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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a General meeting on September 13, 2016, in Hearing Room #1, at the Board’s offices.

2. **ROLL CALL**

Glenn Stevens, President and Public Member, called the meeting of the Board to order at 10:50 a.m.

Present: Ramon Alvarez C. William G. Brennan, Executive Director
Kathryn Ellen Doi Robin P. Parker, Senior Staff Counsel
Rahim Hassanally Danielle R. Vare, Staff Counsel
Bismarck Obando
Glenn E. Stevens

Absent: Anthony A. Batarse Jr.
Ryan L. Brooks
David C. Lizárraga
Victoria Rusnak

3. **PLEDGE OF ALLEGIANCE**

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

4. **APPROVAL OF THE MINUTES FROM THE JUNE 28, 2016, GENERAL MEETING, AND JUNE 28, 2016, SPECIAL MEETING**

Mr. Alvarez moved to adopt the June 28, 2016, General Meeting minutes, and June 28, 2016, Special Meeting minutes. Mr. Hassanally seconded the motion. Ms. Doi abstained. The motion carried unanimously.

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

HC AUTOMOTIVE, INC., dba HOOMAN CHRYSLER JEEP DODGE RAM v. FIAT CHRYSLER AUTOMOBILES
Protest Nos. PR-2429-15, PR-2430-15, PR-2431-15, and PR-2432-15

Mr. Stevens read the following statement “comments by the parties or by their counsel that are made regarding any proposed decision, ruling, or order must be limited to matters contained within the administrative record of the proceedings. No other information or argument will be considered by the Board.” Furthermore, he indicated that since this is an adjudicative matter as described in Government Code section 11125.7(e), therefore members of the public may not comment on such matters.

Oral comments were presented before the Public Members of the Board. Gavin M. Hughes, Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Also present were Robert Mayville of the Law Offices of Gavin M. Hughes and Rayan Nissani of HC Automotive, Inc. John P. Strelman, Esq. and Benjamin I. Kapnik, Esq. of Wheeler Trigg O’Donnell LLP represented Respondent. Bill Danforth, Audit Manager for Fiat Chrysler Automobiles, was also present.

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.

Pursuant to Government Code section 11517(c)(2), the Board could adopt the proposed decision, make technical or other minor changes, reject the proposed decision and remand the case, or reject the proposed decision and decide the case upon the record.

CONSIDERATION OF PROPOSED DECISION

HC AUTOMOTIVE, INC., dba HOOMAN CHRYSLER JEEP DODGE RAM v. FIAT CHRYSLER AUTOMOBILES
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Consideration of the Administrative Law Judge’s Proposed Decision, 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. Ms. Doi seconded the motion. The motion carried unanimously.

7. **OPEN SESSION**

The Public Members returned to Open Session but were waiting for counsel before announcing the Decision in *HC Automotive, Inc.* (Mr. Hassanally stepped away briefly until Agenda item 10.)

8. **ANNUAL UPDATE CONCERNING THE DEVELOPMENT AND USE OF THE BOARD’S WEBSITE - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Eugene Ohta updating the development and use of the Board’s website. Mr. Ohta reported that Spanish Mediation dropped from third to 15th in 2015/2016. Mr. Ohta thought this might be due to a new Google application that translates everything into Spanish but it is not connected to the Board’s website. He will work with the Webmaster to find out if the Board can get more accurate numbers on this. Even though the number of hits to the Mediation page decreased, Mr. Ohta indicated that more calls were being placed to this program.

As indicated in the memo, the chart below shows a comparison of the top 10 pages that were viewed during visits to the website during 2014/2015 and 2015/2016.

	Website Pages	2014/2015 Annual Hits		Website Pages	2015/2016 Annual Hits
1	Home Page	10,550		Home Page	12,368
2	Mediation	5,817		Mediation	2,504
3	Spanish Mediation	1,533		Forms	1,231
4	Forms	879		Search	837
5	Board Meetings	828		Protest Statutes	776
6	Protests	814		Protests	752
7	Board Members	752		Board Members	668
8	Final Protest Decisions	584		Final Protest Decisions	636
9	Statutes	556		Meeting Agendas	604
10	Regulations	532		FAQs	511

7. **OPEN SESSION**

Mr. Stevens announced that the Board has a quorum of Public Members for purposes of this agenda item. Ms. Parker announced the decision in *HC Automotive, Inc., dba Hooman Chrysler Jeep Dodge Ram v. Fiat Chrysler Automobiles*.

