

**STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**DOAH CASE NO.: 09-2128
DMV CASE NO. 09-0937,
FINAL ORDER #: HSMV-09-1404-S-DMV**

**MAZDA MOTOR OF AMERICA, INC.
d/b/a MAZDA NORTH AMERICAN
OPERATIONS AND BCSS, LTD.,
d/b/a BACHRODT MAZDA POMPANO
BEACH,**

Petitioners,

vs.

**FLORIDA MAG ENTERPRISES, INC.
d/b/a DELRAY MAZDA,**

Respondent.

FINAL ORDER

This matter came before the Department for entry of a Final Order upon submission of an Order Closing File by Errol H. Powell, Administrative Law Judge of the Division of Administrative Hearings, pursuant to Petitioner's Withdrawal of Notice of Establishment and Motion to Dismiss Protest, a copy of which is attached and incorporated by reference in this order. The Department hereby adopts the Order Closing File as its Final Order in this matter.

Accordingly, it is hereby

ORDERED that this case is CLOSED and no license will be issued to Mazda Motor of America, Inc. d/b/a Mazda North American Operations and BCSS, Ltd. d/b/a Bachrodt Mazda Pompano Beach to sell automobiles manufactured by Mazda (MAZD) at 1801 West Atlantic Boulevard, Pompano Beach (Broward County), Florida 33069.

DONE AND ORDERED this 17th day of September, 2009, in Tallahassee, Leon County, Florida.



CARL A. FORD, Director
Division of Motor Vehicles
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building
Tallahassee, Florida 32399

Filed with the Clerk of the
Division of Motor Vehicles
this 18th day of September, 2009.


Nalini Vinayak, Dealer License Administrator

NOTICE OF APPEAL RIGHTS

Judicial review of this order may be had pursuant to section 120.68, Florida Statutes, in the District Court of Appeal for the First District, State of Florida, or in any other district court of appeal of this state in an appellate district where a party resides. In order to initiate such review, one copy of the notice of appeal must be filed with the Department and the other copy of the notice of appeal, together with the filing fee, must be filed with the court within thirty days of the filing date of this order as set out above, pursuant to Rules of Appellate Procedure.

CAF:vlg

Copies furnished:

Louis C. Bachrodt, III
BCSS, Ltd. d/b/a Bachrodt
Mazda Pompano Beach
1801 West Atlantic Boulevard
Pompano Beach, Florida 33069

John J. Shahady, Esquire
Adorno & Yoss, LLP
350 East Las Olas Boulevard, Suite 1700
Fort Lauderdale, Florida 33301-4217

Dean Bunch, Esquire
Nelson Mullins Riley & Scarborough LLP
3600 Maclay Boulevard South, Suite 202
Tallahassee, Florida 32309

Michael J. Alderman, Esquire
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building
2900 Apalachee Parkway, Room A432
Tallahassee, Florida 32399

Errol H. Powell
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Nalini Vinayak
Dealer License Administrator

Florida Administrative Law Reports
Post Office Box 385
Gainesville, Florida 32602

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MAZDA MOTOR OF AMERICA, INC.,)
d/b/a MAZDA NORTH AMERICAN)
OPERATIONS AND BCSS, LTD.,)
d/b/a BACHRODT MAZDA POMPANO)
BEACH,)
)
Petitioners,)
)
vs.) Case No. 09-2128
)
FLORIDA MAG ENTERPRISES, INC.,)
d/b/a DELRAY MAZDA,)
)
Respondent.)
_____)

ORDER CLOSING FILE

This cause having come before the undersigned on Petitioner's Withdrawal of Notice of Establishment and Motion to Dismiss Protest, filed September 8, 2009, to which Respondent does not object, and the undersigned being fully advised, it is, therefore,

ORDERED that:

1. The final hearing in this cause scheduled for November 16 through 20, 2009, is hereby canceled.
2. The file of the Division of Administrative Hearings in the above-captioned matter is hereby closed. Jurisdiction is hereby relinquished to the referring agency.

DONE AND ORDERED this 9th day of September, 2009, in Tallahassee, Leon County, Florida.

Errol H. Powell

ERROL H. POWELL
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 9th day of September, 2009.

COPIES FURNISHED:

Jennifer Clark
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, Room A-308
2900 Apalachee Parkway
Tallahassee, Florida 32399-0635

Louis C. Bachrodt, III
BCSS, Ltd., d/b/a Bachrodt
Mazda Pompano Beach
1801 West Atlantic Boulevard
Pompano Beach, Florida 33069

John J. Shahady, Esquire
Adorno & Yoss, LLP
350 East Las Olas Boulevard, Suite 1700
Fort Lauderdale, Florida 33301-4217

Dean Bunch, Esquire
Nelson Mullins Riley & Scarborough LLP
3600 Maclay Boulevard South, Suite 202
Tallahassee, Florida 32309

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MAZDA MOTOR OF AMERICA, INC.,
d/b/a MAZDA NORTH AMERICAN
OPERATIONS and BCSS, LTD., d/b/a
BACHRODT MAZDA POMPANO BEACH

Petitioners,

vs.

Case No. 09-2128

FLORIDA MAG ENTERPRISES d/b/a
DELRAY MAZDA,

Respondent.

