

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 -

830375 ONTARIO INC. o/a MOTOR SPORTS WORLD

- AND -

CHRISTOPHER WUBS

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: December 19, 2016

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 \$1,250 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Wubs is ordered to complete the OMVIC certification course (the "course"), within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of being retained in this capacity. 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 1st, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer shall ensure that all future advertising is in compliance with *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.



Ontario Motor
Vehicle Industry
Council

Conseil ontarien
du commerce des
véhicules automobiles

5. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* 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. 830375 Ontario Inc. o/a Motor Sports World (the "Dealer") was first registered as a motor vehicle dealer in or around June 1994. Christopher Wubs (Wubs) was first registered as a motor vehicle salesperson in or around June 1994. At all material times, Wubs was the officer and director of the Dealership.

Direct Correspondence with the Dealer:

2. On or about May 16, 2013 the Dealer was reminded that advertised vehicle prices must include all additional costs such as freight, PDI and dealer administration fees.
3. On or about March 24, 2014 the Dealer was reminded of its obligation to include all additional fees in the advertised price.
4. During an inspection on or about January 27, 2015 it was found that new vehicle inventory was not compliant with all-in regulations. The dealer was reminded of its obligation to ensure all advertised prices are all-inclusive.

All In Pricing:

5. On or before August 31, 2016, an advertisement was placed by or on behalf of the Dealer for a 2015 Yamaha R3 with an advertised price of \$3,999. On or about August 31, 2016, a representative of the Registrar approached the Dealer and made inquiries while posing as a member of the public. The representative was advised by the salesperson at the dealership that a \$199 license fee would be applied on top of the advertised price. Moreover, the salesperson later confirmed this fee is "just our dealer fee, it's not a reflection of the exact cost of licensing." As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
6. The dealer has agreed to attend the OMVIC advertising seminar within 90 days of the Discipline Order.



By failing to comply with the following regulations under the *Motor Vehicle Dealers Act, 2002*:

Advertising

36. (1) A registered motor vehicle dealer to whom this section applies shall ensure that any advertisement placed by the dealer complies with this section.

(7) If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,

- (a) the amount that a buyer would be required to pay for the vehicle; and
- (b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.

It is thereby agreed that the Dealer and Wubs have 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 \$1,250 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Wubs agrees to complete the OMVIC certification course (the "course"), within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of being retained in this capacity. 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 1st, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer agrees to ensure that all future advertising is in compliance with *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.



5. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* 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 Wubs 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 \$1,250 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Wubs is ordered to complete the OMVIC certification course (the "course"), within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
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4. The Dealer shall ensure that all future advertising is in compliance with *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.
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Ontario Motor Vehicle Industry Council
Discipline Committee



Paul Burroughs, Chair

