

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 -

3N MOTORS INC.

- AND -

GURDEV THIND

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: July 22, 2020

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 **\$3,000**. **\$1,500** will be paid no later than **November 2, 2020**, and the remaining balance will be paid no later than **January 29, 2021**.
2. Thind is ordered to successfully complete the MVDA Key Elements course no later than **November 2, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter in delivering this course within the specified time frame.
3. 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 **November 2, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. 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 or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Thind agree 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. 3N Motors Inc. (the "Dealer") was first registered as a motor vehicle dealer in about May 2016. Gurdev Thind ("Thind") was first registered as a motor vehicle salesperson in about May 2016. At all material times, Thind was a director, and the person in charge of the day to day activities of the Dealer.
2. On about October 29, 2016, Thind successfully completed the Automotive Certification course (the "Course"). The following areas of compliance are covered in the Course materials:
 - a. The requirement for dealers to only trade in vehicles from their registered premises (business address).
 - b. Contract requirements: required information on bills of sale.
 - c. Material fact disclosure requirements.

Non-compliance:

3. On about August 31, 2018, Thind sold a 2016 Dodge (VIN 2C3CDZBT9GH254197) on behalf of the Dealer. The retail bill of sale was missing the following required information:
 - a. The vehicle had sustained structural damage.
 - b. The manufacturer's warranty had been cancelled.
 - c. The vehicle was assessed as a total loss.

This is contrary to sections 42(10), 42(20) and 42(21) of Regulation 333/08 as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle history.



4. On about March 11, 2019, Thind sold a 2017 Jeep Cherokee (VIN 1C4PJMDS9HW561871) on behalf of the Dealer. The retail bill of sale was missing the following required information:
 - a. The vehicle had sustained structural damage.
 - b. The manufacturer's warranty had been cancelled.

This is contrary to sections 42(10) and 40(21) of Regulation 333/08 as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle history.

5. Between March and September 2018, Thind sold vehicles 2458129 Ontario Inc, o/a Fair Deal Car Rental, an unregistered motor vehicle dealer. This is contrary to section 4(4) of the Act, and sections 7 and 9 of the Code of Ethics.
6. Thind has since applied for registration on behalf of Fair Deal Car Rental.
7. Thind's conduct with respect to the above referenced vehicle trades has caused the Dealer to contravene the Act, Regulations, and Code of Ethics. As such, Thind has personally contravened section 6 of the Code of Ethics.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:
Regulation 333/08:

42. Additional information in contracts of sale and leases

(10) If there has been structural damage to the motor vehicle or any repairs, replacements or alterations to the structure of the vehicle, a statement to that effect.

(20) If the manufacturer's warranty on the motor vehicle was cancelled, a statement to that effect.

(21) If the motor vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the Highway Traffic Act, a statement to that effect.

It is thereby agreed that Thind and the Dealer have breached the following sections 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(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.



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

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 **\$3,000**. **\$1,500** will be paid no later than **November 2, 2020**, and the remaining balance will be paid no later than **January 29, 2021**.
2. Thind agrees to successfully complete the MVDA Key Elements course no later than **November 2, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter in delivering this course within the specified time frame.
3. 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 **November 2, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Thind agree 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 Thind have 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 **\$3,000**. **\$1,500** will be paid no later than **November 2, 2020**, and the remaining balance will be paid no later than **January 29, 2021**.



2. Thind is ordered to successfully complete the MVDA Key Elements course no later than **November 2, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter in delivering this course within the specified time frame.
3. 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 **November 2, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Thind agree 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

