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Attorney(s) for Protestant

SAMPLE PROTEST
3070 Modification

STATE OF CALIFORNIA

NEW MOTOR VEHICLE BOARD

In the Matter of the Protest of

NAME OF DEALERSHIP/FRANCHISEE,

Protestant,

v.

**NAME OF MANUFACTURER/DISTRIBUTOR/
FRANCHISOR,**

Respondent.

Protest No. (leave blank)

PROTEST

[Vehicle Code §3070]

Protestant, [enter Protestant's name], files this protest under the provisions of California
Vehicle Code section 3070(b) and alleges as follows:

1. Protestant is a new recreational vehicle dealer selling [enter line-make] and is located
at [address of dealership]. Protestant's telephone number is [enter telephone number].

2. Respondent distributes/manufactures [enter line-make] products and is the franchisor of
Protestant.

3. Protestant is represented in this matter by [Name of Attorney or Protestant's Dealer
Principal or authorized representative], whose address is [enter address] and telephone number is [enter
telephone number].

1 4. On or about [enter a date], Protestant received from Respondent a notice that Respondent
2 intends to modify or replace its existing franchise with a succeeding franchise.

3 **[Note: the protest needs to be filed with the Board within 30 calendar days of receipt of the notice]**

4 5. Respondent's actions will result in the modification (or replacement) of Protestant's
5 franchise without Protestant's consent, and such modification (or replacement) will substantially affect
6 Protestant's sales and service obligations and investments.

7 6. Respondent does not have good cause to modify (or replace) the franchise considering the
8 existing circumstances as stated in Vehicle Code section 3071. These circumstances include but are not
9 limited to all of the following:

10 (a) Amount of business transacted by the franchisee, as compared to the business available to
11 the franchisee.

12 (b) Investment necessarily made and obligations incurred by the franchisee to perform its part
13 of the franchise.

14 (c) Permanency of the investment.

15 (d) Whether it is injurious to the public welfare for the franchise to be modified.

16 (e) Whether the franchisee has adequate new recreational vehicle sales and, if required by the
17 franchise, service facilities, equipment, vehicle parts, and qualified service personnel to reasonably
18 provide for the needs of the consumers for the recreational vehicles handled by the franchisee and has
19 been and is rendering adequate services to the public.

20 (f) Whether the franchisee fails to fulfill the warranty obligations of the franchisor to be
21 performed by the franchisee.

22 (g) Extent of franchisee's failure to comply with the terms of the franchise.

23 (h) Other circumstances that would support the claim that there is not good cause to modify
24 Protestant's franchise.

25 7. Protestant and its attorney(s) desire to appear before the Board and estimate that the
26 hearing in this matter will take [enter number of days] days to complete.

27 8. A Pre-Hearing Conference is requested.

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WHEREFORE, Protestant prays as follows:

1. That the Board (or its authorized representative) immediately advise Respondent that a protest has been filed;
2. That a hearing of the Protest is required pursuant to Vehicle Code section 3080; and,
3. That, pursuant to Vehicle Code sections 3070 and 3071, Respondent may not modify or replace the franchise unless and until the Board finds that Respondent has established good cause for such action.

Date: [enter date]

By [signature]
Attorney(s) name(s)

**THE PROTEST MAY NOT BE PROCESSED WITHOUT AN
ATTACHED PROOF OF SERVICE AND
THE \$200.00 FILING FEE PAID BY CHECK**

DISCLAIMER: This sample provides a basic means for drafting a document for filing with the Board, but the sample should not be mistaken as a substitute for personalized advice from a qualified attorney or other person sufficiently knowledgeable to represent parties before the Board. The Board strives to provide relevant, accurate and complete information. However, the Board cannot and does not warrant the relevancy, accuracy, completeness or propriety of the information provided in this sample.