

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 -

JULIEN DACIAN DORCA & SORIN BERARIU o/a
EUROPEAN STYLE AUTOMOTIVE

- AND -

SORIN BERARIU

- AND -

JULIEN DORCA

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 24, 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 \$5,000 within 90 days of the date of the Discipline Committee Order.
2. Dorca and Berariu are 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. Julien Dacian Dorca & Sorin Berariu o/a European Style Automotive (the "Dealer") was first registered as a motor vehicle dealer in or around January 2011. Sorin Berariu ("Berariu") and Julien Dorca ("Dorca") were both first registered as motor vehicle salespeople in or around January 2011. At all material times, Berariu and Sorin were registered as the Person[s] In Charge of the Dealer.
2. On or about January 17, 2011, Berariu and Dorca executed terms and conditions of registration on behalf of the Dealer. As per condition 6, the Dealer agreed to comply with the Code of Ethics. As per condition 22, the Dealer agreed it is under a positive obligation to provide purchasers with written disclosure, on the bill of sale, of all material facts about the vehicles it sells.

OMVIC Publications:

3. 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.
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

Previous Correspondence with Dealer:

5. During an inspection of European Style Automotive on or about March 23, 2015, the following non-compliance issues were discovered:

Non-Disclosure:

6. On or about December 13, 2013 the Dealer purchased a 2010 Chevrolet Cobalt, VIN 1G1AD5F59A7205083, which was disclosed as having an accident history of \$15,400.88. On or about February 26, 2013 the Dealer sold the vehicle without



disclosing the dollar amount of the accident history on the retail bill of sale. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, the Dealer has also failed to meet the requirements of condition 22 of the Dealer's Terms and Conditions of registration. This is contrary to section 9 of the Code of Ethics.

7. On or about January 22, 2014 the Dealer purchased a 2008 Hyundai Entourage, VIN KNDMC233986049149, which was disclosed as having an accident history of \$16,185.70. On or about November 18, 2014 the Dealer sold the vehicle without disclosing the dollar amount of the accident history on the retail bill of sale. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, the Dealer has also failed to meet the requirements of condition 22 of the Dealer's Terms and Conditions of registration. This is contrary to section 9 of the Code of Ethics.
8. On or about February 12, 2014 the Dealer purchased a 2012 Volkswagen Jetta, VIN 3VW2K7AJ3CM319913, which was disclosed as having an accident history of \$10,462.9. On or about May 12, 2014 the Dealer sold the vehicle without disclosing the dollar amount of the accident history on the retail bill of sale. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, the Dealer has also failed to meet the requirements of condition 22 of the Dealer's Terms and Conditions of registration. This is contrary to section 9 of the Code of Ethics.
9. On or about August 28, 2014 the Dealer sold a 2007 BMW 328XI, VIN WBAWC33587PD06973, with an accident history of \$22,094.00. The dealer sold the vehicle without disclosing the dollar amount of the accident history on the retail bill of sale. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, the Dealer has also failed to meet the requirements of condition 22 of the Dealer's Terms and Conditions of registration. This is contrary to section 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. Non-Disclosure

(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.

(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 and Berariu and Dorca have 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 \$5,000 within 90 days of the date of the Discipline Committee Order.
2. Dorca and Berariu agree 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, Dorca and Berariu 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 \$5,000 within 90 days of the date of the Discipline Committee Order.~~
2. Dorca and Berariu are ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
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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



Catherine Poultney, Chair

