

DISCIPLINE DECISION

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

B E T W E E N :

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

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

- AND -

RICK SINHUBER

- AND -

GRANT KOBAY

Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, I, the Chair of the Discipline Committee, have reviewed and considered the written Agreed Statement of Facts and Joint Submission on Penalty together with both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

Date of Decision: June 8, 2015

Findings: Breach of Sections 3, 6 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered 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 Kobay is ordered 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 is ordered 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.



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

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 Kobay 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.

Decision of the Chair



Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer, Sinhuber and Kobay breached subsections 3, 6 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the Discipline Committee also agrees with the Parties' Joint Submission on Penalty and, accordingly, makes the following Order:

6. The Dealer is ordered 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.
7. Grant Kobay is ordered 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.
8. The Dealer is ordered 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.
9. The Dealer is ordered 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.
10. The Dealer shall comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee



Catherine Poultney, Chair

