

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 -

KANATA FORD SALES LTD

- AND -

JAMES HODDINOTT

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 11, 2016

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 \$4,000 within 90 days of the date of the Discipline Committee Order.
2. The Dealer is ordered to ensure all sales staff involved in producing advertising by or on behalf of the Dealer review the OMVIC advertising webinar within 60 days of the date of the Discipline Committee Order. The Dealer will advise OMVIC, in writing, when this has occurred.
3. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Hoddinott 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. Kanata Ford Sales Ltd (the "Dealer") was first registered as a motor vehicle dealer in or around July 1998. James Hoddinott ("Hoddinott") was first registered as a motor vehicle salesperson in or around July 1982. At all material times, Hoddinott was the sole officer and director, as well as the Person in Charge, of the Dealer.
2. In or around September 2014, Hoddinott successfully completed the OMVIC certification course.
3. On or about February 19, 2016, OMVIC received a complaint with respect to a broadcast advertisement being aired on behalf of the Dealer. Specifically, the advertisement encouraged owners of F150 model trucks to trade their vehicles in for a new model, with no additional costs to said owners. The advertisement also contained other false and misleading statements, including but not limited to promising:
 - a. "[consumers] would receive: "\$8,000-\$10,000 in trade equity"
 - b. "[the dealership] would give [the consumer] what [the consumer] paid for their truck. Give it all back to [them]"
 - c. "[consumers] could keep the payment the same, the term the same, no money out of pocket [they] could just swap the keys"

The above mentioned statements are misleading, and contrary to section 28 of the Act, as well as sections 4 and 9 of the Code of Ethics. On this same date, a representative of the Registrar contacted the Dealer regarding the non-compliant issues.

4. On or about February 25, 2016, OMVIC received a complaint with respect to the revised version of the aforementioned advertisement. Despite considerable revisions, the advertisement remained non-compliant. Specifically, the dealership referenced an atypical consumer transaction as though it was a representative example of the savings most consumers would enjoy. This is misleading, contrary to section 28 of the Act, as well as sections 4 and 9 of the Code of Ethics.



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

28. No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to trading in motor vehicles.

It is thereby agreed that the Dealer and Hoddinott have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

4. (1) 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.

(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

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 \$4,000 within 90 days of the date of the Discipline Committee Order.
2. The Dealer will ensure all sales staff involved in producing advertising by or on behalf of the Dealer review the OMVIC advertising webinar within 60 days of the date of the Discipline Committee Order. The Dealer will advise OMVIC, in writing, when this has occurred.
3. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Hoddinott 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 Hoddinott 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 \$4,000 within 90 days of the date of the Discipline Committee Order.
2. The Dealer is ordered to ensure all sales staff involved in producing advertising by or on behalf of the Dealer review the OMVIC advertising webinar within 60 days of the date of the Discipline Committee Order. The Dealer will advise OMVIC, in writing, when this has occurred.
3. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Hoddinott 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

