

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 -

ANGUS MOTOS INC.

- AND -

ANGUS CURNEW

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 15, 2015

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 \$1,800.00 within 90 days of the date of the Discipline Committee Order.
2. Curnew is ordered to complete the OMVIC certification course (the "course") within 90 of the Discipline Committee Order.
3. The Dealer and Curnew are ordered to offer future and current sales staff the OMVIC Certification Course. 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 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Curnew shall comply with the *Motor Vehicle Dealers Act, 2002* 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. Angus Motors Inc. (the "Dealer") was first registered as a motor vehicle dealer in or around April 9, 2010. Angus Curnew ("Curnew") was first registered as motor vehicle salesperson in or around April 9, 2010. At all material times, Curnew was a director and the Person in Charge at the Dealer.
2. During an inspection on or about August 5, 2010, a representative of the Registrar reminded Curnew, on behalf of the Dealer, about providing purchasers with written disclosures of all material facts on the bill of sale about the vehicles they sell.
3. During an inspection on or about November 28, 2014, a representative of the Registrar found the following concerns.
4. On or about April 1, 2014, the Dealer purchased a 2003 Dodge Dakota (VIN: 1D7HL32X33S269842), declared as an accident repair vehicle. On or about April 26, 2014, the Dealer sold this vehicle without providing the purchaser with written disclosure of the vehicle's \$12,000.00 accident repair history. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has subsequently provided confirmation that the purchaser was made verbally aware of the vehicle's accident repair history at the time of sale.
5. On or before November 19, 2014, the Dealer purchased a 2007 Pontiac G6 (VIN: 1G2ZG58B674232079), declared as an accident repair vehicle. On or about November 19, 2014, the Dealer sold this vehicle without providing the purchaser with written disclosure of the vehicle's \$6,765.00 and \$4,068.00 accident repair history. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, as well as section 7 and 9 of the Code of Ethics. The Dealer has subsequently provided confirmation that the purchaser was made verbally aware of the vehicle's accident repair history at the time of sale.



By failing to comply with Regulation 333/08 of the *Motor Vehicle Dealers Act, 2002*:

Additional information in contracts of sale and leases

42(19) If the total costs 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 dealer knew the total costs, a statement to that effect.

42(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 and Curnew 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 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 \$1,800.00 within 90 days of the date of the Discipline Committee Order.
2. Curnew agrees to complete the OMVIC certification course (the "course") within 90 of the Discipline Committee Order.
3. The Dealer and Curnew agree to offer future and current sales staff the OMVIC Certification Course. 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 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Curnew agree to comply with the *Motor Vehicle Dealers Act, 2002* 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 Curnew 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 \$1,800.00 within 90 days of the date of the Discipline Committee Order.
2. Curnew is ordered to complete the OMVIC certification course (the "course") within 90 of the Discipline Committee Order.
3. The Dealer and Curnew are ordered to offer future and current sales staff the OMVIC Certification Course. 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 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Curnew shall comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee



Catherine Poultney, Chair

