

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 -

1471616 ONTARIO INC. o/a AUTO TRADERS

- and -

LUCIANO CECI

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 1, 2019

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 \$1,000.00 no later than **May 3, 2019**.
2. 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 **June 3, 2019**. 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.
3. The Dealer agrees 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. 1471616 Ontario Inc o/a Auto Traders (the "Dealer") was first registered as a motor vehicle dealer in about May 2014. Luciano Ceci ("Ceci") was first registered as a motor vehicle salesperson in about February 2011. At all material times, Ceci was a Director, as well as a Person in Charge, of the Dealer.
2. On or about February 10, 2011, Ceci successfully completed the Automotive Certification course.

Terms and Conditions of Registration:

3. On or about May 29, 2014, Ceci executed terms and conditions of registration on behalf of the Dealer.
4. As per condition 1, the Dealer agreed to comply with the Code of Ethics, and Standards of Business Practice, as may be amended from time to time.
5. As per condition 16, the Dealer agreed to ensure that all motor vehicle trades are completed pursuant to Regulations 39, 40, 42, 42, and 43 of the Act.
6. As per condition 17, the Dealer agreed to disclose all material facts, in writing, on the bill of sale, about the vehicles it sells or leases.

Consumer Complaint:

7. On or about January 17, 2018, Ceci purchased a 2011 Dodge Journey (VIN 3D4PH6FG6BT542744) on behalf of the Dealer. The vehicle was declared by the seller as having the "engine light on/transmission problem" at the time of sale.
8. The Dealer could not provide OMVIC with reconditioning records to suggest the disclosed repairs to the engine or transmission had been completed.



9. On or about February 16, 2018, Ceci sold the above referenced vehicle on behalf of the Dealer to a consumer. Ceci, on behalf of the Dealer, did not include in the bill of sale a declaration regarding the vehicle's transmission or indicate that the vehicle required repairs to the engine and transmission.
10. Shortly after purchase, the vehicle began having mechanical problems and on or about March 16, 2018 the consumer had the vehicle's engine and transmission repaired. The cost of these repairs was approximately \$4,500.00.
11. The consumer complained to OMVIC and a representative of the Registrar became involved. The consumer and Ceci, on behalf of the Dealer, were unable to reach a resolution to this issue which was satisfactory to both parties.
12. Ceci's conduct has caused the Dealer to contravene the Regulations and Code of Ethics. In doing so, he is personally in contravention of subsections 6(2) and 9(1) of the Code of Ethics as this section relates to the sale of the 2011 Dodge Journey (VIN 3D4PH6FG6BT542744).

By failing to comply with the following sections of the Act:

Regulation 333/08:

42. Additional information in contracts of sale and leases:

13. If the motor vehicle requires repair in any of the following, a statement to that effect:

- i. the engine, transmission or power train,
- ii. the subframe or suspension,
- iii. computer equipment,
- iv. the electrical system,
- v. the fuel operating system, or
- vi. the air conditioning.

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 the Dealer has breached section 7(1) of the Code of Ethics, as set out in regulation 332/08 as it relates to the sale of a 2011 Dodge Journey (VIN 3D4PH6FG6BT542744):

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.



It is thereby agreed that the Dealer and Ceci have breached section 9(1) of the Code of Ethics, as set out in regulation 332/08 as it relates to the sale of a 2011 Dodge Journey (VIN 3D4PH6FG6BT542744):

Professionalism

9. (1) 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.

It is thereby agreed that Ceci has breached section 6(2) of the Code of Ethics, as set out in regulation 332/08 as it relates to the sale of a 2011 Dodge Journey (VIN 3D4PH6FG6BT542744):

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 \$1,000.00 no later than **May 3, 2019**.
2. 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 **June 3, 2019**. 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.
3. 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 and/or Ceci 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 \$1,000.00 no later than **May 3, 2019**.
2. 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 **June 3, 2019**. 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.
3. The Dealer agrees 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

