

File# 2814197

DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

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 -

DANNY & SONS AUTO SALES LTD

- and -

DOMENIC ITALIANO

- and -

ANGELO ITALIANO

AGREED STATEMENT OF FACTS AND PENALTY

Danny & Sons Auto Sales Ltd, Domenic Italiano and Angelo Italiano have breached the following:

Section 7 of the Code of Ethics, Regulation 332/08

Section 9 of the Code of Ethics, Regulation 332/08

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Danny & Sons Auto Sales Ltd (the "Dealer") was first registered as a motor vehicle dealer in or around January 1983. Domenic Italiano ("Domenic") was first registered as a motor vehicle sales person in or around March 1984. Angelo Italiano ("Angelo") was first registered as motor vehicle salesperson in or around March 1987. At all material times, Domenic and Angelo were officers and directors of the corporation.

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 Registrant's Initial

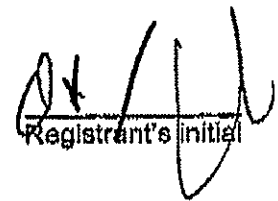
2. During an inspection on or about June 5, 2001, a representative of the Registrar advised Domenic, on behalf of the Dealer, of his obligation to ensure the Dealer does not trade in motor vehicles from an unregistered location.
3. During an inspection on or about March 14, 2008, a representative of the Registrar advised Angelo, on behalf of the Dealer, of his obligation to ensure the Dealer does not trade in motor vehicles from an unregistered location.
4. During an inspection on or about April 21, 2009, a representative of the Registrar advised Angelo, on behalf of the Dealer, of his obligation to ensure the Dealer does not trade in motor vehicles from an unregistered location.
5. By letter dated July 10, 2009, a representative of the Registrar advised Angelo, on behalf of the Dealer, of their obligation to ensure the Dealer does not trade in motor vehicles from an unregistered location.
6. On or about May 25, 2012, OMVIC issued a Notice of Complaint ("Notice") against the Dealer, regarding non-compliance of section 7 and 9 of the Code of Ethics, along with other issues.
7. On or about August 21, 2012, the Discipline Committee issued an Order pursuant to a negotiated resolution of the above mentioned Notice. As per condition 6, the Dealer, Domenic and Angelo agreed to comply with the Act and Standards of Business Practice, as may be amended from time to time.
8. In or around June 2010, OMVIC issued a bulletin reminding dealers of their obligation to ensure that the proceeds from the sale of extended warranties are submitted to the warranty provider within 7 days of the date of sale.
9. During an inspection on or about November 12, 2014, a representative of the registrar found the following areas of non-compliance:
10. From in or around June 2014 and in or around September 2014, the Dealer sold extended warranty products and failed to remit the warranty applications and/or the proceeds of these sales to the warranty provider within 7 days of the date of sale. This is contrary to sub section 47(7) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics.
11. It was discovered that the Dealer has been trading in motor vehicles from an unregistered location, contrary to section 4 of the Act, as well as section 9 of the Code of Ethics. After the issuance of the Notice of Complaint by OMVIC, the Dealer has registered the location in question.

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

Name and place of business

4(2) A motor vehicle dealer shall no,

- (b) Invite the public to deal in a place other than the place that is authorized in the registration of the motor vehicle dealer.



 Registrant's initial

Warranty

47. Sale of extended warranty products.

(7). If a registered motor vehicle dealer facilitates the sale of an extended warranty through the dealer to a purchaser or lessee of a motor vehicle who is not a registered motor vehicle dealer, the dealer shall ensure,

(c) Within 7 days after the parties enter into the contract for the warranty, provide the seller of the warranty with

- (i) all documents detailing the contract that the dealer has in its possession,
- (ii) all payments that the dealer has received from the purchaser.

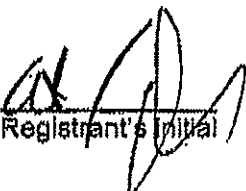
It is thereby agreed that the Dealer, Domenic and Angelo have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

7. A registrant shall ensure that all documents used by the registrant in the course of 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 \$4,000 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Domenic agrees to successfully complete the MVDA 2002 Key Elements course, within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer agrees to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay all costs associated with this. Future sales staff will be offered the course within 90 days if being retained in this capacity by the Dealer. The Dealer will pay 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 agrees to comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

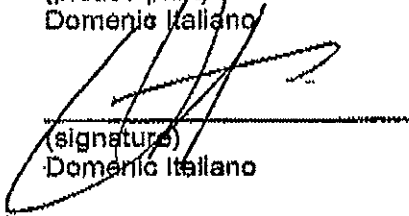

 Registrant's Initial

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT MISSISSAUGA THIS 26TH DAY OF JUNE, 2015

DOMENICO ITALIANO

(please print)
Domenico Italiano



(signature)
Domenico Italiano

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

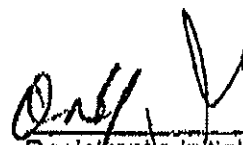
DATED AT MISSISSAUGA THIS 26th DAY OF JUNE, 2015

ANGELO ITALIANO

(please print)
Angelo Italiano



(signature)
Angelo Italiano



Registrant's Initial

By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

DATED AT Toronto THIS 5th DAY OF July, 2015



Mary Jane South,
Registrar, Motor Vehicle Dealers Act, 2002

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties identified above:

DATED AT London THIS 11 DAY OF July, 2015



Catherine Poultney
Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council


Registrant's Initial