

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 -

ROXY AUTO INC

- and -

HAIDER BOSCH

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: May 1, 2019

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

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,800 no later than **August 30, 2019.**
2. Bosch is ordered to ensure all sales staff at the Dealer, including himself, reviews the June 2015 OMVIC disclosure webinar no later than **May 31, 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 **July 31, 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Bosch 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:

1. Roxy Auto Inc. (the "Dealer") was first registered as a motor vehicle dealer in around May 2017. Haider Bosch ("Bosch") was first registered as a motor vehicle salesperson in around January 2014. At all material times Bosch was the Director, as well having identified himself to OMVIC as the person in charge of the Dealer.
2. On about December 19, 2013, Bosch successfully completed the Automotive Certification Course (the "course"). Included in the course materials are dealer's disclosure requirements when selling motor vehicles.
3. On about May 5, 2017, Bosch executed terms and conditions of registration on behalf of the Dealer. As per condition 1, the Dealer agreed to comply with Code of Ethics and Standards of Business Practice, as may be amended from time to time. As per condition 18, 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.

OMVIC publications:

4. In the fall of 2017 (Issue #3), OMVIC issued a Dealer Standard publication reminding dealers of their requirement to provide purchasers with written and detailed disclosure of all material facts about the vehicles they sell ("disclosure obligations").
5. In the fall of 2018 (Issue #3), OMVIC issued a further Dealer Standard publication reminding dealers of their disclosure obligations.

Direct correspondence with Dealer:

6. During an inspection on about July 6, 2017, a representative of the Registrar reviewed with Bosch, on behalf of the Dealer, the Dealer's obligations with respect to material fact disclosure.

Non-compliant vehicle trades:

7. During an inspection on or about February 4, 2019, a representative of the Registrar discovered the following non-compliant vehicle trades:



- a. On about October 12, 2017, the Dealer purchased a 2010 Buick Lacrosse (VIN 1G4GJ5EG5AF231470) declared as having an \$11,062 accident damage history. On about March 8, 2018, Bosch sold this vehicle on behalf of the Dealer without providing the purchaser with written disclosure of the dollar amount of the vehicle's accident damage history. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, as well as sections 7(1) and 9(3) of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser that they are aware of their vehicle's history.
 - b. On about December 14, 2017, the Dealer purchased a 2010 Honda Odyssey (VIN 5FNRL3H58AB501995) declared as having an \$11,844 accident damage history. On about October 22, 2018, the Dealer sold this vehicle without providing the purchaser with written disclosure of the dollar amount of the vehicle's accident damage history. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, 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 are aware of their vehicle's history.
8. Bosch has failed to ensure the Dealer conducts its motor vehicle trades in compliance with the Regulations and Code of Ethics, and thus has personally contravened section 6(2) and 9(3) of the Code of Ethics.

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:

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.

23. If the motor vehicle has been classified, under section 199.1 of the Highway Traffic Act, as irreparable, salvage or rebuilt, a statement as to how it was last classified.

It is thereby agreed that the Dealer and Bosch have breached sections 7(1) and 9(3) 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. (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.

It is thereby agreed that Bosch has breached section 6(2) of the Code of Ethics, as set out in regulation 332/08:



Accountability

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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$1,800 no later than **August 30, 2019**.
2. Bosch agrees to ensure all sales staff at the Dealer, including himself, reviews the June 2015 OMVIC disclosure webinar no later than **May 31, 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 **July 31, 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Bosch agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Decision of the Chair

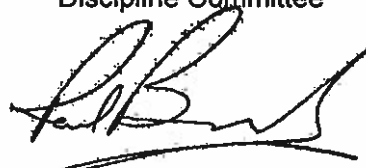
Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 6, 7 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the 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 \$1,800 no later than **August 30, 2019**.
2. Bosch is ordered to ensure all sales staff at the Dealer, including himself, reviews the June 2015 OMVIC disclosure webinar no later than **May 31, 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 **July 31, 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.



4. The Dealer and Bosch 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

