

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

**MS CASE NO.: MS-12-940; MS-12-941; MS-12-944; MS-12-945; MS-12-947
FINAL ORDER NO.: HSMV-13-512-S-MS**

BMW OF NORTH AMERICA, LLC,

Petitioner,

Case No. 12-3385

vs.

**SOUTH MOTOR COMPANY OF DADE
COUNTY D/B/A SOUTH MOTORS BMW,**

Respondent.

BMW OF NORTH AMERICA, LLC,

Petitioner,

Case No. 12-3386

vs.

POMPANO IMPORTS, INC.,

Respondent.

BMW OF NORTH AMERICA, LLC,

Petitioner,

Case No. 12-3387

vs.

POMPANO IMPORTS, INC.,

Respondent.

BMW OF NORTH AMERICA, LLC,

Petitioner,

Case No. 12-3389

vs.

**SARASOTA AUTOMOTIVE MANAGEMENT,
LLC D/B/A BMW OF SARASOTA BERT
SMITH OLDSMOBILE, INC. D/B/A
BERT SMITH INTERNATIONAL
CAPITAL EUROCARS, INC. D/B/A
CAPITAL BMW IMPORT CITY, INC.
D/B/A QUALITY BMW REEVES IMPORT
MOTORCARS, INC.,**

Respondent.

_____/ **BMW OF NORTH AMERICA, LLC,**

Petitioner,

Case No. 12-3390

vs.

**BRAMAN MOTORS, INC. D/B/A
BRAMAN BMW PALM BEACH IMPORTS,
INC. D/B/A BRAMAN MOTORCARS,**

Respondent.

_____/

FINAL ORDER

This matter came before the Department for entry of a Final Order upon submission of an Order Closing File and Relinquishing Jurisdiction by Jessica E. Varn, Administrative Law Judge of the Division of Administrative Hearings, pursuant to Petitioner’s Notice Of Withdrawal of Proposed Dealer Agreement from Consideration by Respondents and Motion to Dismiss as Moot, a copy of which is attached and incorporated by reference in this order. The Department hereby adopts the Order Closing File and Relinquishing Jurisdiction as its Final Order in this matter.

Accordingly, it is hereby

ORDERED that this case is CLOSED.

DONE AND ORDERED this 24 day of May, 2013, in Tallahassee, Leon County,
Florida.



Julie Baker, Chief
Bureau of Issuance Oversight
Division of Motorist Services
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, Room A338
Tallahassee, Florida 32399

Filed with the Clerk of the
Division of Motorist Services
this 24 day of May, 2013.


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.

JB/jdc

Copies furnished:

Dean Bunch, Esquire
Nelson, Mullins, Riley and Scarborough, LLP
3600 Maclay Boulevard South, Suite 202
Tallahassee, Florida 32312
dean.bunch@nelsonmullins.com

John W. Forehand, Esquire
South Motors Automotive Group
16165 South Dixie Highway
Miami, Florida 33157
john.forehand@southmotors.net

David Seymour Leibowitz, Esquire
Braman Management Association
2060 Biscayne Boulevard, 2nd Floor
Miami, Florida 33137
davidl@bramanmanagement.com

Richard N. Sox, Esquire
Bass Sox Mercer, P.A.
2822 Remington Green Circle
Tallahassee, Florida 32308
rsox@dealerlawyer.com

Jessica E. Varn
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Nalini Vinayak
Dealer License Administrator

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BMW OF NORTH AMERICA, LLC,)	
)	
Petitioner,)	
)	
vs.)	Case No. 12-3385
)	
SOUTH MOTOR COMPANY OF DADE)	
COUNTY, d/b/a SOUTH MOTORS BMW,)	
)	
Respondent.)	
)	
<hr/>)	
BMW OF NORTH AMERICA, LLC,)	
)	
Petitioner,)	
)	
vs.)	Case No. 12-3386
)	
POMPANO IMPORTS, INC.,)	
)	
Respondent.)	
)	
<hr/>)	
BMW OF NORTH AMERICA, LLC,)	
)	
Petitioner,)	
)	
vs.)	Case No. 12-3387
)	
POMPANO IMPORTS, INC.,)	
)	
Respondent.)	
<hr/>)	

