaian

3. **APPROVAL OF THE MINUTES FROM THE MARCH 8, 2005, GENERAL MEETING**

Mr. Stevens moved to adopt the March 8, 2005, General Board meeting minutes. Mr. Robles seconded the motion. The motion carried unanimously.

4. **BOARD MEMBER EDUCATION CONCERNING THE INTRODUCTION OF THE CALIFORNIA MOTOR CAR DEALERS ASSOCIATION CHAIRMAN, ED FITZPATRICK - BOARD DEVELOPMENT COMMITTEE**

Mr. Novi informed the members and audience that due to a conflict, Mr. Fitzpatrick was unable to attend the meeting. Mr. Novi indicated that he plans to attend a Board meeting in the near future.

5. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO J. KEITH MCKEAG, RETIRING BOARD ADMINISTRATIVE LAW JUDGE**

Agenda items 5, 6, and 7 were consolidated for purposes of discussion.

Mr. Flesh moved to present a Resolution to J. Keith McKeag, retiring Board Administrative Law Judge, in appreciation for his dedication and service to the Board. Mr. Sharma seconded the motion. The motion carried unanimously. (The Resolution is scheduled to be presented at the July 7, 2005, General meeting, in Sacramento.)

6. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO KENNETH WILSON, RETIRING BOARD ADMINISTRATIVE LAW JUDGE**

Mr. Stevens moved to present a Resolution to Kenneth Wilson, retiring Board Administrative Law Judge, in appreciation for his dedication and service to the Board. Mr. Flesh seconded the motion. The motion carried unanimously. (The Resolution is scheduled to be presented at the July 7, 2005, General meeting, in Sacramento.)

7. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO MERILYN WONG, RETIRING BOARD ADMINISTRATIVE LAW JUDGE**

Mr. Sharma moved to present a Resolution to Marilyn Wong, retiring Board Administrative Law Judge, in appreciation for her dedication and service to the Board. Mr. Robles seconded the motion. The motion carried unanimously. (The Resolution is scheduled to be presented at the July 7, 2005, General meeting, in Sacramento.)

8. **SEMI-ANNUAL UPDATE ON STAFF TRAINING PROGRAMS IMPLEMENTED FOR SUPPORT PERSONNEL, STAFF COUNSEL, AND ADMINISTRATIVE LAW JUDGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel updating the staff training programs implemented for support personnel, staff counsel, and administrative law judges. Mr. Flesh suggested that the new Administrative Law Judges be trained as well. Mr. Weinberg reported that the new ALJ training occurred at the Board's offices. The Judges were provided with Board training materials, selected Attorney General opinions, prior Board decisions, and the resources necessary to preside over cases.

9. **STATUS REPORT CONCERNING THE BOARD'S COLLECTION OF THE ARBITRATION CERTIFICATION PROGRAMS' ANNUAL FEE - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the Board's collection of the Arbitration Certification Programs' Annual Fee. Mr. Novi reported that \$870,000 was collected (\$.44 per vehicle). The Board is reimbursed \$5,000 for its expenses associated with the collection. Mr. Novi informed the members that

historically the sales reported by the manufacturers and distributors were verified with data supplied by Polk. The DMV is now providing reliable statistics and the added expense of utilizing Polk data is unnecessary.

10. **UPDATE CONCERNING THE ASSIGNMENT OF CASES TO BOARD ADMINISTRATIVE LAW JUDGES IN LIGHT OF THE HIRING OF THREE NEW JUDGES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Cara Peralta updating the assignment of cases to Board administrative law judges in light of the hiring of three new judges. The staff will continue to use the ALJ assignment log. If the judge selected to preside over the next hearing is not available, the Board attempts to schedule the merits hearing with the next Board ALJ. This has proven to be an effective and fair way to distribute and track cases when ALJs are needed for merits hearings while ensuring a randomized method of selecting ALJs. Mr. Novi indicated that the transition is normal. Messrs Novi and Stevens indicated that Robin Parker would sit in on the hearings with the new ALJs and provide the necessary support. Mr. Weinberg would also be available as needed.

11. **DISCUSSION CONCERNING PENDING LEGISLATION OF GENERAL INTEREST - POLICY AND PROCEDURE COMMITTEE**

- (1) Assembly Bill 68 (Assembly Member Montanez)
- (2) Assembly Bill 1223 (Assembly Members Leno and Lieber)
- (3) Senate Bill 114 (Senator Bowen)
- (4) Senate Bill 120 (Senator Florez)
- (5) Senate Bill 504 (Senator Alquist)
- (6) Senate Bill 637 (Senator Speier)

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the pending legislation of general interest. Ms. Parker reported that Assembly Bill 1223 was amended to impact the Board by creating a new license (Internet Hybrid Vehicle Sales License) that is excluded from the Board's jurisdiction. This bill will be tracked by staff and reported on at the next Board meeting.

12. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters that identified all

pending projects, the Board staff and committee assigned, estimated completion dates, and status.

The members requested that an update on the status of Gateway Chevrolet be provided to Mr. Wilson as the Board's president.

Mr. Flesh was concerned about the consequence, if any, if parties before the Board falsely testify under oath. Mr. Weinberg indicated that perjury is a crime and could be prosecuted by the Attorney General. Mr. Stevens indicated that perjury was rarely prosecuted. Mr. Flesh reiterated that he wanted to ensure the integrity of the Board and maintain the highest standard.

Mark Perleberg from N.A.D.A. Appraisal Guides provided the members and staff with current copies of the classic car buyer book and was available to answer questions.

13. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

**CONSIDERATION OF A PERSONNEL MATTER - EXECUTIVE COMMITTEE**

The Public and Dealer members convened in closed Executive Session to discuss a personnel matter.

14. **OPEN SESSION**

The members returned to open session and announced that they had accepted the retirement notice of Tom Novi who plans to leave the Board in September [actually early October]. A Search Committee was established with Tom Flesh and Alan Skobin serving as co-chairs. The Committee will draft a job description, a list of experience and educational requirements, publish a bulletin, and advertise as needed to recruit candidates.

Mr. Wilson announced the following changes to the Board meeting schedule:

- The September 22, 2005, General meeting will now be held in Sacramento instead of San Francisco.
- The November 17, 2005, General meeting will now be held on November 16, 2005, in San Francisco instead of Sacramento.
- The December 19, 2005, Special meeting in Sacramento will now be held on December 14<sup>th</sup>.

A retirement dinner will be tentatively held on September 21, 2005.

15. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 12:09 p.m.

Submitted by

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TOM NOVI  
Executive Director

APPROVED: \_\_\_\_\_  
David W. Wilson  
President  
New Motor Vehicle Board