

**COLORADO DEPARTMENT OF REVENUE HEARINGS DIVISION
ON BEHALF OF THE COLORADO MOTOR VEHICLE DEALER BOARD**

Case No. BD17-0097

STIPULATION AND FINAL ORDER

**IN THE MATTER OF: DAVID PHILIP VONDY
 Motor Vehicle Salesperson Number: 172557**

Respondent.

IT IS HEREBY STIPULATED AND AGREED UPON by and between the Colorado Department of Revenue, Motor Vehicle Dealer Board ("Board") and David Philip Vondy, ("Respondent") (collectively the "Parties") in lieu of further legal action:

1. At all relevant times, David Phillip Vondy ("Respondent") was licensed as a motor vehicle salesperson in the State of Colorado under license number 172557.
2. The Board has jurisdiction over the Respondent and the subject matter of this Stipulation and Final Agency Order as set forth in article 6 of Title 12, C.R.S. and the Administrative Procedure Act, article 4 of Title 24, C.R.S.
3. Respondent was, or was acting as, a "motor vehicle salesperson" as defined in section 12-6-102(14), C.R.S., at all times relevant to this matter.
4. The Board has alleged that Respondent violated the following:

Twelve (12) counts of § 12-6-118 (5)(c), C.R.S. The license of a motor vehicle salesperson may be denied, revoked, or suspended, for failing to comply with any provision of this part 1 or any rule or regulation promulgated by the board or executive director under this part 1. § 12-6-118(5)(c), C.R.S.

Each license issued pursuant to this part 1 is separate and distinct. It shall be a violation of this part 1 for a person to exercise any of the privileges granted under a license that such person does not hold, or for a licensee to knowingly allow such an exercise of privileges.
§ 12-6-109 C.R.S.

It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, manufacturer representative, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, or motor vehicle salesperson unless such person has been duly licensed under the provisions of this part 1, ... §12-6-120(2), C.R.S.;

Six (6) counts of § 12-6-118(5)(g), C.R.S. The license of a motor vehicle salesperson may be denied, revoked, or suspended for selling, offering, or attempting to negotiate the sale, exchange, or lease of motor vehicles for any motor vehicle dealer or used motor vehicle dealer for which such salesperson is not licensed. § 12-6-118(5)(g), C.R.S.; and

Nine (9) counts of § 12-6-118(5)(h), C.R.S. The license of a motor vehicle salesperson may be denied, revoked, or suspended for representing oneself as a salesperson for any motor vehicle dealer or used motor vehicle dealer when such salesperson is not so employed and licensed. § 12-6-118(5)(h), C.R.S.

5. The Respondent understands that:

- A. The Respondent has the right to be represented by an attorney of the Respondent's choice, at the Respondent's expense;
- B. The Respondent has the right to a formal hearing in accordance with article 6 of Title 12, C.R.S.;
- C. By entering into this Stipulation and Final Agency Order, the Respondent is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Stipulation and Final Agency Order, and relieves the Board of its burden of proving such facts;
- D. The Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Board; and,
- E. The Respondent is knowingly and voluntarily giving up the right to judicial review of this matter.

6. The Respondent acknowledges receipt of sufficient notice, sufficient advisement of rights, and sufficient process in the proceedings of this case, and desires to resolve all issues, which were the subject of the investigation, by entering into this Stipulation and Final Agency Order.

7. The Respondent acknowledges that the Board has sufficient evidence of a violation to sustain the allegations in the Notice of Charges should this matter proceed to hearing.

8. The Respondent agrees, in lieu of subsequent administrative proceedings, to submit to the following sanction: The Respondent shall pay a fine of \$500.00. The Respondent agrees the \$500.00 shall be due and payable within 60 days from the date of the approval of this Stipulation by the Board.

9. The Parties mutually agree to strictly adhere to and to completely fulfill all requirements established in this Stipulation and Final Agency Order.

10. The Respondent is aware that this Stipulation and Final Agency Order will not become an order of the Board unless and until the Board approves it. If this Stipulation and Final Agency Order is not approved by the Board, it is void, and the Respondent shall not be bound by any provisions hereof or admissions herein.

11. Each Party shall bear its own costs and fees incurred in this action.

12. This Stipulation and Final Agency Order is the complete integration of all understandings between the parties. No addition, deletion, or amendment, except as mutually agreed to in a writing signed by both Parties, shall have any force or effect whatsoever.

13. The Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Stipulation and Final Agency Order and which are not inconsistent with its terms.

14. The provisions of this Stipulation and Final Agency Order shall be enforceable by the Parties before the Colorado Motor Vehicle Dealer Board, by any lawful remedy.

