

## 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 -

GEORGIAN CHEVROLET BUICK GMC INC. o/a GEORGIAN CHEVROLET

- AND -

WILLIAM WELSH

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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 against Georgian Chevrolet Buick GMC Inc o/a Georgian Chevrolet:

**Date of Decision:** June 23, 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 \$16,000 within 30 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. With respect to paragraph 36 of the Agreed Statement of Facts, the Dealer shall pay all costs associated with the completion of the OMVIC certification course.
3. The Dealer is ordered 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. 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 shall to 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. The Dealer was first registered as a motor vehicle dealer in or around January 1983.
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 Dealers Act, 2002* (the "Act") came into effect, including the requirement for dealers to advertise all inclusive vehicle prices in advertisements. In addition to this, dealers were also advised of their obligation to disclose a vehicle's former daily rental history in advertisements and on the bill of sale.
3. 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 former daily rental vehicles in advertisements, as well as the requirement to advertise an all-inclusive vehicle price.
4. In or around January 2010, OMVIC issued a bulletin reminding dealers of their obligation to advertise an all-inclusive vehicle price.
5. In or around January 2010, OMVIC issued a bulletin concerning advertising "As Is" vehicles. This bulletin also reminded dealers of their obligation to advertise an all-inclusive vehicle price.
6. In or around January 2010, OMVIC issued a bulletin reminding dealers of the requirement to disclose a vehicle's former daily rental history in writing on the bill of sale.
7. In or around April 2010, OMVIC issued a bulletin advising that 75 dealers had recently been charged with various advertising offences under the Act, including the failure to disclose a vehicle's former daily rental history in an advertisement, as well the failure to advertise an all-inclusive vehicle price.
8. In or around April 2010, OMVIC issued a bulletin reminding dealers of their obligation to advertise an all-inclusive vehicle price.
9. By email dated June 3, 2010, a representative of the Registrar reminded the Dealer of their obligation to advertise all-inclusive vehicle prices.
10. In the summer of 2010, OMVIC issued a Dealer Standard publication which reminded dealers of their obligation to advertise all-inclusive vehicle prices.
11. By email dated August 25, 2010, a representative of the Registrar reminded the Dealer of their requirement to disclose former daily rental vehicles in advertisements.
12. By email dated February 7, 2011, a representative of the Registrar reminded the Dealer of their requirement to disclose former daily rental vehicles in advertisements.



13. In the spring of 2011, OMVIC issued a Dealer Standard publication which reminded dealers of their obligation to advertise all-inclusive vehicle prices.
14. In or around February 2012, OMVIC issued a bulletin reminding dealers of their obligation to advertise all-inclusive vehicle prices.
15. In or around August 2012, OMVIC issued a bulletin reminding dealers of their obligation to advertise all-inclusive vehicle prices.
16. In or around September 2012, OMVIC issued a bulletin reminding dealers of the requirements to ensure all material facts are to be in writing on the bill of sale. The bulletin also reminded dealers of the requirement to disclose former daily rental vehicles in advertisements.
17. In the winter of 2013, OMVIC issued a Dealer Standard publication which reminded dealers of their obligation to advertise all-inclusive vehicle prices.
18. In the spring of 2013, OMVIC issued a Dealer Standard publication which reminded dealers of their obligation to advertise all-inclusive vehicle prices.
19. In or around April 2013, OMVIC issued a bulletin which reminded dealers of their obligation to advertise all-inclusive vehicle prices.
20. In the summer of 2013, OMVIC issued a Dealer Standard publication advising dealers of recent Discipline Panel decisions, including a decision for failure to publish the all-inclusive prices of vehicles in advertisements.
21. On or before October 5, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Dodge Caravan (Stock # G5725), with a selling price of \$18,950. On or about October 5, 2013, the Dealer sold this vehicle for \$444 above the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
22. On or before October 7, 2013, an advertisement was published by or on behalf of the Dealer for a 2013 GMC Acadia (Stock # G5810). The advertisement failed to disclose the vehicle's former daily rental history, contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
23. On or before October 8, 2013, an advertisement was published by or on behalf of the Dealer for a 2013 GMC Acadia (Stock # G5815), with a selling price of \$32,950. On or about October 8, 2013, the Dealer sold this vehicle for \$449 above the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
24. On or before October 11, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Toyota Matrix (Stock # G5841), with a selling price of \$15,388. On or about October 11, 2013, the Dealer sold this vehicle for \$449 above the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics. Moreover, the advertisement failed to disclose the vehicle's former daily rental use, contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.



