

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 -

J.J. STEWART MOTORS LIMITED

- and -

JOHN STEWART

- and -

DAVID STEWART

- and -

MARK STEWART

AGREED STATEMENT OF FACTS AND PENALTY

J.J. Stewart Motors Limited, John Stewart, and David Stewart, and Mark Stewart 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 J.J. Stewart Motors Limited (the "Dealer") was first registered as a motor vehicle dealer in or around February 1983. John Stewart ("John") was first registered as a motor vehicle salesperson around April 1983. David Stewart ("David") was first registered as a motor vehicle salesperson in or around November 1998. Mark Stewart ("Mark") was first registered as a motor vehicle salesperson in or around November 1999. At all material times, John, David, and Mark were officers and directors of the Dealer.

  
\_\_\_\_\_  
Registrant's Initials

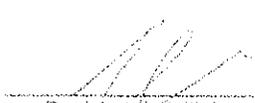
2. In the winter of 2008, OMVIC issued a Dealer Standard publication which outlined many of the requirements of the upcoming *Motor Vehicle Dealers Act, 2002*, (the "Act") including dealers' obligation to provide purchasers with written disclosure on the bill of sale of vehicle's former daily rental history.
3. In or around January 2010, OMVIC issued a bulletin reminding dealers of their obligation to provide purchasers with written disclosure on the bill of sale of vehicle's former daily rental history.
4. In the summer of 2011, OMVIC issued a Dealer Standard publication reminding dealers of their obligation to provide purchasers with written disclosure on the bill of sale of vehicle's former daily rental history.
5. In the summer of 2012, OMVIC issued a Dealer Standard publication reminding dealers of their obligation to provide purchasers with written disclosure on the bill of sale of vehicle's former daily rental history.
6. In or around September 2012, OMVIC issued a bulletin reminding dealers of their obligation to provide purchasers with written disclosure on the bill of sale of vehicle's former daily rental history.
7. On or about August 20, 2013, David, on behalf of the Dealer, purchased a 2013 Dodge Dart (VIN 1C3CDFBA1DE225850), declared as a former daily rental unit. On or about August 22, 2013, David, on behalf of the Dealer, sold this vehicle without providing the purchaser with written disclosure of the vehicle's former daily history. This is contrary to section 42(7) 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 that they were aware of their vehicle history at the time of purchase.
8. On or before January 22, 2014, the Dealer, purchased a 2013 Dodge Avenger (VIN 1C3CDZCB8DN555892). On that same date, David, on behalf of the Dealer, sold this vehicle providing the purchaser with written disclosure of the vehicle's former daily history. This is contrary to section 42(7) 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 that they were aware of their vehicle history at the time of purchase.

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

Regulation 333/08:

42. Additional information in contracts of sale and leases

7. If any of the following is true of the motor vehicle, a statement to the effect that the vehicle was previously,
  - i. leased on a daily basis, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer under the *Motor Vehicle Dealers Act* or the *Motor Vehicle Dealers Act, 2002*.
  - ii. used as a police cruiser or used to provide emergency services, or
  - iii. used as a taxi or limousine.

  
Registrant's Initials

It is thereby agreed that the Dealer, John, David, and Mark 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.

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 \$2,000 within 90 days of the date of the Discipline Committee Order.
2. John agrees to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
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 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, John, Mark, and David agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

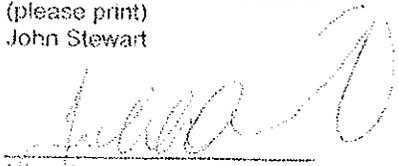


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Registrant's Initials

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 Norman THIS 17 DAY OF Oct, 2014

John Stewart  
(please print)  
John Stewart

  
(signature)

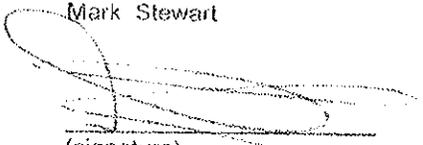
DATED AT Norman THIS 17 DAY OF Oct, 2014

David Stewart  
(please print)  
David Stewart

  
(signature)

DATED AT Norman THIS 17 DAY OF Oct, 2014

Mark Stewart  
(please print)  
Mark Stewart

  
(signature)

I have signed the agreed statement of facts and penalty. Although we have shown that the customer's were aware the vehicles were previous daily rentals, it was not disclosed on the bill of sale. Therefore I will accept the fine. However, being a salesperson and owner for 40 plus years I find the order to take the certification course demeaning.

DATED AT Norwood THIS 17 DAY OF Oct., 2014

J. J. Stewart  
(please print)

[Signature]  
I have the authority to bind the corporation:  
J. J. Stewart Motors Limited

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 21 DAY OF OCT, 2014  
[Signature]  
Carl Compton,  
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 Nov, 2014

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

[Signature]  
Registrant's Initials