

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 -

A-ONE LINKS CORPORATION

- AND -

NADEEM SULTAN

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: August 31, 2020

Findings: Breach of Sections 6, 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine of \$7,000. \$3,500 will be paid no later than **November 30, 2020**. The remaining balance (\$3,500) will be paid no later than by **January 31, 2021**.
2. Sultan is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **November 1, 2020**.
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 no later than **November 1, 2020**. 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.



4. As in all other areas of its business, the Dealer and Sultan 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:

1. A-One Links Corporation (the "Dealer") was first registered as a motor vehicle dealer in or around April 2018. Nadeem Sultan ("Sultan") was first registered as a motor vehicle salesperson in or around December 2004. At all material times, Sultan was the Officer and the person in charge of the day to day activities of the Dealer.
2. Sultan successfully completed the Automotive Certification Course (The "Course") in October 2004 and again in November 2017. Included in the course materials is the dealers' obligation to disclose a vehicle's accident history on the bill of sale, as well as their obligation to maintain records of all vehicles they purchase and sell.
3. On or about April 13, 2018, Sultan executed terms and conditions of registration on behalf of the Dealer.
4. As per condition 1, the Dealer agreed to comply with the Code of Ethics and Standards of Business Practice, as may be amended from time to time.
5. As per condition 11, the Dealer agreed to maintain all books and records in relation to the vehicles it purchases and sells.
6. As per condition 18, the Dealer agreed to provide purchasers with written disclosure, on the bill of sale, of all material facts about the vehicles it sells.

OMVIC publications re: material fact disclosure:

7. In the winter of 2008, OMVIC issued a Dealer Standard publication advising dealers of the up and coming changes to the Act, including the requirement for dealers to provide purchasers with written disclosure of a vehicle's accident repair history ("disclosure").
8. After the Act was proclaimed, OMVIC further issued the following Dealer Standard publications reminding dealers of the disclosure requirements:
 - a. Spring 2009
 - b. Summer 2011
 - c. Summer 2012
 - d. Summer 2013



- e. Issue #4 2014
 - f. Issue #4 2016
 - g. Issue #3 2017
9. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of the disclosure requirements:
- a. January 2010
 - b. September 2012
 - c. December 2013
10. In addition to the above referenced publications, in around December 2014 and June 2015, OMVIC hosted webinars to assist registrants in understanding their disclosure requirements. The contents of said webinars continue to be available on OMVIC's website.

Prior correspondence with Dealer

11. During an inspection on or about June 21, 2018, a representative of the Registrar reminded Sultan, of the Dealer's disclosure requirements.
12. On or about January 3, 2019, OMVIC received a consumer complaint about the Dealer. The complaint was ultimately resolved, however during the complaint handling process, Sultan was reminded of the Dealer's disclosure requirements.

Current dealer non-compliance

13. During an inspection on or about March 20, 2019, a representative of the Registrar found the following non-compliance issues:

Material fact non-disclosure and non-compliant bills of sale

14. Between in or around March 2018 and in or around March 2019, Sultan sold the following vehicles, on behalf of the Dealer, and failed to provide purchasers with a bill of sale compliant with the Act and written disclosure of the following required information:
- a. Dollar amount of the accident damage the vehicle had sustained.
 - b. That the vehicle was declared a total loss.

This is contrary to the Dealer's terms and conditions of registration, sections 42(19) and 42(21) of Ontario Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchasers they are aware of their vehicle histories.

	VEHICLE MAKE/MODEL	DATE SOLD	N/D of ACCIDENT REPAIR & AMOUNT:	N/D of TOTAL LOSS:



			42(19)	42(21)
a.	2006 Honda Civic (VIN 2HGFA16506H004393)	2019 02-10	\$4,203	•
b.	2007 Honda Accord (VIN 1HGCM56707A814335)	2019 03-11	\$6,120	•
c.	2008 Honda Civic (VIN 2HGFA15968H019391)	2019 03-15	\$7,242	•
d.	2013 Chevy Trax (VIN 3GNCJKSB3DL207194)	2018 03-16	\$9,066	•

Failure to maintain records relating to trade

15. Moreover, Sultan, on behalf of the Dealer, failed to maintain a copy of the bill of sale for the following vehicles he purchased and subsequently sold. This is contrary to the Dealer's terms and conditions of registration, sections 53(e) and 53(h) of Ontario Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics.

- a. 2008 Toyota Corolla (VIN 2T1KR32EX8C689698)
- b. 2010 Toyota Corolla (VIN 2T1BU4EE5AC248664)
- c. 2013 Jeep Compass (VIN 1C4NJCAB4DD115932)
- d. 2010 Toyota Corolla (VIN 2T1BU4EE3AC435112)
- e. 2013 Mazda 3 (VIN JM1BL1UF7D1799778)

Sultan's conduct with respect to the above referenced vehicle trades has caused the Dealer to contravene the Act, Regulations, and Code of Ethics. As such, Sulton has personally contravened sections 6 and 9 of the Code of Ethics. Because of these missing bills of sale, OMVIC was unable to establish any details of these transactions including proper disclosure and potential consumer harm

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

Regulation 333/08:

42. Additional information in contracts of sale and leases:

(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.

(21) If the motor vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the *Highway Traffic Act*, a statement to that effect.

53. Records relating to trades



(e) each sale by the dealer of a motor vehicle to a purchaser, including sales made through a motor vehicle dealer registered as a general dealer;

(h) each purchase of a motor vehicle by the dealer, including as a trade-in;

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

Compliance:

7. (1) 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.

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

Accountability:

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.

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

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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine of \$7,000. \$3,500 will be paid no later than **November 30, 2020**. The remaining balance (\$3,500) will be paid no later than by **January 31, 2021**.
2. Sultan agrees to successfully complete the Automotive Certification Course (the "Course") no later than **November 1, 2020**.
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 no later than **November 1, 2020**. 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.



4. As in all other areas of its business, the Dealer and Sultan 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 Sultan have breached subsections 6, 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 of \$7,000. \$3,500 will be paid no later than **November 30, 2020**. The remaining balance (\$3,500) will be paid no later than by **January 31, 2021**.
2. Sultan is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **November 1, 2020**.
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 no later than **November 1, 2020**. 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.
4. As in all other areas of its business, the Dealer and Sultan 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



Paul Burroughs, Chair

