

## 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 -

ARAK AUTO INC.

- AND -

DIVAN ANTRANIK

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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:** June 6, 2016

**Findings:** Breach of Section 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$1,250 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 the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of being retained in this capacity. The Dealer will pay 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<sup>st</sup>, 2009, or who are otherwise required to do so pursuant to the Act.
3. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* 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. Arak Auto Inc. (the "Dealer") was registered as a motor vehicle dealer in or around October 2011. Divan Antranik ("Antranik") was first registered as a motor vehicle salesperson in or around October 2011. At all material times, Antranik was the officer of the Dealer. On or about August 11, 2011, the Dealer successfully completed the OMVIC certification course.
2. On or about October 19, 2011, Antranik executed terms and conditions of registration on behalf of the Dealer. These include but are not limited to the following:
  - a. As per condition 6, the Dealer agreed to comply with Ontario Regulation 332/08 under the Motor Vehicle Dealers Act, and Code of Ethics.
  - b. As per condition 19, the Dealer agreed to operate exclusively from the location approved by the Registrar. The Dealer further agreed to apply for the Registrar's approval, by way of prior written notice of any change in location.
  - c. As per condition 20, the registrant agreed not to invite the public to deal at a place other than its approved location.
  - d. As per condition 21, the Dealer agreed to ensure that all advertisements placed by or on behalf of the Dealer will identify the registered name and address of the location approved by the Dealer.
3. The Dealer's registered location is 6295 Mississauga road, Mississauga, Ontario.

### **Dealer history**

4. As a result of a Discipline Order issued to the Dealer and Antranik March 4, 2015, Antranik was ordered to take the OMVIC certification course, which was successfully completed December 3, 2015

### **Direct correspondence with the Dealer**

5. On or about November 11, 2011, a representative of the Registrar conducted an inspection of the Dealer. During the inspection, the Dealer was reminded of its obligation to ensure to trade exclusively from its registered location.



6. On or about May 15, 2013, a representative of the Registrar conducted an inspection of the Dealer. During the inspection, the above mentioned representative was advised by Antranik, that his family own and operate a repair facility at a location other than its registered location. At this time, the Dealer was reminded of its obligation to ensure to trade exclusively from its registered location.

### **Dealer non-compliance**

7. On or before January 21, 2016, an advertisement for a vehicle was published by or on behalf of the Dealer. Said advertisement failed to identify the Dealer's registered address. On or about January 28, 2016, a representative of the Registrar emailed the dealer while posing as a member of the public, enquiring about the above mentioned vehicle. The representative asked the dealer where it would be possible to view and test drive the vehicle. The Dealer responded in an email dated January 28, 2016, inviting the representative to its repair facility and not its registered location. This is contrary sub section 28 of Regulation 333/08, as well as section 9 of the Code of Ethics.

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

### **Place of Business**

28. (4) Except for advertising, a registered motor vehicle dealer other than a motor vehicle dealer registered only as a broker shall not trade except from a place authorized by the dealer's registration.

It is thereby agreed that Arak Auto Inc. and Antranik have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

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 \$1,250 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 the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of being retained in this capacity. The Dealer will pay 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<sup>st</sup>, 2009, or who are otherwise required to do so pursuant to the Act.
3. The Dealer agrees to comply with the *Motor Vehicle Dealers Act, 2002* 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 Antranik breached subsection 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 \$1,250 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 the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of being retained in this capacity. The Dealer will pay 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<sup>st</sup>, 2009, or who are otherwise required to do so pursuant to the Act.
3. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



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Paul Burroughs, Chair

