

1507 – 21st Street, Suite 330  
Sacramento, California 95811  
Telephone: (916) 445-1888  
Contact Person: Eugene Ohta  
[www.nmvb.ca.gov](http://www.nmvb.ca.gov)

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

The New Motor Vehicle Board (“Board”) held a General meeting on December 2, 2019, at the Mission Inn Hotel, Mediterranean Terrace Room, 3649 Mission Inn Avenue, Riverside, California 92501

**2. ROLL CALL**

Kathryn Doi, President and Public Member, called the meeting of the Board to order at 9:04 a.m.

Board Members Present: Kathryn Ellen Doi  
Ramon Alvarez C.  
Inder Dosanjh  
Nanxi Liu  
Glenn E. Stevens (left at 3:19 p.m.)

Board Members Not Present: Anthony A. Batarse Jr.  
Ardashes “Ardy” Kassakhian  
Bismarck Obando  
Victoria Rusnak

Board Staff Present: Timothy M. Corcoran, Executive Director  
Robin P. Parker, Senior Staff Counsel  
Danielle R. Phomsopha, Staff Counsel  
Dawn Kindel, Chief of Staff

**3. PLEDGE OF ALLEGIANCE**

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

**4. INTRODUCTION AND WELCOME OF NEWLY APPOINTED DEALER MEMBER  
INDER DOSANJH**

Ms. Doi welcomed newly appointed Dealer Member Inder Dosanjh to the Board. Mr. Dosanjh was appointed to the Board by Governor Newsom in June. Mr. Dosanjh is the President of California Automotive Retailing Group, Inc., and owns 13 franchises, retailing over 2,500 units per month. Mr. Dosanjh has been a member of the Chevrolet Dealer

Council, the BPG Dealer Council, the Hummer Think Tank, and the GM Minority Dealer Advisory Council. His Hummer of Pleasanton Dealership received the Mark of Excellence Master Dealer Award in 2008. Mr. Dosanjh was nominated for the Time Magazine Dealer of the Year Award in 2017. Mr. Dosanjh started his automotive career as a mechanic at a Saturn dealership in 1978 and worked his way up to becoming the general manager and partner. Ms. Doi commented that Mr. Dosanjh's background gives him a unique perspective as a dealer. Mr. Dosanjh said that he is blessed to be on the Board, there are a lot of changes happening in the auto industry, and he looks forward to working with everyone.

5. **APPROVAL OF THE MINUTES FROM THE JUNE 7, 2019, GENERAL MEETING, AND JUNE 7, 2019, AUGUST 15, 2019, SEPTEMBER 18, 2019, AND OCTOBER 10, 2019, SPECIAL MEETINGS**

Mr. Alvarez moved to adopt the June 7, 2019, General Meeting minutes. Ms. Doi noted a correction to the June 7, 2019, General Meeting minutes. On page 4, in the second paragraph, "on" should be "one" in the sentence "Now you know who the talented one in the family is." Mr. Dosanjh seconded the motion. The motion carried unanimously.

Mr. Alvarez moved to adopt the June 7, 2019, Special Meeting minutes. Mr. Dosanjh seconded the motion. The motion carried unanimously.

Mr. Stevens moved to adopt the August 15, 2019, Special Meeting minutes. Ms. Liu seconded the motion. The motion carried unanimously.

Ms. Doi requested that the October 10, 2019, Special Meeting minutes be amended to reflect her comments as well as other members regarding the absence of admissible evidence. These will be considered at the next General Meeting.

Mr. Stevens moved to adopt the September 18, 2019, Special Meeting minutes. Mr. Alvarez seconded the motion. The motion carried unanimously.

6. **PRESNTATION OF RESOLUTION TO DAVID C. LIZÁRRAGA, FORMER PUBLIC MEMBER**

At the April 10, 2019, General meeting, the members unanimously moved to present David C. Lizárraga, former Public Member, with a Resolution in appreciation for his dedication and service to the Board and the State of California. Ms. Doi commented that it was always a pleasure to serve with Mr. Lizárraga; he was always present and welcoming.

Mr. Lizárraga indicated it was a pleasure to serve for close to 15 years. He came on the Board at the request of many Latino dealers who said they did not have a voice at the time. He was able to advocate for them in many ways as well as for manufacturers because there are always two sides to the story. Additionally, he served on the National Association of Minority Dealers Board. Mr. Lizárraga thanked Mr. Alvarez for his assistance. Mr. Lizárraga remarked that the Board is a tremendous institution in that it saves a lot of money for the State and for dealers and manufacturers. Priscilla Lizárraga, Mr. Lizárraga's wife of 59 years, was introduced as well. Mr. Alvarez thanked Mr.

Lizárraga and commented that he was sure every Governor thanked him as well. Mr. Lizárraga thanked the “greatest” staff for their assistance and the tremendous job they do.

The Speaker of the Assembly asked Mr. Lizárraga to look at ScholarShare which manages \$6 billion dollars for people saving for college; like a 401(k) program for college savings. There has been a difficulty in reaching very low-income communities so they are going to see how they can expand this program.

Lastly, Mr. Lizárraga commented to Ms. Liu that he understands she has a tremendous ability to contribute to the Board and he is sure she will enjoy it.

7. **INTRODUCTION AND WELCOME OF RECENTLY APPOINTED UNDERSECRETARY FOR THE CALIFORNIA STATE TRANSPORTATION AGENCY, ELISSA KONOYE - BOARD DEVELOPMENT COMMITTEE**

Ms. Doi welcomed Elissa Konove, Undersecretary, California State Transportation Agency (CalSTA). Tim provided the members with her background as follows:

Undersecretary Konove was appointed California State Transportation Agency Undersecretary in May 2019. Prior to her appointment, Elissa served as Deputy Chief Executive Officer at the Southern California Regional Rail Authority, Metrolink, since 2015. She held several positions at the Federal Highway Administration from 2006 to 2015, including Chief Financial Officer, Acting Director of Field Services South, and Director of the Office of Budgets. Elissa was a Transportation Program Examiner and Budget Preparation Specialist at the Office of Management and Budget in the Executive Office of the President of the United States from 2001 to 2006.

Additionally, Elissa also served as keynote speaker at this year’s annual meeting of the National Association of Motor Vehicle Boards and Commissions.

Undersecretary Konove commented that she was pleased to see the great work the Board does and how complex and thorough a job they do. Her father was a manufacturer attorney for many decades and she thinks that was because of the complexity and how interesting the work was.

