

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*
("OMVIC")

- AND -

PAUL SADLON JR.
("Registrant")

Date of Hearing: July 5, 2015

Date of Decision: July 21, 2017

Findings: Paul Sadlon Jr. breached Section 9 of the Code of Ethics, Regulation 332/08.

Order:

1. Paul Sadlon Jr. is ordered to pay a fine in the amount of \$4,000.00 within 90 days of the date of this order of the Discipline Committee. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Paul Sadlon Jr. is ordered to comply with the Motor Vehicle Dealers Act, 2002, Standards of Business Practice, and the Code of Ethics, as may be amended from time to time.

Reasons for Decision

Introduction

This matter proceeded before a Panel of the Discipline Committee pursuant to Section 17 of the Motor Vehicle Dealers Act 2002.

OMVIC was represented by Ms. Michelle Samaroo (Counsel) and Ms. Diana Mojica (Articling Student). Ms. Andrea Korth attended on behalf of OMVIC. The registrant Mr. Paul Sadlon Jr. was present and self represented.

The Panel consisted of Debra Mattina, public member (Chair), Glen Fenwick, a dealer registrant (Vice-Chair), and Chris Pinelli, a sales person registrant (Vice-Chair). Mr. Edward (Ted) Marrocco attended as Independent Legal Counsel to the Panel.



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The Panel received a book of documents on consent of all parties. In addition to the book of documents the Panel received an Agreed Statement of Facts and a Joint Submission on Penalty on consent of all parties. The Panel marked as exhibits the following documents on consent of all parties:

- Exhibit #1 The Notice of Complaint dated January 9, 2017
- Exhibit #2 Signed Agreed Statement of Facts and Penalty Dated March 12, 2015
- Exhibit #3 Discipline Decision re: Paul Sadlon Motors Inc. Paul Sadlon and Paul Sadlon Jr. Dated March 20, 2015
- Exhibit #4 Copy of letter to Paul Sadlon and Paul Sadlon Jr. Dated June 16, 2016
- Exhibit #5 OMVIC System Printout, Education Profile Re: Paul Sadlon Jr. Dated May 1, 2017
- Exhibit #6 E-mail correspondence Dated February 14, 2017
- Exhibit #7 OMVIC System Printout, Phone Call In - Registrant Dated February 14 2017
- Exhibit #8 E-mail Correspondence Dated February 14, 2017
- Exhibit #9 E-mail Correspondence Dated March 14, 2017
- Exhibit #10 E-mail Correspondence Dated March 27, 2017
- Exhibit #11 E-mail Correspondence and Attachments Dated April 5, 2017
- Exhibit #12 E-mail Correspondence Dated April 6, 2017 (Pages 27 -30)
- Exhibit # 13 E-mail Correspondence Dated April 6, 2017 (Pages 31-34)
- Exhibit #14 OMVIC System Printout, E-mail Out - Registrant Dated April 21, 2017
- Exhibit #15 OMVIC System Printout, E-mail In - Registrant and Attachments Dated April 24, 2017
- Exhibit #16 OMVIC System Printout, E-mail Out - Registrant, Dated April 24, 2017
- Exhibit #17 E-mail Correspondence and Attachments Dated June 14, 2017 (Pages 40 - 42)
- Exhibit #18 E-mail Correspondence Dated June 14, 2017 (Pages 43 - 47)
- Exhibit #19 E-mail Correspondence Dated June 14, 2017 (Pages 48 - 51)
- Exhibit #20 E-mail Correspondence Dated June 14, 2017 (Page 52)
- Exhibit #21 ONBIS Printouts Re: Paul Sadlon Motors Incorporated.
- Exhibit #22 Agreed Statement of Facts
- Exhibit #23 Joint Submission on Penalty

At the commencement of the hearing the parties informed the Panel that they had reached an agreement and wished to present an Agreed Statement of Facts (ASF) to the Panel to be followed by a Joint Submission on Penalty (JSOP).

Before proceeding the Chair, noting that Mr. Sadlon Jr. was self represented, explained to him how a hearing would normally proceed, how the process would permit both parties to present their evidence and allow both to cross-examine the others' witnesses. Mr. Sadlon Jr. was informed that if he chose to settle the matter by way of an ASF he was waiving his right to a hearing. Mr. Sadlon Jr. was asked if he understood this and he confirmed that he did and that he was prepared to proceed without legal representation.

