

File# 2811215

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 -

HOGAN CHEVROLET BUICK GMC LIMITED

- and -

JORGE DESOUSA

- and -

ANDREW FOSS

AGREED STATEMENT OF FACTS AND PENALTY

Hogan Chevrolet Buick GMC Limited, Jorge Desousa and Andrew Foss have breached the following:

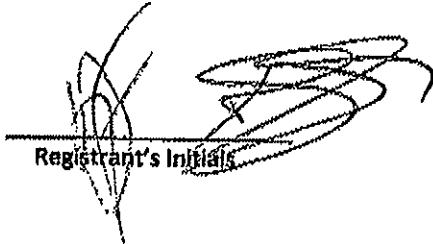
Section 4 of the Code of Ethics, Regulation 332/08

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

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Hogan Chevrolet Buick GMC Limited (the "Dealer") was first registered as a motor vehicle dealer in or around March 1983. Jorge Desousa ("Desousa") was first registered as motor vehicle salesperson in or around April 1995. At all material times Desousa has been the person in charge of the Dealer. Andrew Foss ("Foss") was first registered as a motor vehicle salesperson in or around June 1982 and at all material times has been the officer and director of the Dealer.



Registrant's Initials

Previous Discipline decision:

- 2. On or about August 30, 2012, OMVIC issued a Notice of Complaint ("Notice") against the Dealer, regarding non-compliance of sections 4 and 9 of the Code of Ethics.

On or about October 22, 2012, the above mentioned Notice was settled, pursuant to a negotiated resolution. As per condition 5, the Dealer agreed to ensure that all future advertising is in compliance with the MVDA and Standards of Business Practice, as may be amended from time to time. Furthermore, as per condition 6, the Dealer agreed to comply with the MVDA and Standards of Business Practice.

Dealer non-compliance:

- 3. On or before November 27, 2014, the Dealer published a flyer that did not disclose all inclusive vehicle prices, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
- 4. The Dealer has since agreed that all individuals in a position of authority will attend the OMVIC advertising seminar, to be scheduled at a mutually convenient time.

By failing to comply with the following regulations under the *Motor Vehicle Dealers Act, 2002*:

Advertising

36. (1) A registered motor vehicle dealer to whom this section applies shall ensure that any advertisement placed by the dealer complies with this section.


(7) If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,

- (a) the amount that a buyer would be required to pay for the vehicle; and
- (b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.

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

4. A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.

(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.



 Registrant's Initials

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 \$2,000 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Desousa and Foss agree to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer agrees to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay all costs associated with this. Future sales staff will be offered the course within 90 days if being retained in this capacity by the Dealer. The Dealer will pay all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer agrees to ensure that all future advertising is in compliance with *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.
5. The Dealer agrees to comply with the *Motor Vehicle Dealers Act, 2002* 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 8TH DAY OF MAY, 2015

DREW FOSS
(please print)
Name of Authorized Representative

[Signature]
(signature)
I have the authority to bind the corporation:
Hogan Chevrolet Buick GMC Limited

[Signature]
Registrant's Initials

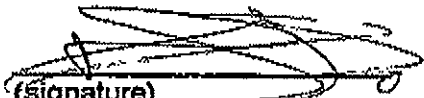
PAGE 5/7 ~ RCVD AT 5/15/2015 2:00:05 PM [Eastern Daylight Time] ~ SVR:OMVICFAX-B/2 ~ DNIS:3552 ~ CSI0:416 ~ DURATION (mm-ss):02.06

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DATED AT TORONTO THIS 8TH DAY OF MAY, 2015

JORGE DESOUSA

(please print)
Jorge Desousa



(signature)
Jorge Desousa

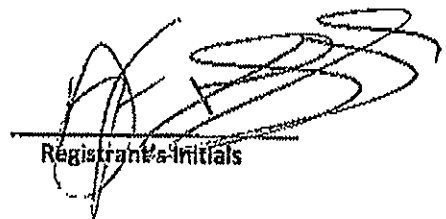
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DATED AT TORONTO THIS 8TH DAY OF MAY, 2015

ANDREW FOSS

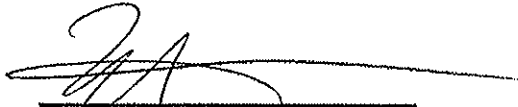
(please print)
Andrew Foss


(signature)
Andrew Foss


Registrant's Initials

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 Van 5 THIS 20th DAY OF May, 2015



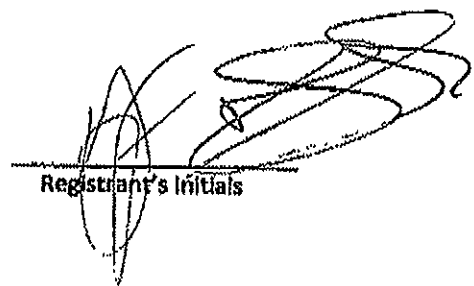
Mary Jane South
Registrar, Motor Vehicle Dealers Act, 2002

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 Poulthney
Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council



Registrant's Initials