



New Motor Vehicle Board

In-Site

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Ramon Alavrez C.

PRESIDENT'S YEAR END WRAP

Much has occurred in the automotive industry this past year. The devastating earthquake and tsunami that hit Japan on March 11, 2011, had a profound affect on the industry with automakers, suppliers and dealers having to prepare for shortages of parts and vehicles. This is coupled with the loss of so many long-time dealers and manufacturers both nationally and in California. The good news is that the industry is improving albeit slowly. We all hope that 2012 brings about better economic conditions.

I am proud to have served as the Board's President during 2011; it has been a true pleasure. The Board and staff continue to successfully accomplish its goals and responsibilities in accordance with our 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."

Changes to the Board's staff included the addition of Dana Winterrowd as Staff Counsel, and three new Administrative Law Judges (ALJ) Kymberly Pipkin, Lonnie M. Carlson, and Victor Ryerson. An ALJ training session was held in November and additional training will take place in early 2012. We thank them for their service and wish them well.

The Board made a number of changes to its regulations pertaining to case management. It eliminated the requirement of an original signature and now allows for filing pleadings via facsimile and e-mail. This has really streamlined case management.

An "Email Alert" subscription has been added to the Board's website. Additionally, mobile web access was

created to display the Board's website on a mobile device that can be browsed by any smart phone or tablet. Lastly, Board meeting materials are now available online 10 days prior to each meeting.

The 2011 Industry Roundtable was very successful and well-received by those in attendance. Please watch for materials concerning the upcoming Roundtable scheduled for March 21, 2012. It is held the day after the California New Car Dealers Association Dealer Day. This forum continues to educate our members and staff concerning relevant industry issues and encourages members of the vehicle industry to attend and participate.

I would like to thank our staff for their excellent performance and all of their hard work. As a team, they have ensured that the Board runs smoothly and efficiently. In addition, thank you to the attorneys and members of the industry that appear before the Board for their professionalism in representing their interests and clients.

Last but not least, a special thank you for the dedication of each Board member. As president, I am very proud of their tireless work. Each is successful in their own right and busy either running their own business or working for companies that understand the importance of public service; yet they are willing to devote significant time and energy to public service with only nominal compensation.

Les deseo un Feliz y Próspero Año Nuevo - May you have a prosperous New Year.

Ramon Alvarez C.

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DECEMBER 13, 2011 GENERAL BOARD MEETING

The New Motor Vehicle Board (“Board”) held a General meeting on December 13, 2011, at the Board’s offices. At that meeting, the members considered one case management matter as well as several administrative matters. Shayco, Inc., dba Ontario Volkswagen v. Volkswagen of America, Inc.

Protest No. PR-2265-10

Volkswagen sought to establish a new Volkswagen franchise in Montclair, California. Protestant is the only Volkswagen franchise located within the relevant market area of the proposed new dealer; they are approximately 8.65 to 8.7 air miles apart. Ontario Volkswagen filed a protest of the establishment. A merits hearing was held before Administrative Law Judge Marybelle D. Archibald.

The Proposed Decision overruling the protest was initially considered by the Board at its May 26, 2011, General Meeting. The Public Members remanded the matter by a three-to-one vote to ALJ Archibald to either take additional evidence or briefing on the good cause factor at Vehicle Code section 3063(b), which is the effect on the retail motor vehicle business and the consuming public in the relevant market area (“RMA”); specifically, the 19.4%

of sales that Ontario Volkswagen is making in the Montclair RMA.

The Proposed Decision Following Remand recommended that the protest be overruled. It was considered by the Public Members at the General Meeting of September 27, 2011. Pursuant to Government Code section 11517(c)(2)(E), the Board rejected the Administrative Law Judge’s Proposed Decision Following Remand with regards to the good cause factor in Vehicle Code section 3063(b) and indicated that the protest was to be sustained.

Glenn Stevens in conjunction with the staff drafted an “Order Confirming Decision to Sustain Protest”. This order would have the effect of sustaining the protest and would preclude the establishment of the proposed Volkswagen dealership in Montclair.

At the December 13, 2011, meeting, the Public Members unanimously adopted the order.