15. The Respondent expressly acknowledges having read and understood completely the terms of this Stipulation and Final Agency Order. The Respondent enters this Stipulation and Final Agency Order knowingly and voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Stipulation and Final Agency Order. The Respondent expressly states that the Respondent believes the terms of this Stipulation and Final Agency Order are lawful, fair, conscionable, and appropriate to reach a full and final resolution of this disciplinary matter.

16. This Stipulation and Final Agency Order and all its terms shall have the same force and effect as an order entered by the Board after hearing pursuant to article 6 of Title 12, C.R.S. except that this Stipulation and Final Agency Order cannot be appealed.

17. The Respondent agrees that any violation of this Stipulation and Final Agency Order may constitute grounds for disciplinary proceedings pursuant to the Motor Vehicle Dealer Licensing Law and if proven may constitute a basis for further disciplinary action or for any other remedy authorized by law. In the event this matter is referred to hearing for violation of this Stipulation and Final Agency Order, this Stipulation and Final Agency Order shall be admissible as evidence. In the event an alleged violation of this Stipulation and Final Agency Order is taken to hearing and the facts that constitute the

violation are determined not to be proven, the Board shall not take any disciplinary action, and this Stipulation and Final Agency Order shall remain operative and in full force and effect. The pendency of any disciplinary action pursuant to this Stipulation and Final Agency Order shall not affect the obligation of the Respondent to continue to comply with the terms of this Stipulation and Final Agency Order during the pendency of and after the conclusion of such disciplinary action.

18. This Stipulation and Final Agency Order is a public record in the Board's custody at all times.

19. Effective Date. This Stipulation and Final Agency Order shall become an order of the Board when accepted by the Board and signed by an authorized representative of the Board.

20. This Stipulation and Final Agency Order is a full and final resolution of case number BD15-1275. This Stipulation and Final Agency Order does not resolve any other cases, complaints or matters, known or unknown to the Parties, as of the effective date of this Stipulation and Final Agency Order.

21. The Respondent shall immediately provide in writing to the Board any change of the Respondent's legal address, in order for any notice required under this Stipulation and Final Agency Order or any necessary follow-up to this Stipulation and Final Agency Order to be made in a timely and efficient manner. Any notice required under this Stipulation and Final Agency Order shall be valid only if provided, in writing, to the Parties at their respective legal addresses, which the Parties acknowledge are currently as follows:

A. Board:

Colorado Department of Revenue,
Auto Industry Division
Attention: Bruce A. Zulauf,
Division Director/Executive Secretary
1881 Pierce Street, Suite 112
Lakewood, Colorado 80214

B. Respondent:

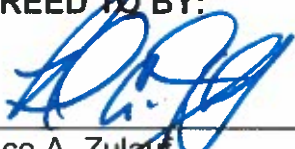
David Phillip Vondy


22. Should any term or provision of this Stipulation and Final Agency Order be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

23. This Stipulation and Final Agency Order may be signed in counterparts, each of which will have full force and effect upon execution by all Parties.

24. The Respondent warrants that it possesses the legal authority to enter into this Stipulation and Final Agency Order and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Stipulation and Final Agency Order and to bind the Respondent to its terms. The person executing this Stipulation and Final Agency Order on behalf of the Respondent warrants that such person has full authorization to execute this Stipulation and Final Agency Order.

AGREED TO BY:



Bruce A. Zulawski
Director/Executive Secretary
Auto Industry Division
Motor Vehicle Dealer Board

4/17/18

Date

FOR THE RESPONDENT:




David Phillip Vondy

3/28/2018

Date

APPROVED AS TO FORM:



Y. E. Scott
Attorney for the Colorado
Motor Vehicle Dealer Board

28 March 2018

Date

The Stipulation and Final Agency Order is approved and its terms are hereby adopted as an Order of this Board.

ORDERED AND ENTERED this 17TH day of April, 2018.

COLORADO MOTOR VEHICLE BOARD

BY:


Stan Martin, President

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION AND FINAL AGENCY ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 18th day of April 2018, addressed as follows:

David Phillip Vondy


Y. E. Scott
Temporary Assistant Attorney General
1300 Broadway 8th Floor
Denver, CO 80203


Arleen Criddell-Tapanen
Assistant to Director

cc: Bruce A. Zulauf, Executive Secretary
Colorado Motor Vehicle Dealer Board
Director, Auto Industry Division
1881 Pierce Street, Room 112
Lakewood, CO 80214
(Placed in Board File)