

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 -

ISSA, MOHAMAD o/a ISSA USED CARS

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: March 22, 2016

Findings: Breach of Sections 5, 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,000.00 within 90 days of the date of the Discipline Committee Order.
2. Issa is ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
3. The Dealer is ordered 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 be 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 shall 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. Issa, Mohamad o/a Issa Used Cars (the "Dealer") was first registered as a motor vehicle dealer in or around February 2005. Mohamad Issa ("Issa") was first registered as a motor vehicle salesperson in or around February 2002. At all material times, Issa was the sole proprietor of the Dealer.

Compliance

OMVIC publications:

2. In the winter of 2008, OMVIC issued a Dealer Standard publication which highlighted some of the upcoming changes that would take place when the *Motor Vehicle Dealer Act, 2002* ("the Act") came into effect, including the requirement for dealers to disclose previous accident history.
3. OMVIC issued the following Dealer Standard publications reminding dealers of their obligations to provide consumers with written disclosure of vehicle's history and condition, such as accident histories and previous out of province registrations:
 - a. Summer 2011
 - b. Summer 2012
 - c. Winter 2013
 - d. Fall 2013
4. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of their obligations to provide consumers with written disclosure of vehicle's history and condition, such as accident histories and previous out of province registrations:
 - a. January 2010
 - b. September 2012
 - c. December 2013
 - d. December 2014

Direct Correspondence with Dealer:

5. During an inspection on or about May 2nd, 2011, a representative of the Registrar reminded the Dealer of its obligation to adhere to section 42 of Regulation 333/08.



6. During an inspection on or about August 17, 2015, a representative of the Registrar found the following examples of non-compliance:

Non-Disclosure:

7. On or about April 30, 2015, the Dealer purchased a 2009 Toyota Venza, (VIN 4T3BK11A39U015004), with an accident history of \$8,534.00 disclosed. On or about May 10, 2015, the Dealer exported this vehicle out of country without disclosing the accident history in writing on the bill of sale. This is contrary to sections 5, 7 and 9 of the Code of Ethics.
8. On or about June 24, 2015, the Dealer purchased a 2009 Toyota Camry, (VIN 4T1BE46K39U892580), with an accident history of \$4,527.00 disclosed. On or about June 26, 2015, the Dealer exported this vehicle out of country without disclosing the accident history in writing on the bill of sale. This is contrary to sections 5, 7 and 9 of the Code of Ethics.
9. On or about June 29, 2015, the Dealer exported a 2010 Toyota Venza (VIN 4T3BA3BB8AU012433) out of country without disclosing two accident histories of \$9,669.00 and \$1,123.00 in writing on the bill of sale. This is contrary to sections 5, 7 and 9 of the Code of Ethics.
10. On or about June 29, 2015, the Dealer exported a 2009 Toyota Rav4, (VIN 2T3BF32V69W023745) out of country without disclosing the accident history in writing of \$6,292.00 on the bill of sale. This is contrary to sections 5, 7 and 9 of the Code of Ethics.
11. On or about July 7, 2015, the Dealer purchased a 2009 Lexus LX 570 (VIN JTHY00W794032902) with an accident history of \$6,410.00 disclosed. On or about July 16, 2015, the Dealer exported this vehicle out of country without disclosing the accident history in writing on the bill of sale. This is contrary to sections 5, 7 and 9 of the Code of Ethics.

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

Regulation 333/08

42 (19): If the total costs of repair 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:

5. If the total costs of repairs to fix the damage caused to the vehicle by an incident exceed \$3,000, a statement to that effect and if the dealer knew the total costs, a statement of the total costs.

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 \$2,000.00 within 90 days of the date of the Discipline Committee Order.
2. Issa agrees to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
3. The Dealer is ordered 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 be 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 and Issa breached subsections 5, 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 \$2,000.00 within 90 days of the date of the Discipline Committee Order.
2. Issa is ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
3. The Dealer is ordered 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 be 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 shall 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

