

## 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

BETWEEN:

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

DOWNSVIEW CHRYSLER PLYMOUTH (1964) LTD.

- AND -

PETER KEPECS

---

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:** November 11, 2015

**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 \$6,250.00 within 90 days of the date of the Discipline Committee Order.
2. Kepecs is ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
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 the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of be 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 or who are otherwise required to do so pursuant to the Act.
4. 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. Downsview Chrysler Plymouth (1964) Ltd. (the "Dealer") was first registered as a motor vehicle dealer in or around January 1983. Peter Kepecs ("Kepecs") was first registered as a motor vehicle salesperson in or around March 1983. At all material times, Kepecs was the sole officer and director of the Dealer.

### **Advertising Compliance:**

*OMVIC publications:*

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 Dealer Act, 2002* (the "Act") came into effect. Included in the bulletin was the requirement for dealers to advertise all-inclusive vehicle prices in advertisements.
3. After the Act was proclaimed, OMVIC further issued the following Dealer Standard publications reminding dealers of the requirement for dealers to advertise all-inclusive vehicle prices:
  - a. Spring 2010
  - b. Summer 2010
  - c. Spring 2011
  - d. Winter 2013
  - e. Spring 2013
  - f. Fall 2013
  - g. Winter 2014
4. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of the requirement for dealers to advertise all-inclusive vehicle prices:
  - a. January 2010 (2 publications)
  - b. April 2010 (2 publications)
  - c. February 2012
  - d. August 2012
  - e. April 2013
  - f. April 2014
  - g. June 2014
  - h. November 2014



- i. April 2015 (2 publications)

**Direct Correspondence with Dealer:**

5. On or about January 26, 2010, a representative of the Registrar reminded the Dealer of their obligation to advertise an all-in vehicle price.
6. During an inspection on or about December 31, 2014, the following examples of non-compliance were found:

**ADVERTISING:**

7. On or before September 29, 2014, an advertisement was placed by or on behalf of the Dealer for a 2011 Dodge Journey Express, (Stock #29290) with a selling price of \$15,443.00. On or about September 29, 2014 the Dealer sold this vehicle, and charged an additional \$610.00 over the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since refunded the consumer the amount charged over the advertised price.
8. On or before November 29, 2014, an advertisement was placed by or on behalf of the Dealer for a 2014 Ford F150 XLT, (Stock #65582) with a selling price of \$26,965.00. On or about November 29, 2014 the Dealer sold this vehicle, and charged an additional \$1,603.00 over the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since refunded the consumer the amount charged over the advertised price.
9. On or before October 23, 2014, an advertisement was placed by or on behalf of the Dealer for a 2013 Dodge Grand Caravan, (Stock #54771) with a selling price of \$16,729.00. On or about October 23, 2014 the Dealer sold this vehicle, and charged an additional \$2,575.00 over the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since refunded the consumer the amount charged over the advertised price.
10. On or before August 30, 2014, an advertisement was placed by or on behalf of the Dealer for a 2014 Dodge Journey SXT, (Stock #29320) with a selling price of \$26,848.00. On or about August 30, 2014 the Dealer sold this vehicle, and charged an additional \$2365.05.00 over the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since refunded the consumer the amount charged over the advertised price.
11. On or before November 26, 2014, an advertisement was placed by or on behalf of the Dealer for a 2011 Dodge Grand Caravan, (Stock #7611) with a selling price of \$17998.00. On or about November 26, 2014 the Dealer sold this vehicle, and charged an additional \$4,291.00 over the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as



sections 4 and 9 of the Code of Ethics. The Dealer has since refunded the consumer the amount charged over the advertised price.

12. On or before December 4, 2014, an advertisement was placed by or on behalf of the Dealer for a 2012 Dodge Journey SE, (Stock #29641) with a selling price of \$14,965. On or about November 29, 2014 the Dealer sold this vehicle, and charged an additional \$1,435.75.00 over the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sections 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since refunded the consumer the amount charged over the advertised price.

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

Regulation 333/08

**36(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 vehicle including, if any, charges for freight charges for inspection before delivery of the vehicle, fees, levies and taxes O. Reg. 333/08 s. 36(7)

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.

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 \$6,250.00 within 90 days of the date of the Discipline Committee Order.
2. Kepecs agrees to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
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 the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of be 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 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 and Kepecs 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 \$6,250.00 within 90 days of the date of the Discipline Committee Order.
2. Kepecs is ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
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 the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of be 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 or who are otherwise required to do so pursuant to the Act.
4. 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*

