

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 -

WCG AUTOCORP INC. o/a SUPERIOR CHRYSLER DODGE JEEP

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 18, 2020

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 \$2,000 no later than **October 17, 2020**.
2. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **October 17, 2020**.
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification Course (the "Course"). Current sales staff will be offered the Course no later than **October 17, 2020**. Future sales staff will be offered the Course within 90 days of being 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.



- The Dealer agrees 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:

- WCG Autocorp Inc o/a Superior Chrysler Dodge Jeep (the "Dealer") was first registered as a motor vehicle dealer in around July 2012.

OMVIC registrant education re: all-in pricing

- Since the Dealer has been registered, OMVIC has issued the following publications and webinars reminding dealers of their all-in pricing obligations, all of which continue to be available on OMVIC's website:

	Dealer Standard		Bulletin		Webinar
A	Winter 2013	R	August 2012	V	April 2015
B	Spring 2013	S	April 2014	W	April 2017
C	Summer 2013	T	June 2014		
D	2014: Issue 1	U	April 2015		
E	2014: Issue 2				
F	2014: Issue 3				
G	2014: Issue 2				
H	2015: Issue 3				
I	2015: Issue 4				
J	2016: Issue 1				
K	2016: Issue 2				
L	2016: Issue 3				
M	2016: Issue 4				
N	2017: Issue 2				
O	2017: Issue 3				
P	2018: Issue 2				
Q	2019: Issue 2				



Direct correspondence with Dealer:

3. During an inspection on or about July 18, 2017, advertising regulations in general were discussed with a representative of the Dealer, including the all-in pricing regulation.
4. By email dated February 27, 2019, the Dealer was reminded of its all-in pricing obligations.

Dealer's current non-compliance

5. On or before June 17, 2019, the Dealer published an advertisement for a 2019 Jeep Compass (VIN 3C4NJDDDB4KT772268) with a selling price of \$33,444.
6. On this same date, representatives of the Registrar made inquiries about the subject vehicle while posing as members of the public. A representative of the Dealer advised the Registrar's representatives that the advertised vehicle price did not include an additional \$499 administration fee. As such, the Dealer's advertisement did not promote an all-inclusive price, contrary to section 36(7) of Ontario Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics, as they relate to advertising only.

By failing to comply with the following section of the *Motor Vehicle Dealers Act, 2002* (the "Act"):

Ontario Regulation 333/08:

36. Advertising:

(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 the 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.*

It is thereby agreed that the Dealer has breached sections 4(2) and 9(1) of the *Code of Ethics*, as set out in Ontario Regulation 332/08, as they relate to advertising only:

Disclosure and marketing:

4(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

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 in the amount of \$2,000 no later than **October 17, 2020**.
2. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **October 17, 2020**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Automotive Certification Course (the "Course"). Current sales staff will be offered the Course no later than **October 17, 2020**. Future sales staff will be offered the Course within 90 days of being 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 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 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 \$2,000 no later than **October 17, 2020**.
2. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **October 17, 2020**.
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4. The Dealer agrees 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

