

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 -

HCN MOTORS LTD. o/a HUNT CLUB NISSAN

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: September 29, 2020

Findings: Breach of Sections 4 and 6 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,500 no later than **December 18, 2020**.
2. The Dealer is ordered to have all current and future staff to review the "August 2017 - Advertising Webinar" and the "October 2015 – Consumer Protection Act and Sale of Goods Act Webinar" available on OMVIC's webpage, no later than **December 18, 2020**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the OMVIC Automotive Certification Course (the "Course"). Current sales staff will be offered the Course no later than **December 18, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. 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 is ordered 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. HCN MOTORS LTD. o/a HUNT CLUB NISSAN (the "Dealer") was first registered as a motor vehicle dealer in around October 2015.
2. On or before January 9, 2020, the Dealer published an advertisement for a 2019 Nissan Kicks S (VIN – 3N1CP5CU2KL524974) with a selling price of \$19,813.
3. On this same date, a representative of the Registrar made inquiries about the subject vehicle, while posing as a member of the public. The Dealer's sales representative advised that a 2019 Kicks S would cost "just under \$24,000 [including the taxes and any additional fees]". It was unclear whether the Dealer's sales representative was referring to the subject vehicle in making the statement. Thus, the Dealer was not clear and truthful in describing the prices connected with a motor vehicle, contrary to section 4(1) of the Code of Ethics. The Dealer also failed to ensure its sales representative conducted business in compliance with the Code of Ethics, contrary to section 6(1) of the Code of Ethics.

By failing to comply with the following:

Regulation 332/08:

Disclosure and Marketing

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

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

Accountability

6 (1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.



Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$1,500 no later than **December 18, 2020**.
2. The Dealer agrees to have all current and future staff to review the “August 2017 - Advertising Webinar” and the “October 2015 – Consumer Protection Act and Sale of Goods Act Webinar” available on OMVIC’s webpage, no later than **December 18, 2020**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the OMVIC Automotive Certification Course (the “Course”). Current sales staff will be offered the Course no later than **December 18, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. 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 agrees 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 4 and 6 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 no later than **December 18, 2020**.
2. The Dealer is ordered to have all current and future staff to review the "August 2017 - Advertising Webinar" and the "October 2015 – Consumer Protection Act and Sale of Goods Act Webinar" available on OMVIC's webpage, no later than **December 18, 2020**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the OMVIC Automotive Certification Course (the "Course"). Current sales staff will be offered the Course no later than **December 18, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. 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 is ordered 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