Undersecretary Konove shared with the Board what Secretary David Kim and she are working on. They developed a new mission and vision at CalSTA, which is “to transform lives of all Californians through a safe, accessible, low-carbon 21<sup>st</sup> century multi-model transportation system.” It speaks to the idea that transportation is about people and improving their quality of life and one of the ways they do that is by getting a new automobile.

Governor Newsom’s Executive Order on climate change was discussed by Undersecretary Konove. It outlines five points to align transportation projects with the state’s climate goals, to direct discretionary transportation investments toward housing production near available jobs in order to reduce vehicle miles traveled, encourage shifts

to other modes of transportation to reduce congestion, fund transportation options to reduce greenhouse gas emissions and contribute to the overall health of Californians such as active modes of transportation, and mitigate increases in costs for low-income Californians. Undersecretary Konove noted that the Executive Order does not change anything regarding Senate Bill 1 (SB 1), fix-it-first. Those funds are being used for their intended purpose. In fact, Caltrans completed more than 100 SB 1 highway projects and nearly 500 projects are in the works. It repaired or replaced 115 bridges and paved nearly 1,500 lane miles of the state highway system. SB 1 invests approximately \$5 billion a year to fix roads, freeways and bridges in California communities, as well as strategically invest in transit.

In response to Ms. Doi's question, Undersecretary Konove discussed the State's pending lawsuit with the Trump administration and that there is no immediate impact to any projects at this time.

Next, the modernization of the Department of Motor Vehicles (DMV) was discussed. CalSTA is working closely with DMV Director Steven Gordon to take a look at the systems and processes. So far, there has been a lot of good progress implementing the recommendations of the Strike Team. A lot of that had to do with staff training and customer service training.

Undersecretary Konove discussed The California Transportation Plan 2050 to determine what it will look like in 2050 and how we can make changes tomorrow that will lead to that. She also discussed the California Freight Mobility Plan, which identifies future needs on the freight network and lays out a future direction for the movement of freight and goods. Lastly, she remarked on the updated Strategic Highway Safety Plan that will be forthcoming. It is a strategic plan with the mission to prevent fatalities and serious injuries among motorists, pedestrians, and bicyclists.

Ms. Doi asked about autonomous vehicles. Undersecretary Konove commented that a working group across all of the different state departments and agencies are trying to come up with a statewide framework for autonomous vehicles. Ms. Liu inquired into the modernization of DMV and being able to do more processes online and what that would look like. Undersecretary Konove indicated that the DMV's website has been updated with more information including Real ID. There is also a chat bot to answer online questions. Technology will need to be upgraded and updated to be more reliable. Mr. Dosanjh asked what the percentage of electric cars Undersecretary Konove sees in 2030. Undersecretary Konove remarked the supply and infrastructure have been an impediment to growing the share but CalSTA will focus on this with its partners at CARB (California Air Resources Board) and CEC (California Energy Commission) to improve and expand the infrastructure. Mr. Dosanjh suggested working with the manufacturers a bit more. Mr. Dosanjh commented on his experience selling electric vehicles at his dealerships. The members thanked Undersecretary Konove for her presentation.

8. **INTRODUCTION AND WELCOME TO TOM WILSON, CHIEF OF INVESTIGATIONS, DEPARTMENT OF MOTOR VEHICLES - BOARD DEVELOPMENT COMMITTEE.**

Ms. Doi welcomed Tom Wilson, Chief of Investigations, Department of Motor Vehicles

(DMV). Tim provided the members with his background as follows:

Tom Wilson currently serves as the Chief of the California Department of Motor Vehicles Investigations Division, as well as being a Deputy Director. Chief Wilson has been a member of the Investigations Division since 2000. He started at DMV as an Investigator in the Fresno office and worked numerous large-scale identity theft and fraud cases. In 2004, he promoted to Supervising Investigator Sergeant in the Fresno District Office. In 2011, he promoted to the position of Central Area Commander where he oversaw operations in Stockton, Fresno, Bakersfield and Sacramento. In 2016, he promoted to the position of Deputy Chief and held that position until 2018 when he was appointed Chief, where he oversees a staff of 397 employees, 244 of which are sworn peace officers. He also provides oversight to the Special Operations Command Office of Internal Affairs, the Computer Forensics Team and the Confidential Records Unit. He has worked on numerous projects including elements within the Department's Strategic Plan and the completion of the Officer Involved Shooting Manual, to name a few. Prior to his employment with DMV Investigations, he was a Police Officer and Detective for nine years with the City of Kingsburg.

Before his start in law enforcement, Chief Wilson worked at two new car dealerships. He got to see how a dealership operated that did not follow the rules and one that did. After working as a police officer, he transitioned to state service. He noticed right away that the state was behind cities and counties in technology by about 10 years. Part of his goal has been to modernize Investigations to get it up to industry standards. Opening lines of communication is important so one of the first things he did was set up a meeting with the team at the Board to find out how we can help each other, what the focus is, and what is on the horizon. This helps identify potential problems so DMV can get out in front of those issues and perhaps mitigate the damages.

Chief Wilson discussed the training the sworn officers have received over the past 11 months, which is double the training received in the past seven years. A large-scale class is being prepared with Legal Affairs to discuss the administrative action processes and how to mitigate those to a standard level at the early onset and try to stop the behaviors that they see. For crimes that are not egregious, they follow the EWE Principle, which is educate, warn and enforce. So far, DMV is having good success with this approach. Revising policies and procedures has been a focus of Chief Wilson; in the past 11 months over 100 policies have been created or modified.

In addition to dealer-related crimes, Chief Wilson indicated that Investigations deals with identity theft, disabled placard misuse, auto theft, and titling fraud. Director Gordon is applying his great knowledge of data analytics and analytical programs so they can identify higher-value targets and where resources are being utilized. These programs can help identify trends and where the hotspots are so they can try to get out there and spend more resources enforcing those types of violations. Investigations is trying to be more proactive with the data analytic programs because, currently, what they do is wait for the complaints to come in and determine where to go from there. If they can be proactive it may point Investigations in different directions so they can jump out on the front end.

In response to Mr. Stevens question, Chief Wilson did not anticipate expanding the number of employees. With the data analytics project, he is hoping to be able to quickly identify more of the fraud happening in transactions, especially with internal employees. Ms. Doi asked if Chief Wilson investigates licensees. Yes, Investigations regulates and conducts investigations of all occupational licensees, which includes new and used dealerships, driving schools, registration services, and third-party business providers. Ms. Liu questioned when identity theft goes through DMV versus another agency. Chief Wilson indicated that when the identity theft starts with a DMV document and the person committing the identity theft has done other things as a result of that like rental fraud or vehicle fraud purchases, then they will recommend that goes to DMV for investigation.

