

DARLING'S

Petitioner,

v.

M.V.Bd No. 06-01

FORD MOTOR COMPANY,

ORDER ON REMAND

Respondent,

This matter is before the Board on Remand from the Business and Consumer Court (AP-08-01 and AP-08-02). The Court determined that this Board had erred in finding that Darling's lacked standing to seek Civil Penalties under section 1171-B of the Act, Title 10, Ch. 204, because Ford had satisfied the charge backs of which Darling's complained in Count IX of its Complaint. After Hearing and arguments, the Board agreed that Ford had violated section 1176 of the Act and that a civil penalty would be imposed under section 1171-B. The Board then voted to set the level of the civil penalty.

The Board consisted of William Dowling, public member; William Sowles and Bud Morrison, dealer members; John Knight, manufacturer member; all of whom concurred in the decision; and Chairman John McCurry. Six Ford Exhibits were admitted without objection. Darling's offered 22 Exhibits. Numbers 4 through 19 and 21 were admitted without objection; numbers 1-3, 20 and 22 were admitted over a relevance objection. John Darling testified as the only witness and the parties delivered Opening and Closing Statements.

The Board voted to adopt this Order on September 25, 2009, but owing to a clerical error, the Order issued on January 28, 2010.

FINDINGS OF FACT

1. Ford violated section 1176 of the Act in each of the five actions which formed the gravamen of Count IX of Darling's Complaint. (Ford Exhibit 6)

CONCLUSIONS OF LAW

2. The Board Accepts Darling's argument that these five violations of section 1176 are deemed three violations under section 1171-B of the Act for purposes of imposing a Civil Penalty.
3. Based upon the testimony and exhibits, the Board imposes a three thousand dollar civil penalty (\$3,000) on Ford for the three violations of the Act.

WHEREFORE, Count IX of Darling's Complaint is GRANTED as set forth above

January 28, 2010

John C. McCurry, Chairman Maine
Motor Vehicle Franchise Board