

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 -

ROADSPORT CHRYSLER DODGE JEEP RAM LTD.

- AND -

ANETA GAUTHIER

- AND -

CHRISTOPHER GAUTIER

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: March 4, 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 \$3,000 within 90 days of the date of the Discipline Committee Order.
2. The Dealer, Aneta, and Christopher 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. Roadsport Limited o/a Roadsport Honda ("Roadsport Honda") was first registered as a motor vehicle dealer in or around February 1982.
2. Roadsport Chrysler Dodge Jeep Ram Ltd. (the "Dealer") was first registered as a motor vehicle dealer in or around August 2013.
3. Aneta Gauthier ("Aneta") was first registered as a motor vehicle salesperson in or around November 2003. From in or around October 2005 until in or around December 2009, Aneta identified herself as the vice-president of Roadsport Honda. From in or around January 2010 until present, Aneta has been an officer and director of Roadsport Honda. Aneta has also held the position of officer and director of the Dealer since it first became registered.
4. Christopher Gauthier ("Christopher") was first registered as a motor vehicle salesperson in or around April 1993. Since in or around September 2013 Christopher has been an officer and director of Roadsport Honda. Christopher has also held the position of officer and director of the Dealer since it first became registered.
5. In the winter of 2008, OMVIC issued a Dealer Standard publication which highlighted some of the upcoming changes which would take place when the *Motor Vehicle Dealers Act, 2002* (the "Act") came into effect. This included the requirement for dealers to advertise an all-inclusive vehicle price and to disclose former daily rental vehicles in advertisements in a clear, comprehensible and prominent manner.
6. Once the Act came into effect, OMVIC the following Dealer Standard publications further reminded dealers of these requirements:
 - a. Spring 2010
 - b. Summer 2010
 - c. Spring 2011
 - d. Summer 2012
 - e. Winter 2013
 - f. Spring 2013
 - g. Fall 2013
 - h. Winter 2014



7. In addition to the above mentioned publications, OMVIC also issued the following bulletins reminding dealers of these advertising requirements:
 - a. January 2010 (2 separate bulletins)
 - b. April 2010 (2 separate bulletins)
 - c. February 2012
 - d. August 2012
 - e. April 2013
8. By email dated June 12, 2013, a representative of the Registrar reminded Christopher, on behalf of Roadsport Honda, of dealers' requirement to advertise an all-inclusive vehicle price.
9. By email dated April 23, 2014, a representative of the Registrar reminded Roadsport Honda of dealers' requirement to advertise an all-inclusive vehicle price.
10. On or before July 21, 2014, an advertisement was published by or on behalf of the Dealer for a 2014 Chrysler Town and Country, Stock #P217. This vehicle is a former daily rental unit and the advertisement failed to disclose this information, contrary to sub-section 36(5) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
11. On or before July 21, 2014, an advertisement was published by or on behalf of the Dealer for a 2014 Dodge Journey, Stock #P240. This vehicle is a former daily rental unit and the advertisement failed to disclose this information, contrary to sub-section 36(5) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
12. On or before July 21, 2014, an advertisement was published by or on behalf of the Dealer for a 2014 Dodge Avenger, Stock #P215. This vehicle is a former daily rental unit and the advertisement failed to disclose this information, contrary to sub-section 36(5) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. This vehicle remains in the Dealer's inventory and its current advertisement discloses the former rental history.
13. On or before July 9, 2014, an advertisement was published by or on behalf of the Dealer for a 2013 Chrysler 200, Stock #P186. On or about July 9, 2014, the Dealer sold this vehicle for \$304 above the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sub-section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since agreed to refund the purchaser of this vehicle the additional fees they were charged.
14. On or before July 18, 2014, an advertisement was published by or on behalf of the Dealer for a 2013 Chrysler 300, Stock #P190. On or about July 9, 2014, the Dealer sold this vehicle for \$304 above the advertised price. As such, the advertisement did not promote an all-inclusive price, contrary to sub-section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer has since agreed to refund the purchaser of this vehicle the additional fees they were charged.
15. The Dealer has since enrolled all sales managers, or individuals in positions of authority over sales staff at the Dealer, in the OMVIC certification course (the "course"), with successful completion expected on or about December 15, 2014. As per the Dealer, individuals employed by the Dealer who meet the above mentioned description but are unable to complete the course on the prescribed date will be obligated to fulfill this



requirement within 6 months. The Dealer has agreed to incur all costs associated with this.

16. In addition to this, as per the Dealer, all managers or individuals in positions of authority over sales staff at the Dealer to successfully complete the course every 2 years, irrespective of whether or not they have completed the course previously. The Dealer has agreed to incur all costs associated with this.
17. The Dealer has also agreed to offer all sales staff that complete their employment probationary period the opportunity to take the course. The Dealer will incur all costs associated with this.

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

Regulation 333/08:

36. Advertising:

(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;
- (b) used as a police cruiser or used to provide emergency services; or
- (c) used as a taxi or limousine.

(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, Aneta, and Christopher have 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

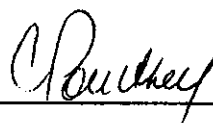
1. The Dealer agrees to pay a fine in the amount of \$3,000 within 90 days of the date of the Discipline Committee Order.
2. The Dealer, Aneta, and Christopher agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Decision of the Chair

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer, Aneta and Christopher 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 \$3,000 within 90 days of the date of the Discipline Committee Order.
2. The Dealer, Aneta, and Christopher 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