Mr. Dosanjh commented on the great job the DMV Investigations staff did regarding a vehicle theft issue. Chief Wilson said that DMV has investigators on auto theft taskforces all across California and on a few identity theft and computer crimes taskforces sporadically in different locations within the state. A new trend is VIN (vehicle identification number) swapping and cloning of vehicles especially with reselling those vehicles into dealerships and then upgrading to something else leaving the dealership to clean that up.

Mr. Alvarez raised the issue of illegal vehicle sales which end up in Mexico at the fault of the person doing it but the consumer is affected. Chief Wilson indicated that DMV is working at enhancing the policies and processes on lien sales that are coming through, adding on the NMVTIS (National Motor Vehicle Title Information System) and NHTSA (National Highway Traffic Safety Administration) components to try to identify where these cars are from, what they are, and what is valid. Mr. Alvarez suggested working with the new Governor in Baja that is receptive to American ideas. After a lengthy discussion, Chief Wilson remarked that Canada is a hub for stolen vehicles because the computers are not communicating with each other.

9. **REPORT ON THE NATIONAL ASSOCIATION OF MOTOR VEHICLE BOARDS AND COMMISSIONS (NAMVBC) FALL CONFERENCE BY TIM CORCORAN, EXECUTIVE DIRECTOR, NEW MOTOR VEHICLE BOARD AND DAWN KINDEL, NEW MOTOR VEHICLE BOARD CHIEF OF STAFF AND NAMVBC TREASURER - BOARD DEVELOPMENT COMMITTEE**

Tim Corcoran and Dawn Kindel provided the members and audience with an overview of the recent NAMVBC Fall Conference held in Sacramento in September 2019. Tim thanked Dawn for the leadership she demonstrated in ensuring this event's success, truly raising the bar for this annual conference and setting a new benchmark for future events. Mr. Corcoran also thanked Undersecretary Konove for her keynote address and Secretary Kim for his speech at the reception. Lastly, Mr. Corcoran thanked Ms. Doi for delivering the opening address at the reception and properly welcoming the guests to California.

Miss Kindel indicated that the NAMVBC started in 1979 and California was a charter member. It started out as a collaboration between regulators across the states to have open communication. About 10 years later, they allowed associate members to join like dealers, manufacturers, attorneys and vendors. This really opened up the lines of communication and the Association grew from an annual meeting with 30-40 in attendance to the recent meeting in September with 184 attendees.

The topics at the recent conferences included vehicle subscription programs, dealer licensing scams, internet vehicle sales, and the science of autonomous vehicles, to name a few. The leadership of the Association remained unchanged. A Legislation Committee was formed with Mr. Corcoran serving as a member along with a representative from British Columbia and Indiana. Michigan, Florida and South Carolina are being proposed as locations for 2020; the date and location should be finalized early next year.

Ms. Doi thanked Miss Kindel for making the Board look really good in the eyes of the nation. And, remarked that the members are so lucky at this Board to have such an exceptional staff.

**10. ORAL PRESENTATION BEFORE THE PUBLIC AND DEALER MEMBERS OF THE BOARD**

Since this matter involves recreational vehicles under the Board's governing authority, Vehicle Code section 3050(d), both Dealer and Public Members may participate.

Ms. Doi 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. And no other information or argument will be considered by the Board." Furthermore, she 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.

RV'S-4-LESS, INC., dba RVS 4 LESS v. ECLIPSE RECREATIONAL VEHICLES, INC.

Protest No. PR-2569-18

Oral comments were presented before the Public and Dealer Members of the Board. Gavin M. Hughes, Esq. of the Law Offices of Gavin M. Hughes represented Protestant. Artyom ("Art") Baghdishyan, Esq. of Baute Crochetiere Hartley & Velkei LLP represented Respondent.

**11. 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 ORDER**

RV'S-4-LESS, INC., dba RVS 4 LESS v. ECLIPSE RECREATIONAL VEHICLES, INC.

Protest No. PR-2569-18

Consideration of the Administrative Law Judge's "Proposed Order Dismissing the Protest," by the Public and Dealer Members of the Board.

The Public and Dealer Members of the Board deliberated in closed Executive Session. Ms. Liu moved to reject the Administrative Law Judge's Proposed Order Dismissing the Protest and deny Respondent's Motion to Dismiss. Mr. Alvarez seconded the motion. The motion carried by a 3:2 vote with Members Doi and Stevens opposed.

### **12. OPEN SESSION**

The Public and Dealer Members returned to Open Session. Ms. Doi announced the decision in Agenda Item 11.

### **13. PURSUANT TO VEHICLE CODE SECTION 3050(c)(1), CONSIDERATION OF REFERRAL TO THE DEPARTMENT OF MOTOR VEHICLES TO CONDUCT AN INVESTIGATION AND MAKE A WRITTEN REPORT CONCERNING RV'S-4-LESS, INC., DBA RVS 4 LESS' ALLEGED VIOLATIONS OF VEHICLE CODE SECTION 11713.23(b) AND (c)(2), BY THE PUBLIC MEMBERS OF THE BOARD**

RV'S-4-LESS, INC., dba RVS 4 LESS v. ECLIPSE RECREATIONAL VEHICLES, INC.

Protest No. PR-2569-18

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning whether to request the Department of Motor Vehicles to conduct an investigation and make a written report concerning RV's-4-Less, Inc., dba RVS 4 Less' alleged violations of Vehicle Code section 11713.23(b) and (c)(2).

Ms. Doi read the portion of Vehicle Code section 3050(c) that precludes Dealer Members of the Board from participating, hearing, commenting, advising other members upon or deciding any matter considered by the Board pursuant to this subdivision that involves a dispute between a franchisee and franchisor. Since the Board just decided in the previous Agenda item that there is a dispute between a franchisor and a franchisor, the Dealer Members were precluded from participating in Agenda items 13-14. If there was no franchise then there would be no dispute about the franchise and then Dealer Members could participate.

Ms. Doi indicated that the only standard is whether the Board deems it reasonable to request the Department of Motor Vehicles to conduct an investigation and make a written report on the results of the investigation to the Board within a time specified by the Board. The Board is not deciding whether there is merit to the allegations but referring the matter to Chief Wilson and his staff to determine whether there was any merit to the allegations.

Additionally, there are no statutes or regulations that provide a standard the Board must apply in determining whether to take an action on a proceeding. There are also no provisions for the Board to deliberate in closed Executive Session.

No comments were made on behalf of RV's-4-Less, Inc., dba RVs 4 Less.

