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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

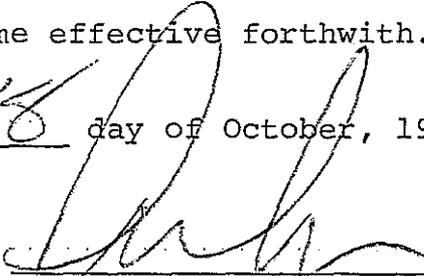
In the Matter of the Protest of)
RICE MOTOR COMPANY dba HONDA OF) Protest No. PR-443-83
WEST COVINA,)
Protestant,)
vs.)
AMERICAN HONDA MOTOR COMPANY,)
INC.,)
Respondent.)
_____)

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the New Motor Vehicle Board as its Decision in the above-entitled matter.

This Decision shall become effective forthwith.

IT IS SO ORDERED this 18 day of October, 1983.



ALLAN E. CONE
President
New Motor Vehicle Board

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| In the Matter of the Protest of |) | |
| |) | |
| RICE MOTOR COMPANY dba HONDA OF |) | |
| WEST COVINA, |) | Protest No. PR-443-83 |
| |) | |
| Protestant, |) | <u>PROPOSED DECISION</u> |
| |) | |
| vs. |) | |
| |) | |
| AMERICAN HONDA MOTOR COMPANY, INC., |) | |
| |) | |
| Respondent. |) | |

PROCEDURAL BACKGROUND

1. On April 19, 1983, Rice Motor Company, dba Honda of West Covina (Rice), filed a protest against an alleged termination of its franchise by American Honda Motor Company, Inc. (Honda), with the New Motor Vehicle Board (Board), pursuant to the provisions of Vehicle Code Section 3060.^{1/}

^{1/} All references are to the California Vehicle Code unless otherwise indicated.

2. Honda did not serve Rice a notice of termination or refusal to continue its franchise pursuant to Section 3060.

3. Honda filed a motion for dismissal asserting lack of jurisdiction of the Board under Section 3060. The motion was denied.

4. A hearing on the protest was held before Merilyn Wong, Administrative Law Judge for the Board, commencing June 15, 1983, continuing June 16, 17, 29, and concluding on June 30, 1983.

5. Honda was represented by J. Donald McCarthy of Lyon and Lyon. Rice was represented by Michael Flanagan of Pilot and Spar.

ISSUES PRESENTED

6. Rice alleges that Honda's refusal to permit his relocation to the Golden Grove Business Center on Azusa Avenue will result in a defacto termination of the franchise, in that if Rice is unable to relocate, the dealership will cease doing business.

7. Rice alleges that Honda will cause a termination without first providing written notice to Rice and the Board and without first establishing good cause for such termination as contemplated by Sections 3060 and 3066.

DETERMINATION OF ISSUES

It is determined that Rice has failed to establish that Honda intended to or will in fact terminate or refuse to continue its franchise within the meaning of Section 3060 in that:

- (a) Honda had previously given Rice permission to move to 1717 East Rowland Avenue located north of the I-10 freeway, which is within one mile of Rice's existing location;
- (b) Honda encouraged Rice to relocate south of the I-10 freeway in West Covina, an area in which Honda presently does not have a dealership and where opportunities exist for sales and service;
- (c) Honda renewed Rice's franchise agreement on April 21, 1983, and did not give notice of termination nor refusal to continue Rice's franchise.

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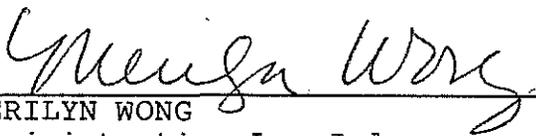
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The following proposed decision is respectfully submitted:

The protest is overruled. Rice has failed to establish a termination or refusal to continue its franchise by Honda within the meaning of Vehicle Code Section 3060.

I hereby submit the foregoing which constitutes my proposed decision in the above-entitled matter, as a result of a hearing had before me on the above dates at Los Angeles, California, and recommend its adoption as the decision of the New Motor Vehicle Board.

DATED: August 22, 1983



MERILYN WONG
Administrative Law Judge
New Motor Vehicle Board