Kathy Tomono provided an update on the development and use of the Board’s website and indicated that the Board’s website has been improved with the completion of the “Email Alert” subscription; the staff now has the ability to do simple editing; mobile web access was created to display the Board’s website on a mobile device and can be browsed by any smart phone or tablet; and Board meeting materials are now available online 10 days prior to each meeting.

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Photo
unavailable
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Ms. Tomono also reported that of the 222 manufacturers/distributors which fall within the Board's jurisdiction that are required to file schedules and formulas pursuant to Vehicle Code sections 3064/3074 and 3065/3075, there is 100% compliance.

Dawn Kindel reported on the Board's financial condition report for fiscal year 2010-2011. The Board expended 73% of its appropriated budget through the end of the fiscal year. Miss Kindel also reported that the Board expended 22% of its appropriated budget through the 1st quarter of fiscal year 2011-2012. In addition, the Board's annual manufacturer/distributor fee collection has been completed for this year - \$436,180 was collected from 169 manufacturers and distributors, for the 1,222,540 vehicles sold in calendar year 2010.

The members adopted the 2011 edition of the *New Motor Vehicle Board Administrative Law Judges' Benchbook*.

The Board adopted the 2012 Rulemaking Calendar which was subsequently approved by Business, Transportation & Housing Agency and will ultimately be published in the California Regulatory Notice Register by the Office of Administrative Law.

The 2012 Industry Roundtable is scheduled for March 21, 2012, the day after California New Car Dealers Association Dealer Day event.

A report was given on the 2011 California State Employees Charitable Campaign. Mr. Ohta, a Co-Chair of the campaign reported that the Board raised a total of \$3,053 this year through generous donations made by Board Members, Administrative Law Judges and staff, and through the fundraising events.

The following dates were selected for the first half of 2012:

- Wednesday, February 8, 2012, General Meeting (location to be determined);
- Tuesday, March 20, 2012, General Meeting in Sacramento;
- Wednesday, March 21, 2012, Industry Roundtable in Sacramento; and,
- Tuesday, May 22, 2012, General Meeting (location to be determined).

SAVE THE DATE!
New Motor Vehicle Board
INDUSTRY ROUNDTABLE
Wednesday, March 21, 2012, 8:00 a.m.
For additional information
Contact Kathy Tomono at (916) 323-7203
or email ktomono@nmvb.ca.gov

2011 ANNUAL L.A. AUTO SHOW

The 2011 Annual L.A. Auto Show was held at the Los Angeles Convention Center November 18-27, 2011. The international show exhibits makes and models of import and domestic cars, including several World and North American debuts, as well as alternative fuel/electric vehicles and race cars. General Motors, Ford and Honda were the headliners at the show. The Ford Focus Electric, the Honda Civic Natural Gas, the Mitsubishi i, the Toyota Prius V and the Volkswagen Passat TDI were all named finalists for the Green Car of the Year award from *Green Car Journal*. The winner was the 2012 Honda Civic Natural Gas.

Executive Director Bill Brennan and Board Members, Ramon Alvarez C, and Glenn Stevens attended one day of the show.

BOARD'S WEBMASTER RECEIVES SILVER STAR AWARD

Melvin Bailey, Staff Information Systems Analyst, Communications Program Division for the Department of Motor Vehicles ("DMV"), recently received the Silver Star Award for his truly outstanding performance. Melvin has been the webmaster for the New Motor Vehicle Board for several years. In addition to his accomplishments at DMV, Melvin was recognized for his work on redesigning the Board's website by developing a web application that provides customers visiting the site the ability to subscribe to periodicals, newsletters, and meeting agendas. Melvin takes each assignment personally and as a challenge; he accepts each task enthusiastically and with a high degree of professionalism and commitment. Both the Board and DMV appreciate Melvin's exceptional customer service and his ability to attain desired results through positive, timely action.

NMVB HOLIDAY SPIRIT

Board staff showed their holiday spirit by donating canned food and other non-perishable food items to the Department of Motor Vehicles' ("DMV") 2011 annual food drive. The staff provided several items of food and money donations for bags of rice. All donations were distributed through Food Link, a network of food closets, emergency shelters, soup kitchens and senior sites in the greater Sacramento area.

NEW MOTOR VEHICLE BOARD
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