Mr. Stevens moved to refer this matter to the Department of Motor Vehicles to conduct an investigation of RV's-4-Less, Inc., dba RVs 4 Less' potential alleged violations of Vehicle Code section 11713.23(b) and (c)(2) pursuant to subdivision (c)(1) of Section 3050. Ms. Liu seconded the motion. The motion carried unanimously. Ms. Liu moved that the Department of Motor Vehicles provide the Board with a written report on the results of its investigation within six months, or in lieu of a completed report, request additional time. Mr. Stevens second the motion. The motion carried unanimously.

14. **PURSUANT TO VEHICLE CODE SECTION 3050(c)(1), CONSIDERATION OF REFERRAL TO THE DEPARTMENT OF MOTOR VEHICLES TO CONDUCT AN INVESTIGATION AND MAKE A WRITTEN REPORT CONCERNING ECLIPSE RECREATIONAL VEHICLES, INC.'S ALLEGED VIOLATIONS OF VEHICLE CODE SECTIONS 11713.22(a) AND 11713.23(a) AND (c)(1), BY THE PUBLIC MEMBERS OF THE BOARD**

RV'S-4-LESS, INC., dba RVS 4 LESS v. ECLIPSE RECREATIONAL VEHICLES, INC.

Protest No. PR-2569-18

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning whether to request the Department of Motor Vehicles to conduct an investigation and make a written report concerning Eclipse Recreational Vehicles, Inc.'s alleged violations of Vehicle Code sections 11713.22(a) and 11713.23(a) and (c)(1).

No comments were made on behalf of Eclipse Recreational Vehicles, Inc.

Mr. Stevens moved to refer this matter to the Department of Motor Vehicles to conduct an investigation of Eclipse Recreational Vehicles, Inc.'s alleged violations of Vehicle Code sections 11713.22(a) and 11713.23(a) and (c)(1) pursuant to subdivision (c)(1) of Section 3050. Ms. Liu seconded the motion. The motion carried unanimously. Mr. Stevens moved that the Department of Motor Vehicles provide the Board with a written report on the results of its investigation within six months, or in lieu of a completed report, request additional time. Ms. Liu second the motion. The motion carried unanimously.

After this matter concluded, Art Baghdishyan, Esq. requested public comment relating to the referral of Eclipse Recreational Vehicles, Inc. to the Department of Motor Vehicles. He indicated that Vehicle Code section 3050(c) precludes Dealer Members from participating so the motion to dismiss (Agenda Items 10-11), which was denied, allowed comments and questions posed by Dealer Members. Ms. Doi remarked that the issue of the protest and the motion to dismiss were under a different code section where Dealer Members are not prohibited. Ms. Parker added that Vehicle Code section 3050(d) only precludes Dealer Members from Article 4 protests, not Article 5 protests. RV protests are

in Article 5 so Dealer Members participate unless they have their own RV franchise. In the petition (Agenda Item 14), no Dealer Members are allowed to participate in a petition if it involves a franchisee and franchisor (Veh. Code § 3050(c))

15. **APPOINTMENT OF INDER DOSANJH TO A COMMITTEE BY THE BOARD PRESIDENT**

Kathryn Doi provided the members with a memo on the current composition of the Board Committees and a description of each. The members went off the record to discuss this. Ms. Doi announced that Mr. Obando will be the Chair of the Legislative Committee and Mr. Dosanjh will be the member. No other changes were made to the other Committee assignments.

16. **REPORT ON NON-SUBSTANTIVE CHANGES TO THE PROPOSED AMENDMENTS TO SECTION 551.25 OF TITLE 13 OF THE CALIFORNIA CODE OF REGULATIONS (SUBSTITUTION OR WITHDRAWAL OF COUNSEL) - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tim Corcoran, Robin Parker, and Danielle Phomsopha concerning non-substantive changes to the proposed regulatory text of Section 551.25 of Title 13 of the California Code of Regulations. Ms. Phomsopha commented that the Executive Committee approved the non-substantive changes that were suggested and approved by the Office of Administrative Law so the staff could proceed with the rulemaking. The changes were non-substantive so no notice or public comment was required. As indicated in the memo, the new changes are highlighted as follows:

...

(b) Counsel of record for a party may not withdraw from a protest, petition, or appeal without permission from the board. To obtain permission, counsel must file and serve a written request to withdraw or be relieved as counsel in compliance with Article 1, section 551.19, stating with particularity the factor or factors as set forth in that satisfies the requirements of Rule 3.1362 of the California Rules of Court (Rev. 1/2017), which is hereby incorporated by reference, Rule 3-700 of the Rules of Professional Conduct and Code of Civil Procedure section 284, justifying the request. Declarations of counsel may be filed under seal, but must be served on the party of the moving counsel, who then has ...

Note: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code; Rule 3.1362, California Rules of Court, Rule 3-700 1.16, Rules of Professional Conduct; and Section 284, Code of Civil Procedure.

There was no Board action as this matter was for information only.

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

The members were provided with a memorandum from Dawn Kindel and Eugene Ohta updating the development and use of the Board's website. Miss Kindel reported that the website has undergone a transformation over the last year due to a change in the law which requires documents to be accessible for the sight-impaired. All decisions, motions and anything not compatible were removed from the Board's website, which was about 3,000 pages. Going forward, everything will be accessible and the staff will work to make compatible prior decisions. The staff is working with the Department of Motor Vehicles to update the mediation request form. Ms. Doi is concerned that the prior decisions are not available any more. Mr. Stevens asked how attorneys that practice before the Board generally have access to the prior decisions now. Miss Kindel responded that a flash drive of prior decisions could be requested or specified decisions can be emailed upon request. Ms. Doi inquired as to whether the Board's website provides information on requesting a CD of the prior decisions. Miss Kindel said that users are instructed to contact the Board staff for further assistance. The Board's website received 10,000 more hits than the previous year.

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 2018 and 2019 (\*current through October.) Total hits to the site in 2018 were 35,143. That increased to 44,897 in 2019 through the end of October.

	<b>Website Pages</b>	<b>2018 Annual Hits</b>	<b>Website Pages</b>	<b>*2019 Annual Hits</b>
1	Home Page	13,976	Home Page	17,640
2	Mediation Program	2,998	Mediation Request Form	5,131
3	Meetings and Agendas	1,410	Mediation Program	3,645
4	Board Members	1,171	Meetings and Agendas	1,448
5	Forms And Samples	1,078	Forms and Samples	1,426
6	Mediation Request Form	1,023	Final Decisions	1,151
7	Protest	748	Search	875
8	Protest Statutes	667	Board Members	795
9	Contact Us	621	Protests	702
10	Search	605	Publications	702

There was no Board action as this matter was for information only.

