

IN THE MATTER OF THE MOTOR DEALER ACT, R.S.B.C. 1996, C. 316

RE:

Fields BC Company dba The BMW Store Dealer Registration #30354

UNDERTAKING

Dated for reference: March 1, 2011

WHEREAS Fields BC Company dba The BMW Store Dealer Registration #30354 (the "Dealer") is a "registered motor dealer" as defined under the Motor Dealer Act R.S.B.C. 1996 c. 316 (the "Act").

AND WHEREAS the "Registrar of Motor Dealers", as defined under the Act, (the "Registrar") is responsible for the administration and enforcement of the Act, its regulations and prescribed provisions of the Business Practices and Consumer Protection Act, S.B.C. 2004 c. 2.

AND WHEREAS the Registrar has initiated an investigation involving the Dealer's conduct and the following alleged contravention that:

Prior to his employment with The BMW Store, James Sui Cheng Lee ("Lee") was employed by Brian Jessel Autosport, Inc. dba Brian Jessel BMW ("Jessel"). During his employment with Jessel, Lee was instructed by his supervisor to use the username and password issued to another employee of Jessel, Sze Wai Lam, when logging customer information into the One-Eight Corp CRM System. BMW Canada requires that all BMW dealerships in Canada utilize this CRM system. Following his employment with Jessel, Lee was employed by The BMW Store as a licensed BMW sales consultant. Between April 6, 2010 and July 9, 2010, both dates inclusive at the city of Vancouver in the Province of British Columbia, Lee did access Jessel customer information stored on One-Eight Corp's CRM System without permission or authorization, using Sze Wai Lam's username and password (which Jessel had not changed since Lee's departure from Jessel), to obtain information on Jessel's customers in order to sell or attempt to sell to Jessel's customers motor vehicles belonging to the Dealer; and this conduct may have breached the privacy of consumers, may be an unfair business practice and is conduct that may be contrary to the public interest.

AND WHEREAS the Dealer was unaware of the unauthorized conduct of its employee, Lee.

AND WHEREAS the Dealer wishes to resolve these issues voluntarily by entering into this Undertaking.

THE DEALER HEREBY UNDERTAKES TO:


- 1) Implement a computer system access policy to ensure all employees who act as a "salesperson" as defined in the Act, or any other employee, cannot access the computer system of another dealer, do not share computer access passwords, that all passwords issued to any salesperson who leaves their employ are terminated upon departure and provide the Registrar with documentation of that system access policy by March 30, 2011.
- 2) Properly monitor and abide by the computer system access policy described in paragraph 1.
- 3) Refrain from accessing the information of another "registered motor dealer" without express authorization from that "registered motor dealer".
- 4) Have its employee, Lee, take the Salesperson Certification Course – Level II by May 31, 2011 at his own cost, or at a minimum, have Lee registered to take the course by May 31, 2011, and in any event to have completed the course by October 1, 2011.
- 5) Provide to the Registrar the name of the person designated by the Dealer responsible for ensuring the Dealer is compliant with the Personal Information Protection Act S.B.C. 2003 c. 63; which is to be made public in any regards as required under section 4(5) of that Act.
- 6) Pay to the Registrar the sum of \$948.36 which are the costs for investigating this matter, by March 30, 2011.

THE DEALER ACKNOWLEDGES THAT:


- 1) This Undertaking is being entered into by the Dealer voluntarily.
- 2) The Dealer has had an opportunity to obtain legal advice as to the terms of this Undertaking.
- 3) The Registrar will make it a condition of the Dealer's registration to abide by and carry out the terms of this Undertaking. The condition shall read "Fields BC Company dba The BMW Store shall abide by and carry out the terms of the Undertaking it agreed to with the Registrar; dated for reference March 1, 2011".
- 4) The Registrar will take steps to monitor and enforce this Undertaking. Enforcement can include, but is not limited to, court action to obtain a compliance order, or the suspension or cancelation of the Dealer's registration.
- 5) This Undertaking and the condition placed on the Dealer's registration may be reviewed in 12 months from the date of signing this Undertaking by the Registrar.

- 6) The Dealer will display this Undertaking alongside its Registration which must be "in a conspicuous location at his usual place of business". The Undertaking is to be displayed for a period of 12 months from the date of its signing by the Registrar.

IN WITNESS WHEREOF the undersigned (and each of them, if more than one) has set his/her/its hand and seal (attested by the hands of its duly authorized officers, if applicable).

Dealer Name: Fields BC Company dba The BMW Store Dealer Registration #30354	
<i>Rocky Elli</i>	
(Print the name and title of Dealer's authorized representative)	
Signature: 	Date: <i>3/23/</i> 2011.

ACCEPTED by the Registrar of Motor Dealers this *24* day of *March*, 2011


Ian Christman - Registrar of Motor Dealers or his delegate

The Motor Vehicle Sales Authority of B.C.
(Previously known as the Motor Dealer Council of B.C.)
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