

## 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 -

MOTORWAY AUTO GROUP LIMITED

- AND -

NADINE BAYOUN

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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 4, 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 \$1,500 within 90 days of the date of the Discipline Committee Order.
2. Bayoun is ordered to successfully complete the OMVIC certification course within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Bayoun 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. Motorway Auto Group Limited (the "Dealer") was first registered as a motor vehicle dealer in or around January 2004. Nadine Bayoun ("Bayoun") was first registered as a motor vehicle salesperson in or around January 2004. At all material times, Bayoun was the Officer of the Dealer.
2. In the winter of 2008, OMVIC issued a Dealer Standard publication which reminded dealers of the changes that will be taking place when the *Motor Vehicle Dealers Act, 2002* (the "Act") comes into effect. This included (not limited to), disclosure requirements on contracts, specifically, if a vehicle was involved in an incident and suffered more than \$3,000 in damage.
3. In the spring of 2009, OMVIC issued a Dealer Standard publication which reminded dealers of various wholesale disclosure requirements on contracts, including (not limited to) the requirement to disclose any incident damage over \$3,000.
4. In or around January 2010, OMVIC issued a bulletin reminding dealers of their obligation to ensure that damage caused by an indecent over \$3,000, must be disclosed on contracts.
5. During an inspection on or about October 14, 2010, a representative of the Registrar reminded the Dealer to disclose, in writing, all items referenced in section 42 of Regulation 333/08 on bills of sales. A copy of this section 42 was left with the Dealer.
6. In the summer of 2011, OMVIC issued a Dealer Standard publication which reminded dealers that the "Act" requires disclosure (in writing) of any incidents which cause \$3,000 or more in damage.
7. In the winter of 2012, OMVIC issued a Dealer Standard publication which referenced a Dealer who was recently fined, for selling several vehicles to consumers without disclosing that the vehicles had been registered in another jurisdiction (amongst other issues).
8. Between in or around May 2013, and in or around July 2013, the Dealer sold two (2) vehicles without providing the purchasers with written disclosure of the vehicle's accident repair history. This is contrary to section 42(19) of Regulation 333/08, as well as sections



7 and 9 of the Code of Ethics. The Dealer subsequently contacted the purchasers and advised them of the vehicle's accident repair history.

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 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.

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

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. O. Reg. 332/08, s. 7 (1).

(2) A registered motor vehicle dealer who enters into a contract with a person for the sale of a motor vehicle shall facilitate compliance by the person with the person's obligations under subsection 11 (2) of the *Highway Traffic Act* unless the person instructs the dealer not to do so. O. Reg. 332/08, s. 7 (2).

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 \$1,500 within 90 days of the date of the Discipline Committee Order.
2. Bayoun agrees to successfully complete the OMVIC certification course within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
3. 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 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Bayoun 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 and Bayoun 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 \$1,500 within 90 days of the date of the Discipline Committee Order.
2. Bayoun is ordered to successfully complete the OMVIC certification course within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Bayoun 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



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Catherine Poultney, Chair

