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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board ("Board") held a General meeting on March 24, 2009, in Hearing Room #1, at the Board's offices.

2. **ROLL CALL**

Robert T. (Tom) Flesh, President of the Board, called the meeting of the Board to order at 2:14 p.m.

Present:	Ramon Alvarez C. Ryan L. Brooks Robert T. (Tom) Flesh Glenn E. Stevens	William G. Brennan, Executive Director Howard Weinberg, General Counsel Robin Parker, Senior Staff Counsel Polly Riggerbach, Staff Counsel
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Absent: David C. Lizárraga
Haig Papaian
Alan J. Skobin
David W. Wilson

Mr. Brennan indicated that there was a quorum of members for purposes of case management but not administrative matters.

3. **PLEDGE OF ALLEGIANCE**

Mr. Stevens led the members, staff, and audience in the Pledge of Allegiance.

4. **APPROVAL OF THE MINUTES FROM THE FEBRUARY 5, 2009, GENERAL MEETING**

This matter was postponed until the next meeting.

5. **ORAL PRESENTATION BEFORE THE PUBLIC MEMBERS OF THE BOARD**

The dealer member did not participate in Agenda items 5-7 because they involved a dispute between a franchisee and franchisor.

- a. CARLSEN SUBARU v. SUBARU OF AMERICA, INC.
Protest No. PR-2096-07

Oral comments were presented before the Public Members of the Board. Michael M Sieving, Esq. of the Law Offices of Michael M. Sieving represented Protestant. Charles Burton, 50% owner of Carlsen Subaru, Inc., also made public comments. Maurice Sanchez, Esq. of Baker & Hostetler LLP represented Respondent. Kent Putnam, the proposed Subaru dealer in Burlingame, also made public comments

- b. PMG MOTORSPORTS, INC. ("PMG") v. AMERICAN SUZUKI MOTOR CORPORATION
Protest No. PR-2141-08

Oral comments were presented before the Public Members of the Board. No appearance was made on behalf of Protestant. Maurice Sanchez, Esq. of Baker & Hostetler LLP represented Respondent.

- c. PLATINUM MOTORS LLC, a California limited liability company v. AUTOMOBILI LAMBORGHINI, S.p.A
Protest No. PR-2140-08

Oral comments were not presented as this matter was stayed due to a Chapter 11 Bankruptcy filing.

6. **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.

a. **CONSIDERATION OF PROPOSED DECISION AFTER REMAND**

CARLSEN SUBARU v. SUBARU OF AMERICA, INC.
Protest No. PR-2096-07

Consideration of the Administrative Law Judge's Proposed Decision after Remand, by the Public members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Mr. Stevens moved to adopt the Administrative Law Judge's Proposed Decision after Remand. Mr. Flesh seconded the motion. The motion carried unanimously.

b. **CONSIDERATION OF PROPOSED ORDER**

PMG MOTORSPORTS, INC. ("PMG") v. AMERICAN SUZUKI MOTOR CORPORATION

Protest No. PR-2141-08

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss, by the Public members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Mr. Stevens moved to adopt the Administrative Law Judge's "Proposed Order Granting Motion to Dismiss". Mr. Brooks seconded the motion. The motion carried unanimously.

c. **CONSIDERATION OF PROPOSED ORDER**

PLATINUM MOTORS LLC, a California limited liability company v. AUTOMOBILI LAMBORGHINI, S.p.A

Protest No. PR-2140-08

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent's Motion to Dismiss Protest, by the Public members of the Board.

No action was taken in light of the Bankruptcy stay.

7. **OPEN SESSION**

The members returned to Open Session. Mr. Flesh thanked counsel for their comments and Robin Parker announced the decisions in Agenda Items 6(a), 6(b), and 6(c).

Mr. Flesh announced that Agenda items 8-24 were postponed until the next meeting.

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

This matter was postponed until the next meeting.

9. **ANNUAL UPDATE ON TRAINING PROGRAMS ATTENDED BY STAFF - ADMINISTRATION COMMITTEE**

This matter was postponed until the next meeting.