**18. DISCUSSION AND CONSIDERATION OF THE USE OF A FILE HOSTING SERVICE FOR DELIVERY OF BOARD MEETING MATERIALS AND CASE DOCUMENTS - ADMINISTRATION COMMITTEE**

Mr. Corcoran and Miss Kindel provided the members with an update on the Board's progress with using a file hosting service for delivery of Board meeting materials and case documents. Miss. Kindel remarked that since the staff are unable to put a number of items on the Board's website, the use of a Secure File Transfer Cloud allows the members to

get meeting materials securely. From a staff perspective this seems to be working.

There was no Board action as this matter was for information only.

19. **DISCUSSION AND CONSIDERATION OF REVISED BOARD POLICY CONCERNING MANUFACTURER AND DISTRIBUTOR COMPLIANCE WITH VEHICLE CODE SECTIONS 3064/3074 AND 3065/3075 (THE FILING OF STATUTORILY REQUIRED SCHEDULES AND FORMULAS) IN LIGHT OF ASSEMBLY BILL 179 - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning revising the Board's policy concerning manufacturer and distributor compliance with Vehicle Code sections 3064/3074 and 3065/3075 (the filing of statutorily required schedules and formulas) in light of the recent passage of Assembly Bill 179.

Ms. Parker reported that due to the passage of Assembly Bill 179, the staff is proposing that the Board modify the policy because the code no longer requires the filing of formulas for manufacturers of all vehicles except RVs. This task is fairly lengthy each year and it does not seem that there is a lot of value in it anymore. The staff recommended that the Board return to an annual notice instead.

Lisa Gibson, Esq. of Nelson Mullins Riley & Scarborough LLP inquired about the new process. Ms. Parker explained that prior to mid-2007, the Board sent out an annual notice to all manufacturers and distributors reminding them of a number of statutory requirements. One of those was that they needed to file their warranty reimbursement schedules or formulas and pre-delivery inspections. The statutory requirement is not changing. What is changing is that there is no longer a formula required for all manufacturers except RVs. So, Board staff are no longer going to track manufacturers down for their filings given how time consuming this is. The pre-delivery component of the statute remains unchanged for all manufacturers including RVs. Given the size of the Board staff, the proposed change would remind the industry but the burden falls on the industry to file the required notices.

Ms. Doi inquired that if a manufacturer does not comply with the statute, will the staff potentially refer it to the Board for action. Ms. Parker responded that staff is not going to actively ensure that every manufacturer and distributor complies. If someone complained that a filing was not submitted, then that could be brought to the Board. Ms. Doi inquired if there was a policy in between chasing filings and the annual notice. In response thereto, Mr. Corcoran indicated that what is involved in the existing policy and an in between policy is an intense amount of work that is not worth it to determine who is compliant. It is rare that anything would be brought to the Board's attention. Mr. Corcoran recommended the Board adopt the revised policy.

Mr. Stevens moved to adopt the revised policy. Ms. Liu seconded the motion. The motion carried unanimously.

20. **ANNUAL REPORT ON THE BOARD DEVELOPMENT PROGRAM - BOARD**

## **DEVELOPMENT COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Danielle Phomsopha reporting on the Board Development Program. Ms. Phomsopha reported that in addition to several speakers and presentations, the staff is proposing a tour of one of the Dealer Member's dealerships mid-year. Any suggestions from the members were welcomed.

There was no Board action as this matter was for information only.

21. **DISCUSSION OF THE BOARD FINANCIAL CONDITION REPORT FOR THE PREVIOUS FISCAL YEAR, AND THE ANNUAL BOARD FEE AND WHETHER ANY FEE ADJUSTMENTS ARE NECESSARY - FISCAL COMMITTEE**

The members were provided with a memorandum from Tim Corcoran, Dawn Kindel and Suzanne Luke concerning the Board's financial condition for fiscal year 2018-2019. Miss Kindel reported nothing was out of order; the Board's expenditures are in line with its revenues. No fee adjustments were needed in light of the \$2.6 million reserve. Mr. Corcoran noted that even though car sales have been good, the Board has enough in reserves that even if sales decline, there is plenty of time to make an adjustment. Mr. Alvarez inquired as to the number of new and used car sales. New sales were reported at around 2.1 million by Miss Kindel and used cars were perhaps 1 million. Ms. Doi wondered at what point the Board might be questioned on the amount of its reserves. Miss Kindel reported on a meeting with the Department of Motor Vehicle's budget officer who thought the reserves were in line. The staff is staying ahead of any future fee adjustments.

As indicated in the memo, the Board's appropriated budget was \$1.688 million, expenditures totaled \$1.42 million, with \$2.62 million in reserves, and the beginning reserve balance was \$2.23 million. The Board expended 85% of its appropriated budget through the 4<sup>th</sup> quarter.

There was no Board action as this matter was for information only.

22. **DISCUSSION REGARDING THE 2020 NEW MOTOR VEHICLE BOARD INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Danielle Phomsopha concerning the 2020 Industry Roundtable. Ms. Phomsopha reported that the staff is suggesting a new format for the Roundtable in order to bring it back to its roots where industry stakeholders and the public inform the Board regarding topics of interest rather than the Board educating the public. Mr. Corcoran discussed having a theme like, for example, electric vehicles then you discuss infrastructure for hydrogen cells and electric charging stations. The staff thought that designating a theme would be helpful to stakeholders to focus. The next step would be for staff to engage with industry stakeholders and work with the Committee. Mr. Dosanjh suggested manufacturers bring autonomous vehicles. Mr. Corcoran commented that instead of limiting the Roundtable to electric vehicles maybe advanced technology vehicles. Anthony Bento, Esq., Director

of Legal Affairs, California New Car Dealers Association (CNCDA) indicated that he would be happy to participate.

There was no Board action as this matter was for information only.

23. **DISCUSSION CONCERNING ENACTED LEGISLATION OF SPECIAL INTEREST: ASSEMBLY BILL 179 (ASSEMBLY MEMBER REYES) - LEGISLATIVE COMMITTEE**

The members were provided with a memorandum from Tim Corcoran, Robin Parker, and Danielle Phomsopha concerning Assembly Bill 179. Ms. Phomsopha reported that the bill was chaptered on October 12 and is effective January 1, 2020. Drafted regulations have been prepared and will be discussed next. An Administrative Law Judge Roundtable will be held in January to educate the judges on the impact of the bill and all publications will be updated.

