

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 -

BOUTROS ISHAK o/a CEDARVILLE AUTO

Pursuant to Pre-Hearing Conference held on September 30 and 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 20, 2016

Findings: Breach of Section 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$250.00 within 90 days of the date of the Discipline Committee Order.
2. Boutros is ordered to successfully complete the OMVIC certification course in person within 6 months of the date of the Discipline Committee Order.
3. The Dealer shall comply with the Act and Standards of Business Practice, as may be amended from time to time.

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. In addition, a Pre-Hearing Conference was held to hear submissions from the parties with respect to the terms set out below.



Agreed Statement of Facts

The parties to this proceeding agree that:

1. Boutros Ishak o/a Cedarville Auto (the "Dealer") was registered as a motor vehicle dealer in or around December 2014.
2. The Dealer's registered location is 6295 Mississauga road, Mississauga, Ontario.

Dealer non-compliance

3. On or about March 30, 2016, a representative of the Registrar contacted the dealer, while posing as a member of the public, and enquired about an advertised vehicle of the dealer's.
4. The representative asked the dealer where it would be possible to view the vehicle. The Dealer invited the representative to view the vehicle at the Sheridan Mall located at 2255 Erin Mills Parkway.
5. 2255 Erin Mills Parkway is not the registered location of the Dealer.
6. This is contrary sub section 28 of Regulation 333/08, as well as section 9 of the Code of Ethics.
7. Subsequent to the NOC being issued, the Dealer has since taken administrative steps to prevent further examples of non-compliance.
8. The Dealer sold two vehicles to retail customers in 2015.

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

28 (4) Except for advertising, a registered motor vehicle dealer other than a motor vehicle dealer registered only as a broker shall not trade except from a place authorized by the dealer's registration.

It is thereby agreed that the Dealer has breached the following section of the Code of Ethics, as set out in Regulation 332/08:

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 \$250.00 within 90 days of the date of the Discipline Committee Order.
2. Boutros agrees to successfully complete the OMVIC certification course in person within 6 months of the date of the Discipline Committee Order.
3. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Pre-Hearing Conference

A Pre-Hearing Conference was held on September 30, 2016 before me, in the presence of Michael Burokas counsel, and Andrea Korth for the Applicant, and Mr. Ishak Boutros for the Respondent.

During the Pre-Hearing Conference and included in the Agreed Statements of Facts (items 7 and 8) two mitigating circumstances were acknowledged:

1. Subsequent to the Notice of Complaint being issued, the Dealer has since taken administrative steps to prevent further examples of non-compliance; and
2. The Dealer sold two vehicles to retail customers in 2015.

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 subsection 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 \$250.00 within 90 days of the date of the Discipline Committee Order.
2. Boutros is ordered to successfully complete the OMVIC certification course in person within 6 months of the date of the Discipline Committee Order.
3. The Dealer 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



Paul Burroughs, Chair

