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

The New Motor Vehicle Board ("Board") held a General meeting on May 2, 2008, at the Mission Inn Hotel, San Gabriel Room, 3649 Mission Inn Avenue, Riverside, California

2. **ROLL CALL**

Alan J. Skobin, President of the Board, called the meeting of the Board to order at 1:49 p.m.

Present:	Ramon Alvarez C.	William G. Brennan, Executive Director
	Robert T. (Tom) Flesh	Howard Weinberg, General Counsel
	Sossi Keuylian	Robin Parker, Senior Staff Counsel
	Haig Papaian	Polly Riggerbach, Staff Counsel
	Alan J. Skobin	

Absent: Ryan L. Brooks  
David C. Lizárraga  
Glenn E. Stevens  
David W. Wilson

Mr. Brennan announced that there was a quorum of Board Members for the General Meeting but not for Public Member case management matters.

3. **PLEDGE OF ALLEGIANCE**

Mr. Alvarez led the members and staff in the Pledge of Allegiance.

4. **INTRODUCTION AND WELCOME OF NEWLY RE-APPOINTED PUBLIC BOARD MEMBER, DAVID C. LIZÁRRAGA**

This matter was postponed until the June meeting in light of Mr. Lizárraga's inability to attend the meeting.

5. **APPROVAL OF THE MINUTES FROM THE FEBRUARY 11, 2008, GENERAL MEETING, AND MARCH 18, 2008, SPECIAL MEETING**

Mr. Papaian moved to adopt the February 11, 2008, General meeting minutes, and March 18, 2008, Special meeting minutes. Mr. Flesh seconded the motion. The motion carried unanimously.

6. **ORAL ARGUMENTS BEFORE THE PUBLIC MEMBERS OF THE BOARD**

Agenda items 6-8 were taken off calendar because the Board lacked a Public Member quorum.

NICK ALEXANDER IMPORTS, a California corporation, d/b/a NICK ALEXANDER IMPORTS v. BMW OF NORTH AMERICA, LLC  
Protest Nos. PR-2049-07 and PR-2062-07

7. **CLOSED EXECUTIVE SESSION DELIBERATIONS**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board convenes in closed Executive Session to deliberate the decisions reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

**CONSIDERATION OF RECOMMENDATION RE: PAYMENT OF ATTORNEYS FEES**

NICK ALEXANDER IMPORTS, a California corporation, d/b/a NICK ALEXANDER IMPORTS v. BMW OF NORTH AMERICA, LLC  
Protest Nos. PR-2049-07 and PR-2062-07

Consideration of the Administrative Law Judge's "Recommendation for Payment by Protestant Nick Alexander Imports, Inc. of Attorney's Fees and Costs of Respondent BMW of North America, LLC", by the Public members of the Board.

8. **OPEN SESSION**

The members remained in Open Session having never gone into closed Executive Session.

9. **ANNUAL REVIEW OF THE BOARD'S MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

This matter was postponed until the June meeting.

10. **DISCUSSION AND CONSIDERATION AS TO WHETHER OR NOT VEHICLE CODE SECTION 3050.7 PROPOSED STIPULATED DECISIONS AND ORDERS ENCROACHES ON THE BOARD'S JURISDICTION - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Howard Weinberg concerning whether or not Vehicle Code section 3050.7 (Proposed Stipulated Decisions and Orders) encroaches on the Board's jurisdiction. Mr. Weinberg provided an overview of Stipulated Decisions and Orders. He also indicated that in 1997 a Board delegation was given to staff that permits its administrative law judges to make a determination as to whether certain conditions have or have not been met in accordance with the terms of the Stipulated Decision. After a brief discussion, Mr. Skobin assigned this project to the Executive Committee and Board staff as determined by Bill Brennan to review all of the Board delegations for eventual review by the full Board at a future meeting. No Board action was taken on this matter.

