

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 -

STREETXTREME AUTOMOTIVE INC.
o/a STREETXTREEME AUTO GALLERY

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 16, 2021

Findings: Breach of Sections 6 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the total amount of \$2,500. \$1,250 will be paid no later than **October 31, 2021** and \$1,250 will be paid no later than **December 31, 2021.**
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 **October 31, 2021.** 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 and Hoang 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:

Background:

1. Streetxtreme Automotive Inc. o/a Streetxtreme Auto Gallery (the "Dealer") was first registered as a motor vehicle dealer in around December 2013.
2. Between approximately December 8, 2017 and July 26, 2019, the Dealer retained the services of "Salesperson A". While employed at the Dealer, Salesperson A's job responsibilities included, among other things, trading vehicles to customers.

Non-compliant vehicle trades:

Consumer A:

3. On or about March 1, 2019, Salesperson A sold Consumer A the following three vehicles, on behalf of the Dealer:
 - a. 2018 Altima (VIN 1N4AL3AP2JC105539)
 - b. 2018 Hyundai Elantra (VIN KMHH35LE8JU067983)
 - c. 2018 Hyundai Santa Fe (VIN KM8SNDHF1JU279667)
4. The vehicle trades took place at a location other than the Dealer's registered premises. This is contrary to section 28(4) of Regulation 333/08, as well as section 9 of the Code of Ethics.
5. At the conclusion of these trades, Consumer A signed bill of sales which identified the address of the Dealer's registered premises.
6. Consumer A was a relative of an employee of the Dealer.

Consumer B:

7. On or about July 9, 2019, Salesperson A sold a Consumer B a 2014 Ford Mustang (VIN 1ZVBP8EMXE5323378), on behalf of the Dealer. The trade took place at a location other than the Dealer's registered premises. This is contrary to section 28(4) of Regulation 333/08, as well as section 9 of the Code of Ethics.
8. At the conclusion of the trade, Consumer B signed a bill of sale which identified the address of the Dealer's registered premises.

Generally:

9. The Dealer failed to ensure that Salesperson A carried out his duties in compliance with the law. This is contrary to sections 6 and 9 of the Code of Ethics.

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

Accountability:

6. (1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

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.

Additional written submissions from OMVIC

OMVIC provided the following information in an additional submission:

1. The dealer has never been before the discipline panel, nor have they ever received any specific warnings with respect to this conduct.
2. Mr. Hoang alleges he was not personally aware the trades took place away from his dealership; the Registrar does not have any evidence to indicate otherwise.
3. The circumstances surrounding the trades are outlined in the attached Agreed Statement of Facts and Penalty.

Joint Submission on Penalty

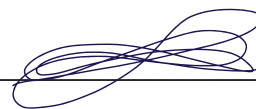
1. The Dealer agrees to pay a fine in the total amount of \$2,500. \$1,250 will be paid no later than **October 31, 2021** and \$1,250 will be paid no later than **December 31, 2021**.
2. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **October 31, 2021**. 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 and Hoang 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 has breached subsections 6 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 total amount of \$2,500. \$1,250 will be paid no later than **October 31, 2021** and \$1,250 will be paid no later than **December 31, 2021**.
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 **October 31, 2021**. 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 and Hoang 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

A handwritten signature in blue ink, consisting of several overlapping loops and a horizontal stroke, positioned above a solid horizontal line.

Stuart Sherman, Vice-Chair