

P.O. Box 188680
Sacramento, California 95818-8680
Telephone: (916) 445-1888
Contact Person: Robin Parker
www.nmvb.ca.gov

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board (“Board”) held a Special meeting on February 16, 2021, via Zoom and teleconference. Kathryn Doi, President and Public Member, called the meeting of the Board to order at 1:04 p.m.

Ms. Doi 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 at (916) 445-1888 or nmvb@nmvb.ca.gov. The Board’s Executive Director, Timothy Corcoran, set forth the parameters for the meeting.

2. **ROLL CALL**

Board Members Present: Kathryn Ellen Doi
Daniel P. Kuhnert
Nanxi Liu (left at 2:14 p.m.)
Bismarck Obando (left at 2:45 p.m.)

Anne Smith Boland (Dealer Member did not participate)

Board Members Not Present: Ardashes “Ardy” Kassakhian

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
Stephen J. Smith, Administrative Law Judge

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

Ms. Doi reminded Ms. Smith Boland, the Dealer Member in attendance, that she may not participate in, hear, comment or advise other members upon or decide Agenda Items 3 and 4.

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. No other information or argument will be considered by the Board.” Furthermore, she indicated that since these are adjudicative matters as described in Government Code section 11125.7(e), members of the public may not comment on such matters.

- a. MERCED TRUCK & TRAILER, INC., a California Corporation v. DAIMLER TRUCK NORTH AMERICA, LLC, and Does 1-50, inclusive
Protest No. PR-2671-20

Oral comments were presented before the Public Members of the Board. Andrew V. Stearns, Esq. of the Robards & Stearns, PC represented Protestant. Also, present on behalf of Protestant was Don Bonander. Roberta F. Howell, Esq. and Dyana K. Mardon, Esq. of Foley & Lardner LLP represented Respondent.

- b. BONANDER AUTO, TRUCK & TRAILER, INC., a California Corporation v. DAIMLER TRUCK NORTH AMERICA, LLC
Protest No. PR-2673-20

Oral comments were presented before the Public Members of the Board. Andrew V. Stearns, Esq. of the Robards & Stearns, PC represented Protestant. Also, present on behalf of Protestant was Don Bonander. Roberta F. Howell, Esq. and Dyana K. Mardon, Esq. of Foley & Lardner LLP represented Respondent.

4. **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 ORDER**

MERCED TRUCK & TRAILER, INC., a California Corporation v. DAIMLER TRUCK NORTH AMERICA, LLC, and Does 1-50, inclusive
Protest No. PR-2671-20

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent Daimler Truck North America, LLC's Motion to Dismiss Protest, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Prior to the vote, Ms. Liu had to leave the meeting. Mr. Obando moved to adopt the Administrative Law Judge's Proposed Order. Mr. Kuhnert seconded the motion. The motion carried unanimously.

b. **CONSIDERATION OF PROPOSED ORDER**

BONANDER AUTO, TRUCK & TRAILER, INC., a California Corporation
v. DAIMLER TRUCK NORTH AMERICA, LLC
Protest No. PR-2673-20

Consideration of the Administrative Law Judge's Proposed Order Granting Respondent Daimler Truck North America, LLC's Motion to Dismiss Protest, by the Public Members of the Board.

The Public Members of the Board deliberated in closed Executive Session. Ms. Doi moved to remand the matter to Administrative Law Judge Skrocki for additional consideration and decision as to whether Paragraph 5 of Addendum 1 to the Dealer Agreement dated 1997 provides Protestant Bonander with standing to protest the termination of or modification of its franchise. Mr. Kuhnert seconded the motion. The motion carried unanimously.

5. **OPEN SESSION**

Ms. Doi noted that Mr. Obando had to leave the meeting at 2:45 p.m. but was present for the entirety of the discussion and voted on the two case management matters.

The Public Members returned to Open Session. Ms. Doi announced the decisions in Agenda Item 4.

6. **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 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.

Ms. Doi indicated that the Board lost its quorum, so the Board was not able to address this matter. A date for a Special Meeting will be set as soon as possible. Counsel declined making any public comments at this time.

7. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at approximately 2:53 p.m.

Submitted by



TIMOTHY M. CORCORAN
Executive Director

APPROVED: _____



Bismarck Obando
President
New Motor Vehicle Board