

# Automotive News

## Chrysler loses arbitration case to rejected dealer advocate Fitzgerald

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Automotive News | June 3, 2010 - 3:48 pm EST

WASHINGTON -- Rejected-dealer leader Jack Fitzgerald won reinstatement of his Chrysler store in Florida in the second case in which an arbitrator has challenged the automaker's business plan.

The arbitrator held that it was not in the public interest for Chrysler Group to close Fitzgerald's Countryside Chrysler Jeep last year as part of a plan to pare the company's network to two dealerships in the affluent Clearwater, Fla., area.

Chrysler had argued that its economic prospects depend on the company's ability to streamline its dealer network and house all four of its brands in each dealership, a strategy known as Project Genesis.

"The interests of the public favor the reinstatement of a franchise agreement with the covered dealership in that the sales locality contains only two other competing dealerships," the June 2 decision said, according to a copy obtained by *Automotive News*.

Fitzgerald's store was not a Genesis dealership, and there are two other Genesis stores nearby.

### The Genesis Effect

In more than a dozen cases since April, arbitrators have deferred to Chrysler's Genesis plan in ruling against rejected dealers' bids for reinstatement. Fitzgerald agreed to comply with the Genesis requirements if his franchise were restored.

Arbitrator Manuel Farach also held that "seeking to decrease competition within the sales locality" is not a termination criterion in the December law setting up the arbitration process.

"The ruling goes to the heart of Chrysler's cases," Fitzgerald's lawyer, John Forehand of Tallahassee, Fla., said in an interview.

Chrysler expressed disappointment at the outcome. "This decision undermines the Federal Bankruptcy Court Order that affirmed the rationalization process used to reject the dealership agreements," the company's statement said.

"While difficult, the actions to reduce Chrysler's dealer network were a necessary part of Chrysler Group's viability and central to the financing and partnership with Fiat. The only alternative would have been complete liquidation."

The automaker's plan is to have 100 percent of its stores housing all Chrysler brands by the end of next year.

Fitzgerald, 74, is a co-leader of the Committee to Restore Dealer Rights, which represents hundreds of rejected Chrysler and General Motors Co. dealerships.

The group was instrumental in obtaining passage of legislation creating the arbitration process for dealers targeted for termination as part of the automakers' bankruptcies last year.

### Financial questions

In yesterday's decision, arbitrator Farach rejected testimony from Chrysler witnesses that Fitzgerald's dealership

wasn't profitable or economically viable.

Fitzgerald's store was in fact profitable from 2006-2009, the arbitrator said, noting that Chrysler's accounting witness had never filled out a dealer financial report.

The same accountant did not review the books and records of the dealership's parent company to determine the latter's net worth and financial strength, the arbitrator said.

"It seems like Chrysler has a lot of these cases to handle, and didn't examine Fitzgerald's finances as specifically as it might have," said Forehand, Fitzgerald's lawyer.

Fitzgerald had argued that his dealership can draw upon more than \$10 million in cash and credit from its parent, and has a \$4 million line of credit for floorplan financing.

Fitzgerald had four other Chrysler dealerships in Maryland that were closed last year. His arbitration hearing for these stores begins Monday, June 7, Forehand said.

In another decision against Chrysler last week, a different arbitrator held that to give too much weight to the company's dealer-reduction strategy would "eviscerate" the law creating the arbitration process.

The arbitrator in that case reinstated Cutrbus Motors Chrysler-Jeep-Dodge in Layton, Utah.



Jack Fitzgerald is a co-leader of the Committee to Restore Dealer Rights, which represents hundreds of rejected Chrysler and GM dealerships.

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