BMW OF NORTH AMERICA, LLC,)
)
 Petitioner,)
)
 vs.) Case No. 12-3389
)
 SARASOTA AUTOMOTIVE MANAGEMENT,)
 LLC, d/b/a BMW OF SARASOTA BERT)
 SMITH OLDSMOBILE, INC., d/b/a)
 BERT SMITH INTERNATIONAL)
 CAPITAL EUROCARS, INC., d/b/a)
 CAPITAL BMW IMPORT CITY, INC.,)
 d/b/a QUALITY BMW REEVES IMPORT)
 MOTORCARS, INC.,)
)
 Respondents.)

BMW OF NORTH AMERICA, LLC,)
)
 Petitioner,)
)
 vs.) Case No. 12-3390
)
 BRAMAN MOTORS, INC., d/b/a)
 BRAMAN BMW PALM BEACH IMPORTS,)
 INC., d/b/a BRAMAN MOTORCARS,)
)
 Respondents.)

ORDER CLOSING FILES AND RELINQUISHING JURISDICTION

This case came before the undersigned on the Petitioner's Notice of Withdrawal of Proposed Dealer Agreement from Consideration by Respondents and Motion to Dismiss as Moot, filed January 29, 2013, and the undersigned being fully advised, it is, therefore,

ORDERED that:

1. The final hearing scheduled for May 13 through 17, 2013, is canceled.

2. The files of the Division of Administrative Hearings are closed. Jurisdiction is relinquished to the Department of Highway Safety and Motor Vehicles.

DONE AND ORDERED this 11th day of February, 2013, in Tallahassee, Leon County, Florida.



JESSICA E. VARN
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 11th day of February, 2013.

COPIES FURNISHED:

Jennifer Clark, Agency Clerk
Department of Highway Safety
and Motor Vehicles
Neil Kirkman Building, Room A-430
2900 Apalachee Parkway, Mail Stop 61
Tallahassee, Florida 32399

John W. Forehand, Esquire
South Motors Automotive Group
16165 South Dixie Highway
Miami, Florida 33157
john.forehand@southmotors.net

Dean Bunch, Esquire
Nelson, Mullins, Riley,
and Scarborough LLP
Suite 202
3600 Maclay Boulevard, South
Tallahassee, Florida 32312
dean.bunch@nelsonmullins.com

David Seymour Leibowitz, Esquire
Braman Management Association
2nd Floor
2060 Biscayne Boulevard
Miami, Florida 33137
davidl@bramanmanagement.com

Richard N. Sox, Esquire
Bass Sox Mercer, P.A.
2822 Remington Green Circle
Tallahassee, Florida 32308
rsox@dealerlawyer.com

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BMW OF NORTH AMERICA, LLC,

Petitioner,

vs.

Case No. 12-3385

SOUTH MOTOR COMPANY OF DADE
COUNTY, d/b/a SOUTH MOTORS BMW,

Respondent.

BMW OF NORTH AMERICA, LLC,

Petitioner,

vs.

Case No. 12-3386

POMPANO IMPORTS, INC.,
d/b/a Vista BMW of Pompano Beach,

Respondent.

BMW OF NORTH AMERICA, LLC,

Petitioner,

vs.

Case No. 12-3387

POMPANO IMPORTS, INC.,
d/b/a Vista BMW of Coconut Creek,

Respondent.

BMW OF NORTH AMERICA, LLC,

Petitioner,

vs.

Case No. 12-3389

SARASOTA AUTOMOTIVE MANAGEMENT,
LLC, d/b/a BMW OF SARASOTA; BERT
SMITH OLDSMOBILE, INC., d/b/a
BERT SMITH INTERNATIONAL;
CAPITAL EUROCARS, INC., d/b/a
CAPITAL BMW; IMPORT CITY, INC.,
d/b/a QUALITY BMW; and REEVES IMPORT
MOTORCARS, INC.,

Respondents.

