

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 -

MARS INTERNATIONAL INC. o/a TOTAL DISCOUNT AUTO SALES

- AND -

HAMED SHAREQI

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: February 4, 2016

Findings: Breach of Sections 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$3,600 within 90 days of the date of the Discipline Committee Order.
2. Shareqi is ordered to successfully complete the OMVIC certification course within 90 days of the Discipline Committee Order. The Dealer will incur all costs associated with this.
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 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Shareqi 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. Mars International Inc. o/a Total Discount Auto Sales (the "Dealer") was first registered as a motor vehicle dealer in or around July 2005. Hamed Shareqi ("Shareqi") was first registered as motor vehicle salesperson in or around August 2001. At all material times, Shareqi was the officer of the Dealer.
2. On or about July 20, 2005, the Dealer executed terms and conditions of registration. As per condition 6, the Dealer agreed to comply with OMVIC's Code of Ethics and Standards of Business Practices as may be amended from time to time. As per condition 20, the Dealer agreed to disclose in writing on the bill of sale all material facts about the vehicles it sells or leases to its customers, including but not limited to accident and repaired.
3. On or about August 10, 2008, Shareqi, on behalf of the Dealer, executed terms and conditions of registration. As per condition 6, the Dealer agreed to comply with OMVIC's Code of Ethics and Standards of Business Practices as may be amended from time to time. As per condition 20, the Dealer agreed to disclose in writing on the bill of sale all material facts about the vehicles it sells or leases to its customers, including but not limited to accident and repaired.

OMVIC publications:

4. 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, including the requirement for dealers to disclose a vehicle's accident history on purchase agreements.
5. In or around December 2008, OMVIC issued a bulletin which highlighted some of the upcoming changes that would take place when the Act came into effect, including the requirement for dealers to disclose a vehicle's accident history on purchase agreements.
6. OMVIC issued the following Dealer Standard publications reminding dealers of their obligations to provide consumers with written disclosure of vehicle's history and condition, such as accident histories:
 - a. Summer 2011
 - b. Summer 2012
 - c. Winter 2013



d. Fall 2013

7. 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:
 - a. January 2010
 - b. September 2012
 - c. December 2013

Direct correspondence with the Dealer:

8. During an inspection on or about August 31, 2005, a representative of the Registrar reminded the Dealer of their obligation to disclose all material facts, in writing on the bill of sale, about the vehicles it sells.
9. During an inspection on or about March 18, 2010, a representative of the Registrar discussed with the Dealer the requirement to disclose all material facts, in writing on the bill of sale, about the vehicles it sells.
10. During an inspection on or about February 6, 2013, a representative of the Registrar reminded the Dealer of their obligation to disclose all material facts, in writing on the bill of sale, about the vehicles it sells.

Dealer non-compliance:

11. During an inspection on or about March 16, 2015, a representative of the Registrar found the following areas of non-compliance:
 - a. On or about December 19, 2014, the Dealer purchased a 2002 Chevrolet Cavalier (VIN 1G1JC127366288). This vehicle had an accident claim for the amount of \$9,041. On or about December 27, 2014, the Dealer sold this vehicle without providing the purchaser with the required written disclosure of the vehicle's accident history. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. After the OMVIC inspection the Dealer followed up with the purchaser of this vehicle regarding the vehicle's accident history. The Dealer has since provided OMVIC with confirmation of this.
 - b. On or about January 10, 2015, the Dealer purchased a 2002 Jeep Cherokee (VIN 1J4GW48522C13093). This vehicle had an accident claim for the amount of \$11,637. On or about January 22, 2015, the Dealer sold this vehicle without providing the purchaser with the required written disclosure of the vehicle's accident history. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. After the OMVIC inspection the Dealer followed up with the purchaser of this vehicle regarding the vehicle's accident history. The Dealer has since provided OMVIC with confirmation of this.
 - c. On or about February 4, 2015, the Dealer purchased a 2004 Dodge Caravan (VIN 1D4GP24R14B520199). This vehicle had an accident claim for the amount



of \$10,568. On or about February 4, 2015, the Dealer sold this vehicle without providing the purchaser with the required written disclosure of the vehicle's accident history. This is contrary to section 42(19) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. After the OMVIC inspection the Dealer followed up with the purchaser of this vehicle regarding the vehicle's accident history. The Dealer has since provided OMVIC with confirmation of this.

By failing to comply with the following sections of the Act:

Regulation 333/08

42. Additional information in contracts of sale and leases:

(19) If the total cost 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 has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

7. A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

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 \$3,600 within 90 days of the date of the Discipline Committee Order.
2. Shareqi agrees to successfully complete the OMVIC certification course within 90 days of the Discipline Committee Order. The Dealer will incur all costs associated with this.
3. The Dealer agrees 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 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Shareqi 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 Shareqi breached subsections 7 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 \$3,600 within 90 days of the date of the Discipline Committee Order.
2. Shareqi is ordered to successfully complete the OMVIC certification course within 90 days of the Discipline Committee Order. The Dealer will incur all costs associated with this.
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 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Shareqi 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



Paul Burroughs, Chair

