

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

B E T W E E N :

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

McGEE MOTORS LIMITED

- AND -

MARTYN McGEE

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: March 11, 2015

Findings: Breach of Section 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,500 within 90 days of the Discipline Committee Order.
2. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* 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. McGee Motors Limited (the "Dealer") was first registered as a motor vehicle dealer in or around April 1983. Martyn McGee ("McGee") was first registered as motor vehicle salesperson in or around May 1983. At all material times, McGee was a director and the Person in Charge at the Dealer.
2. Wendy Dougherty ("Dougherty") was first registered as a motor vehicle salesperson in or around April 2005. In or around April 2007, Dougherty's registration was terminated for reasons of failing to renew her salesperson registration. On or about October 17, 2014, Dougherty became registered under the Act as a motor vehicle salesperson.
3. From on or around April 2007 until a recent inspection of May 2, 2014, Dougherty worked at the Dealership as a motor vehicle salesperson without the benefit of registration. As such the Dealer retained the services of an unregistered salesperson. This is contrary to section 4(3) of the Act, as well as section 9 of the Code of Ethics.

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

Unregistered Salesperson

- 4(3) A motor vehicle dealer shall not retain the services of a salesperson unless the salesperson is registered in that capacity.

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

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 \$1,500 within 90 days of the date of the Discipline Committee Order.
2. The Dealer agrees to comply with with the *Motor Vehicle Dealers Act, 2002* 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 and McGee breached subsection 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 \$1,500 within 90 days of the Discipline Committee Order.
2. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee



Catherine Poultney, Chair