BMW OF NORTH AMERICA, LLC,

Petitioner,

vs.

Case No. 12-3390

BRAMAN MOTORS, INC., d/b/a
BRAMAN BMW, and PALM BEACH IMPORTS,
INC., d/b/a BRAMAN MOTORCARS,

Respondents.

**NOTICE OF WITHDRAWAL OF PROPOSED DEALER
AGREEMENT FROM CONSIDERATION BY RESPONDENTS
AND MOTION TO DISMISS AS MOOT**

Comes now BMW of North America, LLC ("BMW NA") and notifies the Administrative Law Judge that it has withdrawn its notice to Respondents concerning the proposed dealer agreement which is the subject of this proceeding. As a result of this withdrawal of notice, BMW NA moves to dismiss this matter as moot. In support of its motion, BMW NA states:

1. On July 17, 2012, BMW NA notified Respondents of its intent to offer them the superseding/merged BMW Center Agreement for BMW passenger cars and BMW light trucks ("the Merged Agreement"), which was proposed to supersede, modify and replace the existing BMW Dealer Agreement for BMW passenger cars and the existing BMW SAV Center Agreement for BMW light trucks (collectively "the Existing Agreements").

2. Respondents filed complaints with the Department of Highway Safety and Motor Vehicles ("DHSMV"), contesting the terms of the proposed Merged Agreement. These complaints were transferred by the DHSMV to the Division of Administrative Hearings.

3. On January 29, 2013, BMW NA, by letters attached hereto as Exhibit A, notified Respondents, as follows:

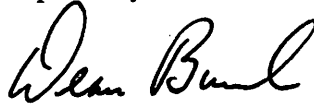
BMW of North America, LLC ("BMW NA") hereby withdraws its notice, transmitted to you on July 17, 2012, with respect to the superseding/merged BMW Center Agreement ('Agreement') for BMW passenger cars and BMW light trucks.

You and your successors may remain on your current forms of dealer agreements: the BMW Dealer Agreement for BMW passenger cars ('Old Agreement') and the BMW SAV Center Agreement for BMW light trucks ('SAV Center Agreement') or sign the Agreement which was offered to you, at any time in the future.

4. Inasmuch as BMW NA has withdrawn the July 17, 2012 notice that entitled Respondents to file their protests, and confirmed to Respondents that they and their successors¹, have the option to remain on the Existing Agreements unless, at any time in the future, they elect to sign the Merged Agreement, Respondents' protests should now be dismissed as moot.

¹ Motor vehicle dealerships, and equity interests therein, are transferable to buyers as provided in Section 320.643, Florida Statutes.

Respectfully submitted,



Dean Bunch

dean.bunch@nelsonmullins.com

C. Everett Boyd, Jr.

everett.boyd@nelsonmullins.com

Nelson Mullins Riley & Scarborough LLP

3600 Maclay Blvd., S., Suite 202

Tallahassee, FL 32312

Telephone: (850)907-2505

Attorneys for BMW of North America, LLC

CERTIFICATE OF SERVICE

29th I HEREBY CERTIFY that the forgoing was served by electronic transmission, this day of January, 2013, upon the following:

Jennifer Clerk, Agency Clerk
clark.jennifer@hsmv.state.fl.us
Dept. of Highway Safety
Neil Kirkman Bldg., Room A-430
2900 Apalachee Parkway, Mail Stop 61
Tallahassee, FL 32399

John W. Forehand, Esq.
john.forehand@southmotors.net
16165 South Dixie Highway
Miami, FL 33157

Richard N. Sox, Esq.
rsox@dealerlawyer.com
Nicholas A. Bader, Esq.
nbader@dealerlawyer.com
2822 Remington Green Circle
Tallahassee, FL 32308

David Leibowitz, Esq.
davidl@bramanmanagement.com
Timothy Grecsek, Esq.
timothyg@bramanmanagement.com
Braman Management Association
2060 Biscayne Blvd., Second Floor
Miami, FL 33137



Attorney