10. **ANNUAL UPDATE ON BOARD CONSUMER MEDIATION SERVICES PROGRAM - ADMINISTRATION COMMITTEE**

This matter was postponed until the next meeting.

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

This matter was postponed until the next 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 next meeting.

13. **REPORT ON THE NUMBER OF NEW VEHICLE DEALERSHIPS, MANUFACTURERS, AND DISTRIBUTORS CLOSING IN 2008 - BOARD DEVELOPMENT COMMITTEE**

This matter was postponed until the next meeting.

14. **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 next meeting.

15. **BOARD FINANCIAL CONDITION REPORT FOR THE 1ST HALF OF FISCAL YEAR 2008-2009 - FISCAL COMMITTEE**

This matter was postponed until the next meeting.

16. **CONSIDERATION OF OUT-OF-STATE TRAVEL PLANS FOR FISCAL YEAR 2009-2010 - FISCAL COMMITTEE**

This matter was postponed until the next meeting.

17. **CONSIDERATION OF 2009 REVISIONS TO THE INFORMATIONAL GUIDE FOR MANUFACTURERS AND DISTRIBUTORS WHICH OUTLINES THEIR OBLIGATIONS TO PROVIDE NOTICES, SCHEDULES, AND FORMULAS MANDATED BY THE CALIFORNIA VEHICLE CODE AND CIVIL CODE TO THE NEW MOTOR VEHICLE BOARD AND/OR IMPACTED DEALERS - POLICY AND PROCEDURE COMMITTEE**

This matter was postponed until the next meeting.

18. **ANNUAL REVIEW OF BOARD ADOPTED POLICIES - POLICY AND PROCEDURE COMMITTEE.**

This matter was postponed until the next meeting.

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

This matter was postponed until the next meeting.

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

- a. Pending Legislation that impacts the Board.
 - (1) Senate Bill 95 (Senator Corbett) - Car Buyer's Protection Act of 2009.
- b. Pending Legislation of general interest.
 - (1) Assembly Bill 5 (Assembly Member Evans) - Electronic Discovery Act.
 - (2) Senate Bill 373 (Senator Walters).
 - (3) Senate Bill 424 (Senators Padilla, Florez, and Harman) - Dealer Franchise Fairness Act of 2009.
- c. Pending Federal Legislation of general interest.
 - (1) United States House of Representatives Bill 100 (U.S. Representative Drier) - Commonsense Auto Recovery Act of 2009.
 - (2) United States House of Representatives Bill 120 (U.S. Representative Frelinghuysen).
 - (3) United States House of Representatives Bill 159 (U.S. Representative Pascrell).
 - (4) United States House of Representatives Bill 385 (U.S. Representative Rodgers) - Consumer Auto Relief Act of 2009 or the CAR Act of 2009.
 - (5) United States Senate Bill 209 (U.S. Senator Boxer).
 - (6) United States Senate Bill 247 (U.S. Senator Feinstein) - Accelerated Retirement of Inefficient Vehicles Act of 2009.
 - (7) United States Senate Bill 271 (U.S. Senator Cantwell) - Fuel Reduction using Electrons to End Dependence on the Mid-East (FREEDOM) Act of 2009.
 - (8) United States Senate Bill 333 (U.S. Senator Mikulski).

This matter was postponed until the next meeting.

21. **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 next meeting.

22. **ANNUAL REPORT OF STAFF PARTICIPATION IN THE CALIFORNIA STATE EMPLOYEES CHARITABLE CAMPAIGN (CSECC)**

This matter was postponed until the next meeting.

23. **APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE, BOARD DEVELOPMENT COMMITTEE, FISCAL COMMITTEE, GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE, AND POLICY AND PROCEDURE COMMITTEE, BY THE BOARD PRESIDENT**

This matter was postponed until the next meeting.

24. **SELECTION OF BOARD MEETING DATES FOR 2009**

This matter was postponed until the next meeting.

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

No additional public comment was presented. Mr. Flesh thanked the staff for preparing for the meeting and for its ongoing efforts in light of the current economic situation.

26. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 3:56 p.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____

Robert T. (Tom) Flesh
President
New Motor Vehicle Board