25. On or before October 16, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Toyota Matrix (Stock # G5824), with a selling price of \$15,888. On or about October 16, 2013, the Dealer sold this vehicle for \$449 over the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
26. On or before October 17, 2013, advertisements were published by or on behalf of the Dealer for numerous vehicles which failed to disclose the vehicles' former daily rental use. This is contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
27. On or before October 21, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Toyota Matrix (Stock # G5812), with a selling price of \$15,549. On or about October 21, 2013, the Dealer sold this vehicle for \$51 over the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics. Moreover, the advertisement failed to disclose the vehicle's former daily rental use, contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
28. On or before October 22, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Dodge Caravan (Stock # G5724), with a selling price of \$18,949. On or about October 22, 2013, the Dealer sold this vehicle for \$80 over the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics. Moreover, the advertisement failed to disclose the vehicle's former daily rental use, contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
29. On or before October 24, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Toyota Matrix (Stock # G5844), with a selling price of \$15,389. On or about October 24, 2013, the Dealer sold this vehicle for \$449 over the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
30. On or before October 25, 2013 an advertisement was published by or on behalf of the Dealer for a 2012 Toyota Matrix (Stock # G5868), that did not disclose the vehicle's former daily rental use. This is contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
31. On or before October 26, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Chevrolet Impala (Stock # G5903), with a selling price of \$12,980. On or about October 26, 2013, the Dealer sold this vehicle for \$457 over the advertised price. As such, the advertisement did not promote an all-inclusive vehicle price, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics. Moreover, the advertisement failed to disclose the vehicle's former daily rental use, contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.



32. On or before October 28, 2013, an advertisement was published by or on behalf of the Dealer for a 2012 Chevrolet Sonic (Stock # G5922), that did not disclose the vehicle's former daily rental use. This is contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9(3) of the Code of Ethics.
33. By email dated April 2, 2014, a representative of the Registrar advised the Dealer that when advertising vehicle prices, the prices available to all consumers must be disclosed in a clear, comprehensible and prominent manner.
34. On or before May 13, 2014, the Dealer published numerous advertisements that did not display the cash price available to all consumers in a clear, comprehensible and prominent manner. This is misleading, contrary to sections 4 and 9(3) of the Code of Ethics.
35. The Dealer agrees to offer restitution regarding each transaction identified herein, where the consumer has paid more than the advertised price for a vehicle (less tax and licencing fees). At the time of entering into this resolution the Dealer has, indeed, refunded most of these additional fees to consumers.
36. The Dealer agrees that its General Manager and Sales Manager will complete the OMVIC certification course within 90 days of the date of the Discipline Committee Order.

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

### **Advertising**

36. (1) A registered motor vehicle dealer to whom this section applies shall ensure that any advertisement placed by the dealer complies with this section.

(5) If any of the following is true of a motor vehicle, an advertisement that attempts to induce a trade in the specific vehicle shall indicate, in a clear, comprehensible and prominent manner, that the vehicle was previously,

(a) Leased on a daily basis, unless the vehicle was subsequently owned by a person who was not a registered motor vehicle dealer.

(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 the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.



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(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.

4(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(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

### **Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$16,000 within 30 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. With respect to paragraph 36 of the Agreed Statement of Facts, the Dealer will pay all costs associated with the completion of the OMVIC certification course.
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. 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 ensure that all future advertising is in compliance with *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.
5. 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.

### **Decision of the Chair**

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer 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 against Georgian Chevrolet Buick GMC Inc



o/a Georgian Chevrolet:

1. The Dealer is ordered to pay a fine in the amount of \$16,000 within 30 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. With respect to paragraph 36 of the Agreed Statement of Facts, the Dealer shall pay all costs associated with the completion of the OMVIC certification course.
3. The Dealer is ordered 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. 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 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



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Catherine Poultney, Chair

