

DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

**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 -

MOTORWAY AUTO GROUP LIMITED

- and -

NADINE BAYOUN

AGREED STATEMENT OF FACTS AND PENALTY

Motorway Auto Group Limited and Nadine Bayoun have breached the following:

Section 7 of the Code of Ethics, Regulation 332/08

Section 9 of the Code of Ethics, Regulation 332/08

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Motorway Auto Group Limited (the "Dealer") was first registered as a motor vehicle dealer in or around January 2004. Nadine Bayoun ("Bayoun") was first registered as a motor vehicle salesperson in or around January 2004. At all material times, Bayoun was the Officer of the Dealer.
2. In the winter of 2008, OMVIC issued a Dealer Standard publication which reminded dealers of the changes that will be taking place when the *Motor Vehicle Dealers Act, 2002* (the "Act") comes into effect. This included (not limited to), disclosure requirements on contracts, specifically, if a vehicle was involved in an incident and suffered more than \$3,000 in damage.
3. In the spring of 2009, OMVIC issued a Dealer Standard publication which reminded dealers of various wholesale disclosure requirements on contracts, including (not limited to) the requirement to disclose any incident damage over \$3,000.

N.B.

4. In or around January 2010, OMVIC issued a bulletin reminding dealers of their obligation to ensure that damage caused by an indecent over \$3,000, must be disclosed on contracts.
5. During an inspection on or about October 14, 2010, a representative of the Registrar reminded the Dealer to disclose, in writing, all items referenced in section 42 of Regulation 333/08 on bills of sales. A copy of this section 42 was left with the Dealer.
6. In the summer of 2011, OMVIC issued a Dealer Standard publication which reminded dealers that the "Act" requires disclosure (in writing) of any incidents which cause \$3,000 or more in damage.
7. In the winter of 2012, OMVIC issued a Dealer Standard publication which referenced a Dealer who was recently fined, for selling several vehicles to consumers without disclosing that the vehicles had been registered in another jurisdiction (amongst other issues).
8. Between in or around May 2013, and in or around July 2013, the Dealer sold two (2) vehicles without providing the purchasers with written disclosure of the vehicle's accident repair history. This is contrary to section 42(19) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer subsequently contacted the purchasers and advised them of the vehicle's accident repair history.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:

Regulation 333/08:

42 (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.

It is thereby agreed that the Dealer and Nadine Bayoun have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

7. 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. O. Reg. 332/08, s. 7 (1).

7(2) ~~8.~~ A registered motor vehicle dealer who enters into a contract with a person for the sale of a motor vehicle shall facilitate compliance by the person with the person's obligations under subsection 11 (2) of the *Highway Traffic Act* unless the person instructs the dealer not to do so. O. Reg. 332/08, s. 7 (2).

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.

Registrant's Initials

NB

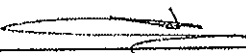
JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$1,500 within 90 days of the date of the Discipline Committee Order.
2. Bayoun agrees to successfully complete the OMVIC certification course within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
3. The Dealer agrees 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 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. 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 Bayoun agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Mississauga THIS 31st DAY OF August, 2015

Nadine Bayoun
(please print)
Nadine Bayoun


(signature)

DATED AT Mississauga THIS 31st DAY OF August, 2015

Nadine Bayoun
(please print)

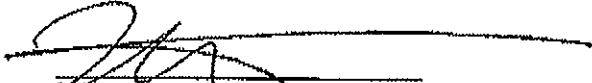

I have the authority to bind the corporation:
Motorway Auto Group Limited

Registrant's Initials

MB


By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

DATED AT Toronto THIS 2nd DAY OF September, 2015


Mary Jane South
Registrar, Motor Vehicle Dealers Act, 2002

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties Identified above:

DATED AT London THIS 4 DAY OF Sept, 2015


Catherine Poultney
Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council

v B

Registrant's Initials