

DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE *MOTOR VEHICLE DEALERS ACT, 2002, S.O. 2002, c.30, Sch. B*

BETWEEN:

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- and -

THORNCREST SHERWAY INC. o/a THORNCREST FORD SALES & SHERWAY

TRUCK SALES

- and -

RICK SINHUBER

- and -

GRANT KOB~~EY~~

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AGREED STATEMENT OF FACTS AND PENALTY

Thorncrest Sherway Inc. o/a Thorncrest Ford Sales & Sherway Truck Sales and Rick Sinhuber and Grant Kobey have breached the following:

Section 3 of the Code of Ethics, Regulation 332/08

Section 6 of the Code of Ethics, Regulation 332/08

Section 9 of the Code of Ethics, Regulation 332/08

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Thorncrest Sherway Inc. o/a Thorncrest Ford Sales & Sherway Truck Sales (the "Dealer") was first registered as a motor vehicle dealer in or around March 1985. Rick Sinhuber (Sinhuber) was first registered as a motor vehicle salesperson in or around July 1990. Grant Kobey (Kobey) was first registered as a motor vehicle sales person in or around August 2013. At all material times, Bedard was the director of the Dealer and Sinhuber was the officer of the Dealer.
2. On or about December 6, 2013, the Automobile Protection Association (APA) made inquiries, in person, about a 2007 Audi A4 (VIN WAUDF78607A139037). The above mentioned representative was advised by Kobey, on behalf of the Dealer, that the advertised price did not include a "mandatory \$300 OMVIC fee required by the Government of Ontario". Kobey subsequently characterized the above mentioned fee as a "295 DOC fee of \$295 for OMVIC". Shortly after the APA representative left the dealership, Kobey called the representative and characterized the above mentioned fee as an administration fee. As such, the Dealer and Kobey have violated section 3, 6 and 9 of the Code of Ethics.

It is thereby agreed that the Dealer has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

3. A registrant shall not indicate to any person, directly or indirectly, that any payment, commission or other remuneration in connection with a trade in a motor vehicle is fixed or approved by the administrative authority, if any, a government authority or any motor vehicle board or association.

6. (1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this regulation

(2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading motor vehicles.

9. In carrying on business, a registrant shall not engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming of a registrant.

JOINT SUBMISSION ON PENALTY:



Registrant's Initials

1. The Dealer agrees to pay a fine in the amount of \$3,000 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Grant Kobey agrees to successfully complete the in class OMVIC certification course within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
3. The Dealer agrees to schedule and participate in the OMVIC disclosure and advertising seminar within 90 days of acceptance of this offer. All current sales staff will be offered the opportunity to attend the seminar.
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of acceptance of this offer. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course or who are otherwise required to do pursuant to the Act.
5. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Toronto THIS 26 DAY OF May, 2015

Grant Kobey
(please print)
Grant Kobey AK

[Signature]
(signature)

DATED AT Toronto THIS 26 DAY OF May, 2015

MMS
Registrant's Initials

RICK SINHUBER
(please print)
Rick Sinhuber

Rick Sinhuber
(signature)

DATED AT TORONTO THIS 26TH DAY OF MAY, 2015

RICK SINHUBER
(please print)

Rick Sinhuber

I have the authority to bind the corporation:
Thorncrest Sherway Inc. o/a Thorncrest Ford Sales & Sherway Ford Truck Sales

By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

DATED AT Toronto THIS 1st DAY OF June, 2015

Mary Jane South

Mary Jane South,
Registrar, Motor Vehicle Dealers Act, 2002

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties identified above:

DATED AT London THIS 8 DAY OF June, 2015

Catherine Poultney
Catherine Poultney
Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council

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Registrant's Initials