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Men's wear retailer assessed \$1.2 million in penalties

The Competition Bureau of Canada, the federal agency that investigates false or misleading representation and deceptive marketing practices under the provisions of the Competition Act, in the country, conducted an exhaustive investigation into the advertising practices of a consortium of prominent brands owned by Grafton-Fraser Inc. including Tip Top Tailors, Mr. Big & Tall and George Richards.

The investigation concerned the use of discounts and sales applied to alleged "regular prices," documenting a consistent pattern of deception. It was proved and subsequently admitted by the accused retailers that the products in question had never been previously offered for sale or sold at these so-called "regular prices."

Grafton-Fraser Inc. was required to do the following:

- pay a \$1 million administrative monetary penalty and \$200,000 toward the cost of the Bureau's investigation;

- ensure that all of its future savings claims and regular selling price representations comply with the misleading advertising provisions of the Competition Act.; and,
- develop and implement a corporate compliance program designed to ensure that Grafton-Fraser complies with the Competition Act.

The company was required to purchase display ads in 10 daily newspapers across Canada to make the public aware of this ruling.

Registrar warns:

Similar rules apply to B.C. motor vehicle dealers.

Under British Columbia's Business Practices and Consumer Protection Act, similar rules now apply to all motor dealers in the province. MDC is aware that several licensed dealers regularly and deliberately make misleading price saving claims.

"Particularly offensive behaviour that has come to our attention is the set-up for certain weekend sales blitzes, often importing outside sales teams," said the Registrar, Ken Smith. "A few weeks before the event, the dealership arbitrarily hikes the price of its used vehicle inventory, for the sole purpose of implying that the resulting weekend sale offers legitimate discounts and savings."

MDC's advertising guidelines and, particularly, two new amendments should be carefully studied. See the MDC web site for details.

The Motor Dealer Council has established a specific definition for deceptive acts or misleading advertising based on a benchmark case of The Supreme Court of B.C. This reads:

Any use, in the oral, visual, written, or electronic communication of material facts, of a representation that tends to lead a reasonable person into making an error of judgement.

continued.....page 2

Registrar warns: (continued from page 1)

Sale prices for used vehicles must not claim a cost savings by comparison to a “regular price” that cannot be supported by previous advertising and sales activity. Also when comparing a used vehicle to a new vehicle it must be clear in the advertising that one model is new and the other is used.

When price comparisons with new vehicles are used as the basis for a savings claim, the vehicles being compared must be identical. It is misleading to represent cost savings by comparing the price of vehicles that are not identical.

For example, it is not acceptable to compare vehicles that are different models or model years, or vehicles that have different optional equipment or number of kilometres. It is acceptable to compare the prices of different vehicles provided that no explicit claim of cost savings is made, and that the differences between the vehicles are clearly disclosed.

Complete details can be found in the MDC Advertising Guidelines available on the MDC web site.