

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 -

GOOD FELLOW'S AUTO WHOLESALER

- AND -

ABBAS ASSADIAN

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: March 11, 2015

Findings: Breach of Section 4 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,500 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 OMVIC certification course (the "course"). Current sales staff will be offered the course within 90 days of acceptance of this offer. 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 or who are otherwise required to do so pursuant to the Act.
3. The Dealer and Assadian 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. 1409460 Good Fellow's Auto Wholesaler (the "Dealer") was first registered as a motor vehicle dealer in or around March 2003. Abbas Assadian ("Assadian") was first registered as motor vehicle salesperson in or around October 2002. At all material times, Assadian was an officer and director of the corporation.
2. 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 Dealers Act, 2002* (the "Act") came into effect. This included but was not limited to the requirement for dealers to disclose all former daily rental vehicles in advertisements in a clear, comprehensible and prominent manner.
3. Once the Act came into effect, OMVIC the following Dealer Standard publications further reminded dealers of these requirements:
 - a. Spring 2010
 - b. Summer 2010
 - c. Spring 2011
 - d. Summer 2012
4. In addition to the above mentioned publications, OMVIC also issued the following bulletins reminding dealers of these advertising requirements:
 - a. April 2010
 - b. September 2012
5. On or about September 25, 2012, Assadian executed a Settlement Order on behalf of the Dealer, attached hereto as Schedule A. As per condition 2 of this order, Assadian agreed to complete the OMVIC certification course within 90 days of the date of the Order. As per condition 4, both the Dealer and Assadian agreed to comply with the Act and Standards of Business Practice, which may be amended from time to time.
6. On or about November 26, 2012, Assadian successfully completed the OMVIC certification course.
7. Between in or around January 2014 and in or around February 2014, some advertisements placed by or on behalf of the Dealer on certain websites, failed to



disclose vehicles' former daily rental history. This is contrary to sub section 36(5) of Regulation 333/08, as well as section 4 of the Code of Ethics. The Dealer's own website did disclose all the vehicles' former daily rental history.

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

Regulation 333/08:

(5) If any of the following is true of a motor vehicle, an advertisement that attempts to induce a trade in the specific vehicle shall indicate, in a clear, comprehensible and prominent manner, that the vehicle was previously,

- (a) leased on a daily basis, unless the vehicle was subsequently owned by a person who was not a registered motor vehicle dealer;
- (b) used as a police cruiser or used to provide emergency services; or
- (c) used as a taxi or limousine.

It is thereby agreed that the Dealer has 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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$2,500 within 90 days of the date of the Discipline Committee Order.
2. The Dealer agrees to offer all current and future sales staff the opportunity to complete the OMVIC certification course (the "course"). Current sales staff will be offered the course within 90 days of acceptance of this offer. 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 or who are otherwise required to do so pursuant to the Act.
3. The Dealer and Assadian 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 Assadian breached subsection 4 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 \$2,500 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 OMVIC certification course (the "course"). Current sales staff will be offered the course within 90 days of acceptance of this offer. 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 or who are otherwise required to do so pursuant to the Act.
3. The Dealer and Assadian 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

