

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 -

COREY FRANKLIN EGAN o/a SHIFT AUTO

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: September 18, 2019

Findings: Breach of Sections 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,000 no later than **December 31, 2019.**
2. Egan is ordered to successfully complete the MVDA Key Elements course no later than **December 31, 2019.**
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete Automotive Certification course (the "Course"). Current sales staff will be offered the course no later than **December 31, 2019.** 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 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. Corey Franklin Egan o/a Shift Auto (the "Dealer") was first registered as a motor vehicle dealer in around June 2017. Corey Egan ("Egan") is the sole proprietor of the Dealer.
2. On about July 13, 2016, Egan successfully completed the Automotive Certification Course (the "course"). Included in the course materials are the disclosure requirements for dealers when selling motor vehicles.
3. On about June 12, 2017, the Dealer executed terms and conditions of registration. As per condition 18, the Dealer agreed to provide written disclosure, on the bill of sale, of all material facts about the vehicles it sells.
4. In the fall of 2017 OMVIC issued a Dealer Standard publication reminding dealers of the requirement for dealers to provide purchasers with written disclosure of a vehicle's accident repair history ("disclosure").

Direct correspondence with Dealer:

5. During an inspection of the Dealer on about August 9, 2017, a representative of the Registrar reviewed with the Dealer his disclosure requirements when selling motor vehicles, including but not limited to, the requirement to provide written disclosure of vehicle's accident history.

Dealer non-compliance:

6. During an inspection on or about January 16, 2019, a representative of the Registrar found the following non-compliant vehicle trades:
 - a. On about November 20, 2017, the Dealer purchased a 2010 Audi A4, (VIN WAUDFCFL1AN044920) declared as having has two separate accident damage histories in the amounts of \$3,160 and \$3,994. On about January 10, 2018, the Dealer sold this vehicle without providing written disclosure of the vehicle's accident damage history. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, the Dealer's terms and conditions of registration, as well as



sections 7 and 9 of the Code of Ethics. The Dealer has since attempted to reach out to the purchaser to advise them of their vehicle history.

- b. On about December 11, 2017, the Dealer purchased a 2010 Volkswagen Golf GTI, (VIN WVWGV7AJ7AW426377) declared as having a \$6,459 accident damage history. On about March 29, 2018, the Dealer sold this vehicle without providing written disclosure of the vehicle's accident damage history. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, the Dealer's terms and conditions of registration, 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 are aware of their vehicle's history.

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:

(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.

(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 the following sections of the Code of Ethics, as set out in Regulation 332/08:

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.
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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$2,000 no later than **December 31, 2019.**
2. Egan agrees to successfully complete the MVDA Key Elements course no later than **December 31, 2019.**
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete Automotive Certification course (the "Course"). Current sales staff will be offered the course no later than **December 31, 2019.** 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 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 breached subsections 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 \$2,000 no later than **December 31, 2019**.
2. Egan is ordered to successfully complete the MVDA Key Elements course no later than **December 31, 2019**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete Automotive Certification course (the "Course"). Current sales staff will be offered the course no later than **December 31, 2019**. 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 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

