

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 -

1042735 ONTARIO INC. o/a MAZDA OF BRAMPTON

- AND -

STEVEN ALIZADEH

- AND -

GLEN ALIZADEH

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: April 27, 2015

Findings: Breach of Sections 4 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$3,000 within 90 days of the date of the Discipline Committee Order.
2. 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 acceptance of this offer. 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 or who are otherwise required to do pursuant to the Act.
3. The Dealer, Steven Alizadeh and Glen Alizadeh shall comply with the Act and Standards of Business Practice, as may be amended from time to time.



5. Furthermore, OMVIC issued the following bulletins which also reminded dealers of the requirement to advertise an all-inclusive price as well as ensuring to disclose former daily rental vehicles:
 - a. January 2010 (2 separate publications)
 - b. March 2010
 - c. April 2010 (2 separate publications)
 - d. December 2010
 - e. February 2012
 - f. August 2012
 - g. September 2012 (2 separate publications)
 - h. April 2013
 - i. June 2014

All Inclusive Price Advertising:

6. On or before June 27, 2014, an advertisement was placed by or on behalf of the Dealer for a 2013 Mazda 3 GX stock # CPO-ZP3701 (VIN JM1BL1UF3D1771041) with an advertised selling price of \$15,795. On or about June 27, 2014, representatives of the Registrar attended the Dealer while posing as members of the public a worksheet was drawn up which indicated the selling price of the vehicle plus HST, for a total amount of \$17,170. In addition a mandatory \$395 anti-theft fee and a mandatory \$5.00 OMVIC fee were added. As such the advertised vehicle selling price was not all-inclusive. This is contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Daily Rental Disclosure:

7. On or before June 27, 2014, an advertisement was placed by or on behalf of the Dealer for a 2013 Mazda 3 GX, stock # CPO-ZP3701 (VIN JM1BL1UF3D1771041) without disclosing its former daily rental use in the advertisement.

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

Regulation 333/08:

36 (7) If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as total of,

- (a) the amount that a buyer would be required to pay for the vehicle; and
- (b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes. O. Reg. 333/08, s. 36 (7).



36 (5) If any of the following is true of a motor vehicle, an advertisement that attempts to induce a trade in the specific vehicle shall indicate, in a clear, comprehensible and prominent manner, that the vehicle was previously,

- (a) leased on a daily basis, unless the vehicle was subsequently owned by a person who was not a registered motor vehicle dealer;
- (b) used as a police cruiser or used to provide emergency services; or
- (c) used as a taxi or limousine. O. Reg. 333/08, s.36 (5).

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

4. A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.

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 \$3,000 within 90 days of the date of the Discipline Committee Order.
2. 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 acceptance of this offer. 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 or who are otherwise required to do pursuant to the Act.
3. The Dealer and Steven Alizadeh and Glen Alizadeh 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, S. Alizadeh and G. Alizadeh breached subsections 4 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 \$3,000 within 90 days of the date of the Discipline Committee Order.
2. 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 acceptance of this offer. 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 or who are otherwise required to do pursuant to the Act.
3. The Dealer, Steven Alizadeh and Glen Alizadeh 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



Catherine Poultney, Chair

