

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 -

MARCEL MOTORS LTD. o/a EASTSIDE BETTER USED CARS

- AND -

VIRENDER CHOPRA

- AND -

NITIN CHOPRA

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: October 6, 2015

Findings: Breach of Section 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$8,500, within 90 days of the date of the Discipline Committee Order.
2. Virender is ordered to successfully complete the OMVIC certification course (the "course") within 120 days of the date of the Discipline Committee Order.
3. Nitin is ordered to successfully complete the course within 90 days of the date of the Discipline Committee Order.
4. The Dealer is ordered to offer all 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 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 otherwise required to do so pursuant to the Act.

5. 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. Marcel Motors Ltd o/a Eastside Better Used Cars (the "Dealer") was first registered as a motor vehicle dealer in or around April 1989. Virender Chopra ("Virender") was first registered as a motor vehicle salesperson in or around April 1989. Nitin Chopra ("Nitin") was first registered as a motor vehicle salesperson in or around June 1999. At all material times, Nitin and Virender were officers and directors of the Dealer.

Trading in motor vehicles with unregistered dealers ("curbsiders"):

2. In the Spring of 2012 OMVIC issued a Dealer Standard publication which reminded dealers that supplying curbsiders with motor vehicles was contrary to the Act.
3. The following Dealer Standard publications further reminded dealers of their obligations to ensure they are not supplying vehicles to curbsiders:
 - a. Fall 2012
 - b. Fall 2013
4. In addition to this, in August 2012 OMVIC issued a bulletin which further reminded dealers of their obligations to ensure they are not supplying vehicles to curbsiders.
5. By letter dated September 6, 2013, a representative of the Registrar reminded Virender, on behalf of the Dealer of the Dealer's obligation to ensure it is not trading in motor vehicles with curbsiders.
6. Between on or about May 1, 2014, and on or about September 23, 2014, the Dealer purchased 25 vehicles from a single curbsider. The Dealer knew or ought to have known the aforementioned curbsider was not registered as a motor vehicle dealer under the



Act. As such, the Dealer has contravened section 9.14 of the Standards of Business Practice, as well as section 9 of the Code of Ethics.

By failing to comply with the following sections of the Standards of Business Practice:

9.14 Registrants do not knowingly do business with curbsiders.

It is thereby agreed that the Dealer, Virender, and Nitin have breached the following section 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 \$8,500, within 90 days of the date of the Discipline Committee Order.
2. Virender agrees to successfully complete the OMVIC certification course (the "course") within 120 days of the date of the Discipline Committee Order.
3. Nitin agrees to successfully complete the course within 90 days of the date of the Discipline Committee Order.
4. The Dealer agrees to offer all 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 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 otherwise required to do so pursuant to the Act.
5. 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, Virender and Nitin 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 \$8,500, within 90 days of the date of the Discipline Committee Order.



2. Virender is ordered to successfully complete the OMVIC certification course (the "course") within 120 days of the date of the Discipline Committee Order.
3. Nitin is ordered to successfully complete the course within 90 days of the date of the Discipline Committee Order.
4. The Dealer is ordered to offer all 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 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 otherwise required to do so pursuant to the Act.
5. 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

