

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 -

SOAN VALLEY SHELTERS PRIVATE LTD. o/a UNCLE SAM'S AUTOS

- AND -

MOHAMMAD ISHAQ

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: August 21, 2018

Findings: Breach of Sections 6, 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,500 no later than **November 29, 2019**.
2. Ishaq is ordered to successfully complete the MVDA Key Elements course no later than **November 29, 2019**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **November 29, 2019**. 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 or who are otherwise required to do so pursuant to the Act.



4. The Dealer and Ishaq agree to 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:

The reasons for this notice are:

1. Soan Valley Shelters Private Ltd o/a Uncle Sam's Autos (the "Dealer") was first registered as a motor vehicle dealer in about October 2017. Mohammad Ishaq ("Ishaq") was first registered as a motor vehicle salesperson in about October 2017. At all material times, Ishaq was the sole director, and person in charge, of the Dealer.
2. On about March 8, 2017, Ishaq successfully completed the Automotive Certification course (the "Course"). The following areas of compliance are covered in the Course materials:
 - a. The requirement for dealers to only trade in vehicles from their registered premises (business address).
 - b. Contract requirements: required information on bills of sale.
 - c. Material fact disclosure requirements.

Non-compliance:

3. On about August 28, 2018, Ishaq purchased a 2008 Dodge Caravan (VIN 2D8HN44H68R810974) on behalf of the Dealer. At the time of purchase, the vehicle was declared as having and \$8,872 accident history. On about September 4, 2018, the Dealer sold this vehicle. The retail bill of sale was missing the following required information:
 - a. The legal name of the Dealer
 - b. The business address of the Dealer
 - c. The registered name of the salesperson
 - d. The salesperson's signature
 - e. The purchaser's name
 - f. The purchaser's address
 - g. The vehicle's accident history
 - h. The vehicle identification number



- i. The total distance the vehicle had been driven ("odometer reading")

This is contrary to sections 40(2), 40(9), 42(3), 42(19), and 42(25) of Regulation 333/08 as well as sections 7 and 9 of the Code of Ethics. Moreover, Ishaq sold this vehicle on behalf of the Dealer at a location other than the Dealer's registered premises. This is contrary to section 4(2)(b) of the Act, as well as section 9 of the Code of Ethics. The Dealer has since reached out to the purchaser, via registered mail, to inform them of their vehicle's history.

- 4. On about September 18, 2018, Ishaq purchased a 2007 Honda Odyssey (VIN 5FNRL386X7B503409) on behalf of the Dealer. At the time of purchase the vehicle was declared as having a \$6,927 accident history. On about September 2, 2018, Ishaq sold this vehicle on behalf of the Dealer. The retail bill of sale was missing the following required information:
 - a. The legal name of the Dealer
 - b. The business address of the Dealer
 - c. The vehicle's accident history

This is contrary to sections 40(2), 42(19), and 42(25) of Regulation 333/08 as well as sections 7 and 9 of the Code of Ethics. Moreover, Ishaq sold this vehicle on behalf of the Dealer at a location other than the Dealer's registered premises. This is contrary to section 4(2)(b) of the Act, as well as section 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation the purchaser is aware of their vehicle's accident history.

- 5. Ishaq's conduct with respect to the above referenced vehicle trades has caused the Dealer to contravene the Act, Regulations, and Code of Ethics. As such, Ishaq has personally contravened sections 6 and 9 of the Code of Ethics.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:
Regulation 333/08:

Name and place of business

(2) A motor vehicle dealer shall not,

- (a) carry on business in a name other than the name in which the motor vehicle dealer is registered; or
- (b) invite the public to deal in a place other than the place that is authorized in the registration of the motor vehicle dealer.

40. Contracts for sales of used motor vehicles

(2) A registered motor vehicle dealer shall ensure that any contract that the dealer enters into to sell a used motor vehicle to a purchaser who is not another registered motor vehicle dealer includes, in a clear, comprehensible and prominent manner, the following:



- The name and address of the purchaser.
- A registered name and the registration number of the dealer that entered into the contract, together with the legal name of the dealer if it is different from the registered name.
- The business address of the place at which the dealer entered into the contract.
- If a registered salesperson is acting on behalf of the dealer respecting the sale, the registered name and registration number of the salesperson.
- The vehicle identification number of the vehicle, if known.

(9) For each contract mentioned in subsection (2) into which the registered motor vehicle dealer enters, the dealer shall ensure that:

- a. the contract is signed by the parties
- b. if a registered salesperson is acting on behalf of the dealer respecting the sale, the contract is signed by the salesperson.

42. Additional information in contracts of sale and leases

(3) If the motor vehicle is a used motor vehicle, the total distance that it has been driven if the registered motor vehicle dealer can determine the 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.

(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 Ishaq has breached the following section of the Code of Ethics, as set out in Regulation 332/08:

6 (2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading in motor vehicles.

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

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.

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

9(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.



Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$2,500 no later than **November 29, 2019**.
2. Ishaq agrees to successfully complete the MVDA Key Elements course no later than **November 29, 2019**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **November 29, 2019**. 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Ishaq agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Decision of the Chair

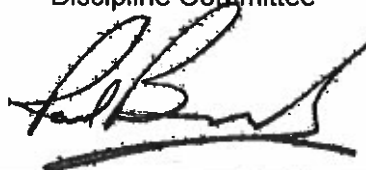
Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 6, 7 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the 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 \$2,500 no later than **November 29, 2019**.
2. Ishaq is ordered to successfully complete the MVDA Key Elements course no later than **November 29, 2019**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **November 29, 2019**. 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 or who are otherwise required to do so pursuant to the Act.



4. The Dealer and Ishaq agree to 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

