

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 -

OLAGBAIYE VICTOR o/a MOBILE DETAILING

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: April 26, 2019

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

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,000 no later than, **October 18, 2019.**

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. Olagbaiye Victor o/a Mobile Detailing (the "Dealer") was first registered as a motor vehicle dealer in or around March 2008. At all material times, Victor Olagbaiye was the sole proprietor of the Dealer.
2. On or about March 27, 2008, the Dealer executed terms and conditions of registration. As per condition 6, the Dealer agreed to comply with OMVIC's Code of Ethics, and Standards of Business Practice, as may be amended from time to time. As per condition 16, the Dealer agrees to operate exclusively from the location approved by the Registrar. As per condition 17, the Dealer agreed not to conduct business with the public, as per the wholesale affidavit.
3. On or about November 13, 2013, the Dealer executed terms and conditions of registration. As per condition 6, the Dealer agreed to comply with OMVIC's Code of Ethics, and Standards of Business Practice, as may be amended from time to time. As per condition 16, the Dealer agrees to operate exclusively from the location approved by the Registrar. As per condition 17, the Dealer agreed not to conduct business with the public, as per the wholesale affidavit.
4. On or about May 6, 2017, the Dealer engaged in the trade of a 2011 Sonata (VIN 5NPEB4AC7CH340544) with a consumer. The selling price of the vehicle was \$7345. This is contrary conditions 6 and 17 of the Dealer's terms and conditions of registration, as well as section 9 of the Code of Ethics.
5. The above mentioned vehicle trade took place at a location other than the Dealer's registered location. This is contrary to section 4 of the Act, condition 16 of the Dealer's terms and conditions of registration, as well as section 9 of the Code of Ethics.
6. There was no bill of sale executed reflecting this vehicle trade. This is contrary to sections 7 and 9 of the Code of Ethics.
7. The consumer alleges that when the vehicle was delivered it was not in the condition the Dealer had verbally described prior to the consumer's purchase.
8. The vehicle also allegedly had some mechanical issues after the consumer took delivery.
9. The Dealer refused to take the vehicle back and refund the consumer's money.
10. On or about December 21, 2017, the consumer obtained a judgement against the Dealer in the amount of \$9,504.96.
11. The Dealer filed a motion to set aside the judgement, and on or about June 1, 2018, the Dealer's motion was dismissed.



12. To date, the Dealer has failed to satisfy the judgement, contrary to section 9 of the Code of Ethics.
13. The Motor Vehicle Dealers Compensation Fund has since paid out the consumer's judgement against the Dealer.

It is thereby agreed that the Dealer has 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. (2) In carrying on a business, a registrant shall act with honesty, integrity and fairness.

Joint Submission on Penalty

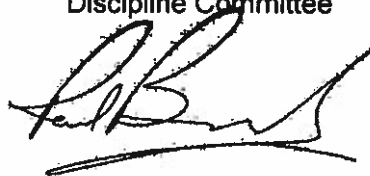
1. The Dealer agrees to pay a fine in the amount of \$1,000 no later than, **October 18, 2019.**

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:

2. The Dealer is ordered to pay a fine in the amount of \$1,000 no later than, **October 18, 2019.**

Ontario Motor Vehicle Industry Council
Discipline Committee



Paul Burroughs, Chair

