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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a Special meeting on April 7, 2021, via Zoom and teleconference. Bismarck Obando, President and Public Member, called the meeting of the Board to order at 1:35 p.m.

Mr. Obando welcomed everyone to the meeting and stated that the meeting materials are available on the Board’s website and hard copies of the materials can be requested by contacting the Board’s legal staff. He also set forth the parameters for the meeting.

2. **ROLL CALL**

Board Members Present: Kathryn Ellen Doi
 Ardashes “Ardy” Kassakhian
 Nanxi Liu
 Bismarck Obando

Board Members Not Present: Daniel P. Kuhnert

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

 Anthony M. Skrocki, Administrative Law Judge

3. **CLOSED EXECUTIVE SESSION**

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

DISCUSSION AND ADVICE FROM LEGAL COUNSEL CONCERNING PENDING LITIGATION

GENERAL MOTORS LLC v. CALIFORNIA NEW MOTOR VEHICLE BOARD; FOLSOM CHEVROLET, INC., d/b/a FOLSOM CHEVROLET, Real Party in Interest

California Superior Court, Los Angeles County Case No. BS175257
New Motor Vehicle Board No. CRT-276-18
Protest No. PR-2483-16

Discussion and advice from the Board's legal counsel concerning pending litigation, by the Public Members of the Board.

Mr. Obando noted on the record that Ms. Phomsopha was precluded from participating in this matter, so she did not join the closed Executive Session.

The Public Members of the Board convened in closed Executive Session. An attorney-client work product privilege memorandum from Robin Parker, Chief Counsel, was provided to the members to justify the closed Executive Session. The members participated in a discussion of this matter with Michael Gowe, Deputy Attorney General. No action was taken.

4. **OPEN SESSION**

Mr. Obando announced that no formal action was taken on this matter during the closed Executive Session.

The meeting was turned over to Kathryn Doi, attorney Public Member and former Board President. Ms. Doi apologized to those in attendance at the last Special Meeting that she presided over when the Board was not able to hear this matter.

Even though it did not appear any Dealer Members were at the meeting, just in case Ms. Doi wanted to remind them that they may not participate in, hear, comment, advise other members upon, or decide this matter.

5. **CONSIDERATION OF DECISION IN LIGHT OF JUDGMENT ON GENERAL MOTORS LLC'S PETITION FOR WRIT OF ADMINISTRATIVE MANDATE**

FOLSOM CHEVROLET, INC., dba FOLSOM CHEVROLET v. GENERAL MOTORS, LLC
Protest No. PR-2483-16

Consideration of the Decision in light of the Los Angeles County Superior Court's "Judgment on Petition for Writ of Administrative Mandate" commanding the Board to set aside that portion of its Decision, dated August 13, 2018, finding that General Motors LLC violated Vehicle Code section 11713.13(g)(1)(A) generally and in this

specific case, by the Public Members of the Board. Otherwise, the petition for writ of administrative mandate was denied and the Board's Decision affirmed.

Public comments were presented before the Public Members of the Board by Halbert B. Rasmussen, Esq. of Scali Rasmussen and Mark T. Clouatre, Esq. of Nelson Mullins Riley & Scarborough LLP.

In accordance with the Los Angeles County Superior Court's Judgment and Writ of Mandate, Mr. Obando moved to amend the Board's August 13, 2018, Decision as follows:

1. Paragraph 218, lines 5-6 are deleted: "The use of RSI generally by General Motors, and as applied in this case, violates Section 11713.13(g)(1)(A)."
2. Paragraph 219, lines 13-15 are deleted: "So too, in this case, RSI violates Section 11713.13(g); average performance based on statewide sales, tempered only by considering segments, i.e., general vehicle types that have particular characteristics."
3. Paragraph 223, lines 5-6 are deleted: "The use of RSI generally by General Motors, and as applied in this case, violates Section 11713.13(g)(1)(A)."

Otherwise, the Board's Decision was affirmed, which includes changes approved at the August 13, 2018, General Meeting incorporated into the Decision as follows:

1. Paragraph 150, page 48, line 7, add the word "RSI" after 84.9 so it reads "84.9 RSI."
2. Paragraph 179, page 57, line 26, add the word "million" after "\$1.643" so it reads "\$1.643 million."

Mr. Kassakhian seconded the motion. The motion carried unanimously.

7. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 2:23 p.m.

Submitted by



TIMOTHY M. CORCORAN
Executive Director

APPROVED: _____



Bismarck Obando
President
New Motor Vehicle Board