As indicated in the memo, the following highlights the bill:

**Overview of Changes that Impact the Board:**

- **WARRANTY REIMBURSEMENTS** - Replaces the current requirement that the Board determine the “reasonableness” of a franchisor’s warranty reimbursement schedule upon the filing of a protest, with a more specific and prescribed process for franchisors that seeks to align the warranty reimbursement rate with the rates charged to retail customers by the franchisee for identical services/parts. The Board retains its authority to hear protests on the subject of warranty reimbursements, but instead of determining “reasonableness” the Board will determine if the franchisor complied with the provision’s requirements in establishing the warranty reimbursement schedule at the retail rate and/or to declare what the franchisee’s current retail rate actually was during a period of time.
- **EXPORT POLICY** - Returns the Board’s authority to hear an association challenge to a manufacturer’s export policy. This provision is subject to sunset by its own provisions on January 1, 2030.
- **PERFORMANCE STANDARDS** - Gives the Board a new protest authority, where it will determine if a franchisor has established an unreasonable performance standard or sales objective.
- **APPEALS OF DMV DIRECTOR’S DECISIONS** - Repeals the Board’s authority to hear and determine an appeal of a DMV Director’s licensing action. Note that this does not impact the Board’s authority to hear protests or petitions, including petitions where the Board is asked to direct the DMV to investigate an Occupational Licensing (“OL”) licensee, or to take appropriate action against an OL licensee.
- **NON-LICENSEE DISPUTE RESOLUTION** - Makes clear that the Board cannot involve itself in a specific and individual non-licensee (i.e., consumer) v. licensee

dispute unless the non-licensee/consumer requested the Board's involvement in the mediation, arbitration or other resolution-seeking activities. The Board already functions in this manner, which is now codified and further clarified in a letter to the journal associated with the legislation. Therefore, this provision has no impact on the Board's operations.

- **CONFORMING CHANGES** – Makes several conforming changes, renumbering, and deletions as necessary due to the above listed substantive amendments.

#### **Overview of Changes that do not Directly Impact the Board:**

- **AVAILABILITY OF VEHICLE MODELS TO DEALERS** - Prevents a manufacturer from selectively excluding some franchisees from receiving a reasonable supply of vehicles of a certain model, which are made available to other franchisees within the State. Also, prevents a manufacturer from requiring a franchisee to perform service work to vehicles that they are not authorized also to sell as new vehicles.
- **DEFINES “ADVERSE ACTIONS”** - Specifies that, for the purposes of determining if a manufacturer has wrongfully discriminated against a franchisee for purported export policy violations, certain specific actions would constitute “Adverse Actions”, including the conduct of non-routine audits, withholding incentives, or imposing monetary chargebacks.
- **RESTRICT FREQUENCY OF FACILITY MODIFICATIONS** - Prohibits a manufacturer from requiring a facility alteration, expansion or addition if the franchisee has modified the facility per the manufacturer's requirements or with their approval within the last 10 years and at a cost of \$250,000 or more.

There was no Board action as this matter was for information only.

#### **24. CONSIDERATION OF PROPOSED REGULATIONS - POLICY AND PROCEDURE COMMITTEE**

- A. Definitions (13 CCR § 550) [non-substantive and substantive amendments];
- B. Authority (13 CCR § 551);
- C. Dismissals of Petitions and Protests (13 CCR § 551.8) [non-substantive and substantive amendments];
- D. Notice of Assignment of Administrative Law Judges; Peremptory Challenges (13 CCR § 551.12);
- E. Request for Informal Mediation (13 CCR § 551.14);
- F. Request for Discovery; Informal Mediation (13 CCR § 551.15);
- G. Informal Mediation Process (13 CCR § 551.16);
- H. Conversion of Informal Mediation to Petition; Confidentiality (13 CCR § 551.17);
- I. Substitution or Withdrawal of Counsel (13 CCR § 551.25);
- J. Noncompliance (13 CCR § 553.30) [non-substantive and substantive amendments];
- K. Filing Fees (13 CCR § 553.40) [non-substantive and substantive amendments];

- L. Noncompliance (13 CCR § 553.75);
- M. Petitioners (13 CCR § 554);
- N. Contents (13 CCR § 555);
- O. Service of Petition upon Respondent(s) (13 CCR § 555.1);
- P. Form and Filing of Petition (13 CCR § 556) [non-substantive and substantive amendments];
- Q. Notice to Respondent; First Consideration (13 CCR § 557);
- R. Answer-Time of Filing; Form and Content (13 CCR § 558) [non-substantive and substantive amendments];
- S. Additional Evidence and Argument in Support of Petition (13 CCR § 561);
- T. Action by the Board (13 CCR § 562);
- U. Decision (13 CCR § 564);
- V. Repeal Article 3. Appeals from Decisions of the Department (13 CCR § 566-577);
- W. Service of Protest upon Franchisor (13 CCR § 584);
- X. Filing of Protest, Schedules of Compensation for Preparation and Delivery Obligations, Warranty Reimbursement Schedules, Retail Labor Rate, Retail Parts Rate and Franchisor Incentive Program Reimbursement Pursuant to Vehicle Code Sections 3064, 3065, 3065.1, 3065.4, 3074, 3075, and 3076 (13 CCR § 586);
- Y. Filing of Protest Pursuant to Vehicle Code Section 3065.1 [3065.3] (13 CCR § 586.5);
- Z. Hearings by Board or by Administrative Law Judge (13 CCR § 590);
- AA. Notice of Hearing of Protest (13 CCR § 591);
- BB. Continuances (13 CCR § 592);
- CC. Failure to File or to Timely File Statutorily Required Notices of Schedules (13 CCR § 593.3);
- DD. Format of First Page; Format and Filing of Papers (13 CCR § 595);
- EE. Last Page; Signature (13 CCR § 597);

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning revisions to proposed regulatory amendments. As indicated in the memo, the Board's regulations need to be updated to reflect, in part, the following substantive and non-substantive changes:

1. The repeal of appeals in Article 3 and the re-lettering of Vehicle Code section 3050;
2. Amendments to Section 3065 warranty compensation protests in Article 4;
3. Section 3065.3 protests for alleged violations of subdivision (g) of Section 11713.13, which pertain to performance standards, sales objectives, or programs for measuring a dealer's sales, service, or customer service performance;
4. Section 3065.4 protests for a franchisor's failure to comply with Section 3065.2 or if a franchisee disputes its franchisor's proposed adjusted retail labor rate or retail parts rate; and
5. Export or Sale-for-Resale Prohibition Policy protest provisions in Article 6 commencing with Section 3085.

Ms. Parker reported that most of the proposed changes are non-substantive.

