

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 -

1610777 ONTARIO INC
o/a NATIONAL AUTO SALES & LEASING

- AND -

NAVEED AMIN

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 the parties agreed to after attending a Pre-Hearing Conference and together with both Parties' waiver of a Hearing to this Proceeding I provide the following Order:

Date of Decision: August 20, 2018

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

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,500 no later than **November 15, 2018**.
2. Amin is ordered to successfully complete the Automotive Certification course (the "Course" no later than **September 15, 2018**.
3. The Dealer and Amin are ordered 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. 1610777 Ontario Inc o/a National Auto Sales & Leasing (the "Dealer") was first registered as a motor vehicle dealer in or around November 2004. Naveed Amin ("Amin") was first registered as a motor vehicle salesperson in or around April 2002. At all material times, Amin was a Director, as well as the Person in Charge, of the Dealer.

Terms and Conditions of Registration:

2. On or about November 11, 2004, the Dealer executed terms and conditions of registration.
3. As per condition 6, the Dealer agreed to comply with the Code of Ethics, and Standards of Business Practice, as may be amended from time to time.
4. As per condition 25, the Dealer agreed to accept full responsibility for the quality of any repairs or alterations to a motor vehicle, which were completed by the or on behalf of the Dealer.

Direct correspondence with Dealer:

5. By letter dated October 26, 2016, a representative of the Registrar advised, Amin, on behalf of the Dealer, that OMVIC was receiving a few consumer complaints regarding the condition of the vehicles the Dealer sold.

Consumer Complaint:

6. On or about September 9, 2016, [REDACTED] (the "consumer") agreed to purchase a 2005 Chevrolet Equinox (VIN 2CNDL73F956084699).
7. The vehicle was subsequently sold by the Dealer to Zynox Inc, a leasing company, for the purpose of obtaining financing for the consumer. Zynox Inc then leased the vehicle to the consumer.

8. On or about September 10, 2016, the consumer executed a lease agreement between herself and Zynox Inc.
9. Within days of taking delivery of the vehicle, the consumer began having significant problems with it.
10. On or about November 14, 2016 the Ministry of Transportation ("MTO") inspected the vehicle. The MTO officer determined the vehicle had significant corrosion on the underside of the body, and the vehicle's condition should have prohibited it from passing a safety standards certificate ("SSC") inspection.
11. On or about February 28, 2017, the MTO charged the motor vehicle inspection station responsible for issuing the SSC on the consumer's vehicle with the following:
 - a. Issuing an SSC for a vehicle without properly inspecting said vehicle and not complying with the inspection requirements and/or performance standards as prescribed by the *Highway Traffic Act, 1990* regulations.
 - b. Failure to maintain prescribed records.
12. On or about August 22, 2017, the subject motor vehicle inspection station was convicted of both "a" and "b", above.
13. The Dealer sold the consumer a vehicle which was not fit as a means of transportation for a reasonable amount of time. In doing so, the Dealer has failed to comply with section 7.8 of the Standards of Business Practice, as well as section 9 of the Code of Ethics.
14. Moreover, Amin, on behalf the Dealer, refused to take responsibility for the condition of the consumer's vehicle and offered no assistance to the consumer with respect to the necessary repairs. As such, the Dealer has failed to comply with condition 25 of the Dealer's terms and conditions of registration, and both Amin and the Dealer have failed to comply with sections 6 and 9 of the Code of Ethics.

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

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.

(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 that Amin has breached the following section of the Code of Ethics, as set out in Regulation 332/08:

9. (4) A registrant shall provide conscientious service to the registrant's customers in the course of a trade in a motor vehicle and shall demonstrate reasonable knowledge, skill, judgment and competence in providing the services.

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.

15. The Dealer has since agreed to refund \$1,000 (one thousand dollars) to the consumer and to provide confirmation thereof to the Registrar by **August 15, 2018**.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$1,500 no later than **November 15, 2018**.
2. Amin agrees to successfully complete the Automotive Certification course (the "Course" no later than **September 15, 2018**).
3. The Dealer and Amin 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 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 amount of \$1,500 no later than **November 15, 2018**.
2. Amin is ordered to successfully complete the Automotive Certification course (the "Course" no later than **September 15, 2018**).
3. The Dealer and Amin are ordered 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