9. **ANNUAL REPORT ON BOARD DEVELOPMENT PROGRAM - BOARD DEVELOPMENT COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Danielle Vare reporting on the Board Development Program. Ms. Vare reported that the Roundtable will be in April or May 2017; the date is not finalized but the location is. Additionally, there are opportunities for members to suggest topics. Ms. Doi inquired about the location change from DMV to the Department of Health Care Services. Mr. Brennan indicated that even though this event has been done in conjunction with Dealer Day, dealers do not participate. The move gives the Board more flexibility in that it may be held in conjunction with a reception that would bring more people to the Roundtable.

10. **DISCUSSION AND CONSIDERATION OF THE UPCOMING INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memorandum from Bill Brennan and Danielle Vare concerning the upcoming Industry Roundtable. Ms. Vare reported that the staff has a list of potential topics but would welcome suggestions from the members. Mr. Obando suggested information on factory loaner programs. Mr. Stevens added that there may be litigation or something else in other states that the Board could get input on. Mr. Alvarez suggested a topic on electric and self-driving vehicles. Mr. Brennan indicated a topic at the National Association of Motor Vehicle Boards and Commissions (NAMVBC) meeting in Denver is self-driving vehicles and how other industries are impacted. Mr. Stevens requested that Mr. Brennan report back to the Executive Committee.

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

a. Pending Legislation of Special Interest:

- (1) Assembly Bill 287 (Assembly Members Gordon, Eggman and Mark Stone; Principal Coauthor Assembly Member Wilk; Coauthors: Assembly Members Dabahneh, Jones, and Lackey)

b. Pending Legislation of General Interest: none

c. Pending Federal Legislation of General Interest:

- (1) United States House of Representatives Bill 679 (U.S. Representative Blumenauer) - Road Usage Charge Pilot Program Act of 2015
- (2) United States House of Representatives Bill 1181 (U.S. Representative Schakowsky) - Vehicle Safety Improvement Act of 2015
- (3) United States Senate Bill 617 (U.S. Senator Markey) - Repairing Every Car to Avoid Lost Lives Act (RECALL Act)

The members were provided with a memorandum from Bill Brennan and Danielle Vare concerning pending legislation. Ms. Vare reported that Assembly Bill 287 was enrolled and sent to the Governor who has until September 30, 2016, to act. Since the report was submitted to the members, US Senate Bill 304 was completely amended so the Board is no longer tracking it.

12. **EXECUTIVE DIRECTOR'S REPORT**

- A. Administrative Matters.
- B. Case Management.
- C. Judicial Review.
- D. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- E. Other.

Mr. Brennan 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. Mr. Brennan indicated that the Our Promise campaign is going on right now and the staff has been fundraising throughout the year with raffles. Mr. Brennan noted that Holly and Makalla are handling the administrative responsibilities of this campaign and doing a terrific job.

Mr. Brennan reported that over 2.3 million vehicles were sold in California in 2015 resulting in manufacturer and distributor Board fees exceeding \$1 million. In less than a month, all fees have been collected except from 30 manufacturers and distributors totaling about \$60,000.

With regards to the upcoming NAMVBC meeting, there are 120 participants registered, which is up 20 from last year, and eight new states have become members.

Ms. Parker reported that since the members received the Executive Director's Report, there have been two new establishment protests filed by FCA dealers. Additionally, the motion to dismiss filed by Honda in *Mike Harvey Honda* and *Mike Harvey Acura* were denied. Lastly, the next merit hearing is set for December 12 for 10 days in *Timmons Subaru*.

With regards to judicial matters, Ms. Parker indicated that she received permission from both Mr. Stevens and Ms. Doi to request dismissal of the Board's appeal in *Capacity of Texas*. The dealership's appeal was dismissed by the court for failure to file its opening brief so proceeding with the Board's appeal wasn't as compelling and the risk of an unfavorable opinion outweighed it. In *Mega RV*, Ms. Parker reported that the staff is still waiting for instructions from the Superior Court since the decisions on the two modification protests have been remanded to the Board.

Ms. Vare indicated that there was also a new motorcycle termination protest filed with a total of 30 open protests.

13. **PUBLIC COMMENT (Gov. Code § 11125.7)**

No additional public comment was presented.

14. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 12:02 p.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____
Glenn E. Stevens
President
New Motor Vehicle Board