Ms. Doi requested clarification on the proposed changes to petitions. Ms. Parker reported that with regards to petitions, substantive amendments are being proposed in Section

556 and 558 to clarify what the Board already does. The petition shall clearly identify the facts, legal authority, and relief sought and include declarations or other evidence that support the petition. This language is consistent with the current practice. An additional amendment is being proposed in Section 558 to explain that exhibits to the written answer may be submitted by declaration. This requirement is not mandatory but clarifies that declarations are permissible and is consistent with current practice. The language also tracks motions and motions for protective orders.

In response to Ms. Doi's question, Ms. Parker explained that Section 586.5 is a new regulation to address Section 3065.3 protests.

Lisa Gibson, Esq. of Nelson Mullins Riley & Scarborough LLP commented on petitions that seek relief pursuant to Vehicle Code section 3050(c)(1) [investigation] or (c)(3) [licensing action]. Ms. Gibson believes that "if rules are being promulgated for the purpose of assuring the Board that it is not a whimsical request and providing a little more substance, perhaps that is the case. But if we are getting into taking witnesses and admitting evidence in determining the merit of a petition, I think that is beyond the scope, the authority invested in the Board to look at it and we should not be a gatekeeper in the sense of preventing petitions from going forward to the DMV." She also understands "the DMV has limited resources and so there is a desire and there is a rationale that not everything in the whole world can go to them." This is Ms. Gibson's concern in allowing declarations and changing the format. There was a lengthy discussion with Ms. Doi and Ms. Gibson concerning requiring declarations or perhaps a verified petition.

Ms. Gibson commented that she cannot think of another state that allows for a protest on the basis of performance standards. She asked for guidance from the Board on what is going to be the remedy that is awarded in a performance standard protest. Since the manufacturer has the burden, if it was found to be in violation, what remedy or how will the decision ultimately be adopted by the Board and how will that read? Ms. Parker responded that regulations would not be promulgated in this regard. It would be a judge that would make a preliminary determination and then it would go to the Board for the ultimate determination. Until a case is filed and goes through the process, staff will not really know how the statute will be interpreted. After that time, then it may be appropriate to bring to the Board additional regulations. After further discussion, Ms. Parker said that the Board is limited in what it can do in statute. If more clarity is needed, then perhaps the statute should be amended.

Mr. Bento offered a point of clarification that the rulemaking process had not yet begun so this is just consideration of a proposed regulation and there would be a public comment period.

Ms. Doi asked whether there should be public comment from stakeholders before the regulations go forward. Ms. Parker responded that the regulations are primarily non-substantive and are not controversial; there is no discretion.

Mr. Bento asked if the regulations were not adopted pertaining to the performance standard protest, then what would happen if such a protest were filed prior to the adoption of those regulations. Ms. Parker indicated that the protestant would have to look to other regulations that are for a similar protest.

Mr. Stevens moved to adopt the non-substantive proposed regulations. Ms. Liu seconded the motion. The motion carried unanimously.

Ms. Parker inquired that if Ms. Doi's concerns pertained only to Sections 556 and 586.5, then could the Board adopt the substantive regulations excluding those so that staff could move forward with the rulemaking. Ms. Doi moved to adopt the substantive regulations with the exception of Sections 556 and 586.5. Mr. Stevens seconded the motion. The motion carried unanimously.

Ms. Doi read the following statement into the record:

Given the Board's decision to go forward with the proposed regulations, I hereby delegate to the Executive Director the ministerial duty of proceeding through the rulemaking process in compliance with the Administrative Procedure Act. Notice of the proposed rulemaking will be published in the California Regulatory Notice Register and will be sent to the Public Mailing List. During the public comment period, I want to invite and encourage written and oral comments. Additionally, a public hearing at the Board's offices may be held to accept oral and written comments.

By the Board instructing staff to go forward with the proposed regulations, this does not necessarily indicate final Board action. If any written or oral comments are received, the full Board will consider the comments and reconsider the text of the proposed regulations. Furthermore, if the staff decides that substantive modifications to the proposed text are necessary, the Board will consider those modifications at a noticed meeting. However, non-substantive changes involving format, grammar, or spelling suggested by the Office of Administrative Law or the staff will not be considered by the Board because they are non-regulatory in nature. They will be considered by the Executive Committee and ultimately reported to the Board at a future meeting. If there are no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

25. **DISCUSSION AND CONSIDERATION OF AMENDING THE BOARD'S PARLIAMENTARY PROCEDURES TO AUTOMATICALLY FILL VACANT COMMITTEE CHAIR POSITIONS WITH THE MEMBER - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tim Corcoran and Robin Parker concerning amending the Board's Parliamentary Procedures to automatically fill vacant committee chair positions with the member. Ms. Parker reported that the change will ensure each committee has a Chair in the event of a Member vacancy. The proposed change is as follows:

**ARTICLE 4. BOARD COMMITTEES**

1. The President of the Board may form committees and appoint Members thereto for the purpose of performing any duty which is not otherwise prohibited by law. The President may appoint a Chair, however, each Member of any Board committee shall

have equal standing on that committee with respect to committee action. In the event the Chair of a committee is vacant due to any reason, the Member of that committee will automatically become the Chair; the Member position will then be vacant until the President makes an appointment.

...

Mr. Alvarez moved to adopt the revised Parliamentary Procedures. Mr. Stevens seconded the motion. The motion carried unanimously.

26. **DISCUSSION CONCERNING WHETHER THE BOARD SHOULD PROMULGATE REGULATIONS PERTAINING TO PETITIONS SEEKING RELIEF PURSUANT TO SUBDIVISION (C)(1) AND/OR (C)(3) OF VEHICLE CODE SECTION 3050 (DEPARTMENT OF MOTOR VEHICLES INVESTIGATION AND/OR LICENSING ACTION) - POLICY AND PROCEDURE COMMITTEE**

This matter was postponed until the February meeting (subsequently changed to March 5, 2020).

27. **DISCUSSION AND CONSIDERATION OF THE BOARD'S MISSION AND VISION STATEMENTS - AD HOC COMMITTEE**

The members were provided with a memorandum from Tim Corcoran concerning proposed revisions to the Board's mission and vision statements. Mr. Stevens reported that the Ad Hoc Committee met with the Department of Motor Vehicles and staff to participate in a workshop to develop the revised Mission and Vision statements. Mr. Stevens explained the Vision statement in response to Ms. Doi's request. The Vision statement was changed a lot to be more cohesive.

Mr. Stevens moved to adopt the revised Mission and Vision Statements. Mr. Alvarez seconded the motion. The motion carried unanimously.