The Chair then took Mr. Sadlon Jr.'s plea. Mr. Sadlon Jr. admitted that he breached Section 9 of the Code of Ethics, by failing to complete an OMVIC certification course within the specified time as ordered in a previous Discipline Committee Decision. The order issued by the previous Discipline Panel was issued based on an ASF and JSOP negotiated by Mr. Sadlon Jr. and OMVIC at the March 2015 hearing. The previous order, dated March 20, 2015 required Mr. Sadlon Jr. to complete the course within 90 days of the date of the order. Mr. Sadlon Jr. acknowledged that he completed the course a matter of days ago, approximately two years too



late to meet the terms of the order. It was noted that Mr. Sadlon Jr. complied with the remaining terms of the March 2015 order.

The Panel was provided with an Agreed Statement of Facts on consent of all parties (Exhibit #22), which provides as follows:

Facts:

1. Paul Sadlon Motors Incorporated (the "Dealer") was first registered as a motor vehicle dealer in or around February 1983. Paul Sadlon Jr. ("Sadlon Jr.") was first registered as a motor vehicle salesperson in or around October 1996. At all material times, Sadlon Jr. was an officer of the corporation.
2. On or about March 12, 2015 Sadlon Jr. executed an Agreed Statement of Facts and Penalty on behalf of himself.
3. On or about March 20 2015, the discipline Committee issued a discipline decision ("Order") against Sadlon Jr. et al. pursuant to the above referenced Agreed Statement of Facts and Penalty. As per condition 2 of the Order, Sadlon Jr. was required to successfully complete the OMVIC certification course (the "Course") within 90 days.
4. By letter dated June 16, 2016, the Dealer and Sadlon Jr. were reminded inter alia, of their obligation [to] provide OMVIC with confirmation that Sadlon Jr. had successfully completed the Course.
5. On or about July 14, 2016, Sadlon Jr. enrolled in the Course.
6. A Notice of Complaint dated January 9, 2017 was issued because Sadlon Jr. had not yet completed the Course. In failing to fulfil a condition of the Order, Sadlon Jr. also failed to comply with Section 9 of the Code of Ethics.

Evidence:

The Panel has considered the ASF (Exhibit 22), the book of documents (Exhibits 1-21) and the submissions of Mr. Sadlon Jr. when his plea was taken. Mr. Sadlon Jr. readily acknowledged that he had not completed the OMVIC course until late in June 2017. His admission is supported by exhibits contained in the book of documents, which weave a tale of non-compliance over an approximate two year period. The ASF also demonstrates that, as of January 2017, Mr. Sadlon Jr. had still not completed the course. Exhibit 13, an e-mail from Sebrina Westbrooke of Georgian College to Scott Long at OMVIC, confirms that as of June 14, 2017, Mr. Sadlon Jr. had still not completed the course. All the evidence therefore supports the fact that Mr. Sadlon Jr. did not complete the course as ordered within the time period specified in the March 20, 2015 order.

Decision of the Panel:

It is the decision of this Panel that Mr. Sadlon Jr. breached Section 9 of the Code of Ethics when he failed to comply in the appropriate time with the order of the Discipline Panel dated March 20, 2015.

Reasons for Decision:

The Panel is satisfied that the ASF submitted on consent of both parties supports a finding of a breach of the Code of Ethics as Mr. Sadlon Jr., although he has now completed the course, did not complete it in compliance with the terms of the Discipline Decision dated March 20, 2015. The Panel recognizes the efforts of OMVIC to bring Mr. Sadlon Jr. into compliance voluntarily without



success. Of concern to the Panel was that the aforementioned March 2015 order was also based on an Agreed Statement of Facts and a Joint Submission on Penalty. It is difficult to understand why Mr. Sadlon Jr. would have paid his fines, and complied with the other terms of the March 2015 order but not complied with the part of that order requiring him to take the course. As stated within the hearing, the agreement which resulted in the ASF (Exhibit 22) and the JSOP (Exhibit 23) came at the "eleventh hour". The Panel however understands the necessity for the "eleventh hour" agreement because, prior to that, Mr. Sadlon Jr. had not yet completed the course. Mr. Sadlon Jr. completed the course just in time for this hearing which positioned him perfectly to fashion yet another agreement. The Panel reminds Mr. Sadlon Jr. that non-compliance with an order of a Discipline Panel is a very serious matter. The Panel, while accepting the ASF, cautions Mr. Sadlon Jr. that while it may be rare for a panel to refuse to accept an ASF, a panel can do so if it feels that acceptance would bring the administration of justice into disrepute. A history of renegeing on agreements does not foster confidence in one's intent to comply and would certainly bring the administration of justice into disrepute. Having said that, the Panel acknowledges that sometimes, things don't always go as planned and accepts Mr. Sadlon Jr.'s reference to having undergone a bit of a rough period. After considering all the circumstances, the Panel determined it was appropriate to accept the agreement of the parties to resolve the Notice of Complaint (Exhibit 1).