11. **ANNUAL UPDATE ON STAFF TRAINING PROGRAMS ATTENDED BY SUPPORT PERSONNEL, COUNSEL, AND ADMINISTRATIVE LAW JUDGES - ADMINISTRATION COMMITTEE**

This matter was postponed until the June meeting.

12. **STATUS REPORT CONCERNING MANUFACTURER AND DISTRIBUTOR COMPLIANCE WITH VEHICLE CODE SECTIONS 3064/3074 AND 3065/3075 (THE FILING OF STATUTORILY REQUIRED SCHEDULES AND FORMULAS) - ADMINISTRATION COMMITTEE**

This matter was postponed until the June meeting.

13. **CONSIDERATION OF THE REVISED GUIDE TO THE NEW MOTOR VEHICLE BOARD TO INCLUDE INFORMATION ON STATUTORY AND REGULATORY CHANGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum and revised *Guide to the New Motor Vehicle Board* from Bill Brennan and Howard Weinberg. Mr. Weinberg summarized the changes to the Guide and updated the codes to reflect statutory changes effective January 1, 2008. Additionally, the approved language concerning Dealer Member participation in RV protests that is identical to the *Informational Guide for Manufacturers and Distributors* was included in this Guide. In an effort to reduce the number of pages copied for the members, it was decided that the Administration Committee would get the entire Guide for future reviews but the Board would only get the changes. Any member could request a hard copy of the Guide, access it on the Board's website, or request a compact disk from staff. Mr. Flesh moved to adopt the Guide. Mr. Papaian seconded the motion. The motion carried unanimously.

14. **REVIEW OF FORM LETTERS USED IN THE MEDIATION SERVICES PROGRAM - ADMINISTRATION COMMITTEE**

This matter was postponed until the June meeting.

15. **DISCUSSION CONCERNING GOODWILL LEMON LAW BUYBACKS AND THE BRANDING OF TITLES - ADMINISTRATION COMMITTEE**

This matter was postponed until the June meeting.

16. **BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, BAGLEY-KEENE OPEN MEETING ACT, POLITICAL REFORM ACT, AND PUBLIC RECORDS ACT - BOARD DEVELOPMENT COMMITTEE**

This matter was postponed until the June meeting.

17. **BOARD FINANCIAL CONDITION REPORT FOR THE 2<sup>nd</sup> QUARTER OF FISCAL YEAR 2007-2008 - FISCAL COMMITTEE**

This matter was postponed until the June meeting.

18. **REPORT ON STEPS THE BOARD IS TAKING TO REDUCE EXPENDITURES IN LIGHT OF GOVERNOR SCHWARZENEGGER'S EXECUTIVE ORDER S-01-08 - FISCAL COMMITTEE**

This matter was postponed until the June meeting.

19. **CONSIDERATION OF THE REVISED NEW MOTOR VEHICLE BOARD ADMINISTRATIVE LAW JUDGES BENCHBOOK - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a revised version of the *New Motor Vehicle Board Administrative Law Judges Benchbook*. Mr. Weinberg indicated the nature and scope of any potential changes to the 2008 Edition would be limited to minor grammatical and editorial corrections. In light of the currently proposed regulation changes to the Board's case management procedures, it was anticipated that substantial modifications would be necessary in the next edition. Mr. Alvarez moved to adopt the staff recommendation that no new edition be produced until after the proposed regulatory amendments are promulgated. Mr. Papaian seconded the motion. The motion carried unanimously.

20. **REPORT ON CASE MANAGEMENT SURVEY RESULTS - POLICY AND**

## **PROCEDURE COMMITTEE**

This matter was postponed until the June meeting.

