

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

BETWEEN:

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

AAA CHEEMA AUTO SALES LTD

- and -

IRMANDEEP CHEEMA

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: September 14, 2018

Findings: Breach of Section 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$3,600 no later than **March 5, 2019**
2. Cheema is ordered to successfully complete the Automotive Certification Course (the "course") no later than **March 5, 2019**
3. 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 no later than **December 10, 2018**. Future sales staff will be offered the course within 90 days of being retained in this capacity. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.



4. The Dealer and Cheema shall comply with the Act and Standards of Business Practice, as may be amended from time to time.

Written Reasons:

Reasons for Decision

Introduction

This matter proceeded on the basis of an Agreed Statement of Facts, Joint Submission on Penalty and the Parties' Waiver of Hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee.

Agreed Statement of Facts

The parties to this proceeding agree that:

1. AAA Cheema Auto Sales Ltd (the "Dealer") was first registered as a motor vehicle dealer in or around October 2015. Irmandeep Cheema ("Cheema") was first registered as a motor vehicle salesperson in or around October 2015. At all material times, Cheema was the sole Director, as well as the Person in Charge, of the Dealer.
2. On or about June 10, 2014, Cheema successfully completed the Automotive Certification course.
3. On or about September 25, 2015, Cheema executed terms and conditions of registration on behalf of the Dealer.
4. As per condition 1 of the above referenced terms and conditions, the Dealer agreed to comply the Code of Ethics and Standards of Business Practice, as may be amended from time to time.
5. As per condition 17 of the above referenced terms and conditions, the Dealer agreed it will ensure all trades in motor vehicles are completed in accordance with *inter alia*, section 42 of Regulation 333/08.
6. As per condition 18 of the above referenced terms and conditions, the Dealer agreed it is under a positive obligation to provide purchasers with written disclosure on the bill of sale of all material facts about the vehicles it sells.
7. On or before October 22, 2015, Cheema successfully completed the Automotive Record Keeping Course.



OMVIC publications:

8. In the winter of 2016, OMVIC issued a Dealer Standard Publication reminding dealers of their requirement to disclose to purchasers all material facts about the vehicles they sell (“disclosure obligations”).

Direct correspondence with Dealer:

9. During an inspection on or about January 21, 2016, a representative of the Registrar reviewed with Cheema, on behalf of the Dealer, the Dealer’s obligations with respect to material fact disclosure, as well as the Dealer’s obligation ensure all motor vehicle trades are reflected in the Dealer’s business bank account. The remainder of the Dealer’s terms and conditions of registration were also reviewed with Cheema at this time.
10. During an inspection on or about October 21, 2016, a representative of the Registrar reviewed with Cheema, on behalf of the Dealer, the Dealer’s obligations with respect to material fact disclosure.
11. By letter dated April 21, 2017, Cheema, on behalf of the Dealer, was further reminded of the Dealer’s obligations with respect to material fact disclosure.

Non-compliant vehicle trades:

12. During an OMVIC inspection of the Dealer on or about February 16, 2018, the following non-compliance vehicle trades were found:
13. On or about April 14, 2016, the Dealer, purchased a 2014 Toyota Matrix, (VIN 2T1KU4EE9EC133376) with the following declarations:
 - a. This vehicle has been declared a total loss by the insurer
 - b. The manufacturer’s warranty may have been cancelled
 - c. Repair Estimate: \$25,300.08
 - d. Total distance driven is unknown, but as of 4/1//2016 it was believed to be 24,957km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Good
 - e. MTO Brand: Salvage

On or about October 30, 2016, Cheema, on behalf of the Dealer, sold this vehicle without disclosing a, b, c, or d, above. This is contrary to sections 42(4), 42(19), 42(20), 42(21), and 42(25) of Regulation 333/08, the Dealer’s terms and conditions of registration, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser that they were aware of their vehicle history at the time of purchase.



14. On or about August 4, 2016, the Dealer purchased a 2015 Toyota Camry, (VIN 4T1BF1FK9FU901323) with the following declarations:
- Vehicle has been declared a total loss by the insurer
 - The manufacturer's warranty has been cancelled
 - Repair Estimate: \$35,352.38
 - Total distance driven is unknown, but as of 6/23//2016 it was believed to be 71,933km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Good

On or about May 25, 2017, Cheema, on behalf the Dealer, sold this vehicle without disclosing a, b, c, or d, above. This is contrary to sections 42(4), 42(19), 42(20), 42(21), and 42(25) of Regulation 333/08, the Dealer's terms and conditions of registration, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser that they were aware of their vehicle history at the time of purchase.

15. On or about March 14, 2017, the Dealer purchased a 2015 Toyota Corolla, (VIN 2T1BURHE0FC263945) with the following declarations:

- Vehicle has been declared a total loss by the insurer
- The manufacturer's warranty has been cancelled
- Repair Estimate: \$18,483.49
- Total distance driven is unknown, but as of 2/23/2017 it was believed to be 94,087km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Good
- MTO Brand: Salvage

On or about September 5, 2017, Cheema, on behalf of the Dealer, sold this vehicle without disclosing a, b, c, or d, above. This is contrary to sections 42(4), 42(19), 42(20), 42(21), and 42(25) of Regulation 333/08, the Dealer's terms and conditions of registration, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser that they were aware of their vehicle history at the time of purchase.

By failing to comply with the Dealer's terms and conditions of registration, as well as the following sections of the Act:

Regulation 333/08:

42. Additional information in contracts of sale and leases:

- If the motor vehicle is a used motor vehicle and the registered motor vehicle dealer cannot determine the total distance that the vehicle has been driven but can determine the distance that the vehicle has been driven as of some past date, a statement of that



distance and date, together with a statement that the total distance that the vehicle has been driven is believed to be higher than that distance.

19. If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.

20. If the manufacturer's warranty on the motor vehicle was cancelled, a statement to that effect.

21. If the motor vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the Highway Traffic Act, a statement to that effect.

25. Any other fact about the motor vehicle that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle on the terms of the purchase or lease.

It is thereby agreed that the Dealer and Cheema have breached sections 7 and 9 of the Code of Ethics, as set out in regulation 332/08:

Compliance

7. (1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

Professionalism

9. (1) 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 \$3,600 no later than **March 5, 2019**
2. Cheema agrees to successfully complete the Automotive Certification Course (the "course") no later than **March 5, 2019**
3. 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 no later than **December 10, 2018**. Future sales staff will be offered the course within 90 days of being retained in this capacity. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Cheema agree 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 breached subsections 7 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:

1. The Dealer is ordered to pay a fine in the amount of \$3,600 no later than **March 5, 2019**
2. Cheema is ordered to successfully complete the Automotive Certification Course (the "course") no later than **March 5, 2019**
3. 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 no later than **December 10, 2018**. Future sales staff will be offered the course within 90 days of being retained in this capacity. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Cheema 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



Paul Burroughs, Chair