Submissions on Penalty

The parties provided the Panel with a Joint Submission on Penalty (Exhibit 23)

The terms of the submission are as follows:

1. Sadlon Jr. agrees to pay a fine in the amount of \$4,000.00 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Sadlon Jr. agrees to comply with the Motor Vehicle Dealers Act, 2002, Standards of Business Practice and the Code of Ethics, as may be amended from time to time.

Additionally Ms. Mojica addressed the Panel and spoke to the fine fulfilling the dual role of both specific and general deterrence to Mr. Sadlon Jr. specifically and the industry as a whole. It was her submission that the fine was significant enough to send the message that non-compliance with an order of a Discipline Committee is serious. Her submission is that the order also helps to protect the public by endorsing for Mr. Sadlon Jr. the necessity of complying with the rules and regulations of the industry. Ms. Mojica submitted two cases for the Panel's consideration regarding penalty:

- *College of Physiotherapists of Ontario v. Shah*, [2015] ONCPO2
- *Law Society of Upper Canada v. Wilson*, [2016] L.S.D.D. No.37

Decision on Penalty

The Panel accepts the Joint Submission on Penalty and orders the following:

1. Paul Sadlon Jr. is ordered to pay a fine in the amount of \$4,000.00 within 90 days of the date of this order of the Discipline Committee. The fine is payable to the Ontario Motor Vehicle Industry Council



2. Paul Sadlon Jr. is ordered to comply with the Motor Vehicle Dealers Act, 2002, Standards of Business Practice, and the Code of Ethics, as may be amended from time to time.

Reasons for Penalty:

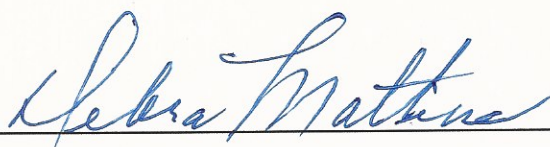
The Panel takes the breach of an order seriously. Had the parties not reached an agreement, the Panel may have been inclined to impose a more significant fine. The Motor Vehicle Dealers Act, is a consumer protection act. A dealer or a salesperson who, after having an order issued against them, then fails to comply with the order, represents a very real and specific threat to the consumer. The Panel had significant concerns about an apparent unwillingness to comply with a portion of an order issued on consent of the parties. In the collective minds of the Panel, there were grave doubts about the governability of the Registrant.

Three items weighed in favour of the Joint Submission on Penalty:

- The Panel's reluctance to go behind an agreement of the parties believing that - while Mr. Sadlon Jr's failure to comply is in many ways egregious - giving Mr. Sadlon Jr. a second chance does not bring the administration of the regulatory regime into disrepute;
- The fact that by the time the hearing commenced, Mr. Sadlon Jr. had finally completed the OMVIC certification course; and
- The apparent genuineness of the apology Mr. Sadlon Jr. expressed to the Panel during final submissions. The Panel was unanimous in accepting that apology on behalf of consumers and the Panel was encouraged to believe that, given all of the circumstances, the penalty agreed to by the parties sufficiently addressed the need for specific and general deterrence and, above all, the needs of consumers and the public without being unduly onerous.

The Panel accepted the joint submissions on penalty of the parties. The fine, while on the lower end of the range currently being ordered, does serve the dual purposes of public protection and deterrence, both specific and general. The Panel chooses to provide Mr. Sadlon Jr. with an opportunity to redeem his honesty, integrity and professionalism, and get it right this time around.

Ontario Motor Vehicle Industry Council
Discipline Panel



Debra Mattina, *Chair*
Glen Fenwick, *Vice Chair*
Chris Pinelli, *Vice Chair*

