

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 -

BROTHERS AUTO SALES

- AND -

FAIK SHABANI

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: October 21, 2015

Findings: Breach of Sections 4 and 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 date of the Discipline Committee Order.
2. The Dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay all costs associated with this. Future sales staff will be offered the course within 90 days if being retained in this capacity by the Dealer. The Dealer will pay 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.
3. The Dealer and Shabani 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. Brothers Auto Sale, the ("Dealer") was first registered as a motor vehicle dealer in or around April 1991. Faik Shabani ("Shabani") was first registered as a motor vehicle salesperson in or around April 1991. At all material times, Shabani was Officer and Director of the Dealer.
2. In the winter of 2008, OMVIC issued a Dealer Standard publication which highlighted some of the upcoming changes that would take place when the *Motor Vehicle Dealers Act, 2002*, came into effect, including the requirement for dealers to ensure all advertisements are compliant.
3. Furthermore, OMVIC issued a bulletin in March of 2012, which also reminded dealers of the requirement to advertise the full dealership name and telephone number
4. On or about January 14, 2015 advertisements were placed by or on behalf of the Dealer which contained a non-registered phone number. This is contrary to Section 36(2) of the Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, the advertisements invited the public to trade at a non-registered business address. This is contrary to Section 36(2) of the Regulations, as well as Sections 4 and 9 of the Code of Ethics.
5. The Dealer has since agreed to ensure the Sales Manager of the Dealer complete the OMVIC certification course in person (the "course") within 90 days of the date of the Discipline Committee Order.

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

Regulation 333/08:

36 (2) Subject to subsection (3), an advertisement that attempts to induce a trade in motor vehicle shall include, in a clear, comprehensible and prominent manner, a registered name and the business telephone number of the motor vehicle dealer. O. Reg. 333/08, s. 36 (2).



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

4. A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.

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 offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay all costs associated with this. Future sales staff will be offered the course within 90 days if being retained in this capacity by the Dealer. The Dealer will pay 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.
3. The Dealer and Shabani 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 and Shabani breached subsections 4 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 \$1,500 within 90 days of the date of the Discipline Committee Order.
2. The Dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay all costs associated with this. Future sales staff will be offered the course within 90 days if being retained in this capacity by the Dealer. The Dealer will pay 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.



3. The Dealer and Shabani 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



Catherine Poultney, Chair