**WITHDRAWAL OF NOTICE OF ESTABLISHMENT AND
MOTION TO DISMISS PROTEST**

Petitioners, Mazda Motor of America, Inc. d/b/a Mazda North American Operations ("MNAO") and BCSS, Ltd., give notice that they withdraw the notice to establish BCSS, Ltd. d/b/a Bachrodt Mazda Pompano Beach, and move the Administrative Law Judge pursuant to Rule 28-106.204, Florida Administrative Code, to enter an order dismissing this matter as moot, and state in support:

1. At the request of MNAO, the Florida Department of Highway Safety and Motor Vehicles ("the Department") caused to be published in the Florida Administrative Weekly, Volume 35, Number 11, on March 20, 2009, a notice of the establishment of BCSS, Ltd. d/b/a Bachrodt Mazda Pompano Beach ("Bachrodt Mazda") as a dealership for the sale of Mazda vehicles at 1801 West Atlantic Blvd., Pompano Beach, Florida 33067 ("the Notice"). A copy of the Notice is attached as Exhibit "A."


2. On April 21, 2009, Respondent Florida Mag Enterprises, Inc. d/b/a Delray Mazda ("Delray") filed a protest with the Department, objecting to the establishment of Bachrodt Mazda.

3. BCSS and MNAO have determined not to establish Bachrodt Mazda at the published location and hereby withdraw the Notice.

4. With the notice withdrawn, the protest by Delray is now moot and should be dismissed.


5. The undersigned counsel for MNAO has conferred with counsel for Delray and is authorized to represent that Delray has no objection to the dismissal of this case.

⁸
Dated September 1, 2009.



Andy Bertron
Nelson Mullins Riley & Scarborough, LLP
3600 Maclay Blvd. S., Suite 202
Tallahassee, FL 32312
Telephone: (850) 907-2507
Facsimile: (850) 907-2552
andy.bertron@nelsonmullins.com

*Attorneys for Mazda Motor of America, Inc.
dba Mazda North American Operations*



Alex Kurkin
Kurkin Brandes, LLP
4300 Biscayne Blvd., Suite 305
Miami, Florida 33137
Telephone: (305) 929-8510
Facsimile: (305) 675-0564
alex@kurkinbrandes.com

*Attorneys for BCSS, Ltd. dba Bachrodt Mazda
Pompano Beach*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by e-mail to John J. Shahady, Adorno & Yoss, LLP, 350 East Las Olas Blvd., Suite 1700, Ft. Lauderdale, Florida 33301 (jshahady@adorno.com), on September 1, 2009.

⁸


Attorney

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Notice of Publication for a New Point

Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Adly Moto, LLC, intends to allow the establishment of Sunset Point Scooters, Inc. d/b/a Sunset Scooters, as a dealership for the sale of motorcycles manufactured by HerChee Industrial Co. Ltd. (HERH) at 2300 Sunset Point Road, Clearwater (Pinellas County), Florida 33765, on or after March 4, 2009.

The name and address of the dealer operator(s) and principal investor(s) of Sunset Point Scooters, Inc. d/b/a Sunset Scooters are dealer operator(s): Douglas V. Vitello, 2300 Sunset Point Road, Clearwater, Florida 33765 and Gary Parr, 2300 Sunset Point Road, Clearwater, Florida 33765; principal investor(s): Douglas V. Vitello, 2300 Sunset Point Road, Clearwater, Florida 33765 and Gary Parr, 2300 Sunset Point Road, Clearwater, Florida 33765.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Henry Li, Adly Moto, LLC, 1725 Hurd Drive, Suite 108, Irving, Texas 75038.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.



Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Mazda Motor of America, Inc. d/b/a Mazda North American Operations, intends to allow the establishment of BCSS, Ltd. d/b/a Bachrodt Mazda Pompano Beach, as a

dealership for the sale of Mazda automobiles (MAZD) at 1801 West Atlantic Boulevard, Pompano Beach (Broward County), Florida 33069, on or after April 15, 2009.

The name and address of the dealer operator(s) and principal investor(s) of BCSS, Ltd. d/b/a Bachrodt Mazda Pompano Beach are dealer operator(s): Louis C. Bachrodt, III, 1801 West Atlantic Boulevard, Pompano Beach, Florida 33069; principal investor(s): Louis C. Bachrodt, III, 1801 West Atlantic Boulevard, Pompano Beach, Florida 33069.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS 65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Chris Crawford, Mazda Motor of America, Inc. d/b/a Mazda North American Operations, 4601 Touchtone Road East 3100, Jacksonville, Florida 32246.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Hibird USA, LLC, intends to allow the establishment of New Wave Cycles, Inc., as a dealership for the sale of motorcycles manufactured by Chongqing Hi-Bird Motorcycle Industry Co. Ltd. (HIBR) at 14813 US Highway 19 North, Hudson (Pasco County), Florida 34667, on or after March 3, 2009.

The name and address of the dealer operator(s) and principal investor(s) of New Wave Cycles, Inc. are dealer operator(s): Gary McCarthy, 7436 Hatteras Drive, Hudson, Florida 34667; principal investor(s): Gary McCarthy, 7436 Hatteras Drive, Hudson, Florida 34667.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.