The revised statements are:

**Mission**

To enhance relations between dealers and manufacturers throughout the state by resolving disputes in the new motor vehicle industry in an efficient, fair and cost-effective manner.

**Vision**

To demonstrate professionalism, integrity, and accountability in securing fair resolutions to motor vehicle industry disputes.

28. **DISCUSSION OF INDUSTRY-RELATED ADVERTISING LAWS AND SEPTEMBER 18, 2019, PUBLIC FORUM - AD HOC COMMITTEE**

Mr. Corcoran and the members of the Ad Hoc Committee, Ramon Alvarez and Nanxi Liu, discussed the September 18, 2019, public forum on industry-related advertising laws.

Mr. Corcoran noted that the workshop was well-attended and he thought it went very well. Presentations were made by: Kerry O'Brien, Federal Trade Commission; Alisa Reinhardt and Anthony Bento from CNCDA; Attorney Robert Robards from Robards and Stearns, PC; Jay Vijayan, CEO of Tekion Inc.; and Bert Rasmussen from Scali Rasmussen.

A general take-away from the workshop was that there is overwhelming interest in the industry that DMV open rulemaking to address the modernizations and technology advancements but, also, that consumers continue to enjoy protection through proactive compliance seeking measures. There was a lot of discussion on modernizing the rules to meet new technology, but that does not mean you do not enforce today's rules if there's potential for consumer harm. The next step would be to continue working with DMV if they are interested in regulation changes. The Board could attend or convene stakeholder meetings. Mr. Corcoran did not think it was necessary to continue with the Ad Hoc Committee unless the Board would like to. This function could go back to an existing standing committee. And, those committee members might participate with DMV during their workshops. Perhaps this would go to the Government and Industry Affairs Committee since it would be the Board interacting with the industry and other government bodies.

Mr. Corcoran indicated that these are all DMV rules and their enforcement authority and obligations. The Board has no jurisdictional authority and the Board would be offering support. Ms. Liu said that she found the meeting very educational and all the credit goes to Mr. Corcoran in arranging the speakers. Mr. Alvarez indicated that it was a great agenda and the DMV should be pushed to update their systems.

Mr. Bento thanked the Board, thought it was very informative, and echoed Mr. Alvarez's comments. The CNCDA receives a number of complaints from its members regarding the activity of other licensees on vehicle advertising. The industry is in need of guidance regarding how to properly advertise vehicles in the 21<sup>st</sup> century online and what are the do's and don'ts. Regarding Ms. Doi's question on what the next steps are, Mr. Bento indicated that AAMVA (American Association of Motor Vehicle Administrators) will be releasing model regulations on vehicle advertising that are being developed. Although, Mr. Bento does not think it will touch on specific issues with California but it is worth considering.

Both Ms. Liu and Mr. Alvarez are fine keeping the Ad Hoc Committee. Ms. Doi indicated that for now she would like to keep the Ad Hoc Committee as it is currently composed and for the near future so they can continue to offer input. Mr. Alvarez thinks this committee needs to be a standing committee. At the next meeting, whether to make the Ad Hoc Committee a standing committee will be considered.

There was no Board action as this matter was for information only.

29. **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. Corcoran 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. Corcoran provided a wrap up of 2019:

- Two new members were welcomed and trained: Nanxi Liu in April and Inder Dosanjh in June.
- Alex Martinez, an Office Assistant, was hired.
- Several regulation packages were processed or in-progress including updating the Conflict of Interest Code, and amending the rules for substitution of counsel and peremptory challenges.
- The highest attended meeting of the NAMVBC was hosted by California.
- The SLAA (State Leadership Accountability Act) analysis was completed, which is used for the Board's workforce retention and succession plan.
- To further address the Board's workforce succession plan, the Board will consider hiring another administrative law judge.
- ALJ Matteucci completed a year shadowing ALJ Skrocki on law and motion hearings, which is also key in succession planning.
- For the first time in over 10 years, the Board updated its mission and vision statements.
- The Board staff gave back to our communities through individual and team fundraising efforts: (1) although the Board was last in the Great Shoe Race it was one of the highest contributors in the fundraiser; (2) the Board took 1<sup>st</sup> place in a CalSTA bowling event for the Our Promise Campaign led by Eugene Ohta; and (3) the Board's charitable contributions to the Our Promise Campaign were added to the DMV's to support Loaves & Fishes.
- The newest addition to the Board family was welcomed in October.

Ms. Parker reported that Judge Skrocki issued a Proposed Order in Peninsula Chevrolet Cadillac that the Public Members will consider at the first meeting of the year. With regards to judicial matters, the hearing on the writ pertaining to the termination of Folsom Chevrolet is in April 2020.

Ms. Phomsopha reported that the final rulemaking packet for peremptory challenges was approved by Office of Administrative Law. With regards to case management, Ms. Phomsopha noted that Center Acura was unconsolidated and Beshoff Infiniti was dismissed.

There was no Board action as this matter was for information only.

### 30. **SELECTION OF BOARD MEETING DATES FOR 2020**

The members were provided with a memorandum from Tim Corcoran concerning Board meeting dates for 2020. The members went off the record for this discussion. Ms. Doi indicated that meetings have been set for February 4, 2020, in Sacramento (subsequently changed to March 5 in Sacramento) and April 23, 2020, in Southern California pending confirmation of the other members.

Mr. Stevens left the meeting so the Board lost its quorum.

31. **CLOSED EXECUTIVE SESSION**

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

A. **ORAL INTERVIEW OF THE ADMINISTRATIVE LAW JUDGE CANDIDATE, BY ALL MEMBERS OF THE BOARD - ADMINISTRATION COMMITTEE**

The Public and Dealer members of the Board conducted oral interviews of the Administrative Law Judge candidate.

B. **CONSIDERATION OF THE ADMINISTRATIVE LAW JUDGE NOMINEE, BY ALL MEMBERS OF THE BOARD - ADMINISTRATION COMMITTEE**

The Public and Dealer members of the Board considered the administrative law judge nominee. Mr. Alvarez moved to offer position to the candidate conditionally upon the completion of a reference check. Ms. Doi seconded the motion. The motion carried unanimously. This decision will be ratified by the Board at its next General Meeting.

32. **OPEN SESSION**

The members of the Board returned to open session. Ms. Doi announced the decision in Agenda item 31(b).

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

No additional public comment was presented.

34. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 4:07 p.m.

Submitted by

---

TIMOTHY M. CORCORAN  
Executive Director

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

Kathryn Ellen Doi  
President  
New Motor Vehicle Board