21. **DISCUSSION AND CONSIDERATION OF AN EXTENSION OF TIME FOR ADMINISTRATIVE LAW JUDGES RIGGENBACH AND WONG TO PRESIDE OVER ALL MANDATORY SETTLEMENT CONFERENCES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Polly Riggerbach concerning an extension of time for Administrative Law Judges Riggerbach and Wong to preside over all Mandatory Settlement Conferences (MSC). Ms. Riggerbach reported that the Board is still limited to three ALJs who are trained and able to conduct merits hearings, and due to their various vacation schedules many are unavailable for extended periods. After a brief discussion concerning the hiring process for ALJs off an existing list and the hiring of retired annuitants, Mr. Brennan indicated that he would research this issue and report to the Board at a future meeting. Mr. Flesh moved to adopt the staff recommendation that ALJs Wong and Riggerbach continue to preside over all Mandatory Settlement Conferences for an additional six-month period. Ms. Keuylian seconded the motion. The motion carried unanimously.

22. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
  - (1) Assembly Bill 2272 (Assembly Member Fuentes)
  
- b. Pending Legislation of general interest.
  - (1) Assembly Bill 865 (Assembly Member Davis)
  - (2) Assembly Bill 1939 (Assembly Member DeSaulnier)
  - (3) Assembly Bill 2116 (Assembly Member Portantino)
  - (4) Assembly Bill 2241 (Assembly Member Saldana)
  - (5) Assembly Bill 2388 (Assembly Member Feuer)
  - (6) Assembly Bill 2436 (Assembly Member Emmerson)
  - (7) Assembly Bill 2976 (Assembly Member Keene)
  - (8) Senate Bill 60 (Senator Cedillo)
  - (9) Senate Bill 364 (Senator Simitian)
  - (10) Senate Bill 1374 (Senator Battin)
  - (11) Senate Bill 1377 (Senator Scott)
  - (12) Senate Bill 1417 (Senator Hollingsworth)
  - (13) Senate Bill 1494 (Senator McClintock)
  - (14) U.S. House of Representatives Bill 1015 (U.S. Representative Capuano)
  - (15) U.S. House of Representatives Bill 1029 (U.S. Representative Stearns) – “Damaged Vehicle Information Act”
  - (16) U.S. House of Representatives Bill 1915 (U.S. Representative Castle)

- “American Automobile Industry Promotion Act of 2007”
- (17) U.S. House of Representatives Bill 1920 (U.S. Representative Inslee)  
– “Health Care for Hybrids Act”
- (18) U.S. House of Representatives Bill 2513 (U.S. Representative Hall)
- (19) U.S. Senate Bill 545 (U.S. Senator Lott) – “Passenger Vehicle Loss Disclosure Act”
- (20) U.S. Senate Bill 767 (U.S. Senator Obama) – “Fuel Economy Reform Act”
- (21) U.S. Senate Bill 1055 (U.S. Senator Biden) – “American Automobile Industry Promotion Act of 2007”
- (22) U.S. Senate Bill 1151 (U.S. Senator Obama) – “Health Care for Hybrids Act”

This matter was postponed until the June meeting.

23. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
  - (1) Status of Protests.
  - (2) Status of Petitions.
  - (3) Status of Appeals.
  - (4) Matters Resolved.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

This matter was postponed until the June meeting.

24. **UPDATE ON THE SUCCESS OF THE BOARD'S 2007 CALIFORNIA STATE EMPLOYEES CHARITABLE CAMPAIGN (CSECC)**

This matter was postponed until the June meeting.

25. **APPOINTMENT OF DAVID C. LIZÁRRAGA TO A BOARD COMMITTEE, BY ALAN SKOBIN, BOARD PRESIDENT**

This matter was postponed until the June meeting.

26. **PUBLIC COMMENT (GOV. CODE § 11125.7)**

No additional public comment was presented.

27. **ADJOURNMENT**

Mr. Papaian moved to adjourn the meeting. Mr. Alvarez seconded the motion. With no further business to discuss, the meeting was adjourned at approximately 2:40 p.m.

Submitted by

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WILLIAM G. BRENNAN  
Executive Director

APPROVED: \_\_\_\_\_

Alan J. Skobin  
President  
New Motor Vehicle Board