

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 -

ZAHARIEV, SAVCHO o/a JANEX AUTO SALES LTD

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: September 27, 2017

Findings: Breach of Section 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$750, no later than **December 14, 2017**.
2. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course no later than **December 14, 2017**. Future sales staff will be offered the course within 90 days of be retained in this capacity. The Dealer will incur 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.
3. The Dealer agrees to 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. Zahariev, Savcho o/a Janex (the "Dealer") was first registered as a motor vehicle dealer in or around November 1999. At the time of registration, Savcho Zahariev ("Zahariev") was a sole proprietor.
2. In or around October 2007, Zahariev incorporated a company under the name Janex Auto Sales Ltd.
3. In or around December 2012, the Dealer provided OMVIC with a change of name request to Zahariev, Savcho o/a Janex Auto Sales Ltd.
4. Since in or around October 2007, the Dealer has failed to provide OMVIC with an application to change his business status from sole proprietor to corporation, and has subsequently avoided the requirement to pay the prescribed fee to the Compensation Fund.
5. During an inspection on or about September 18, 2013, the Dealer was advised by a representative of the Registrar to submit a registration application reflecting the Dealer's business change ("Business Application").
6. During an inspection of or about February 6, 2017, the Dealer was reminded to submit the aforementioned Business Application.
7. By letter dated March 27, 2017, the Dealer was again reminded to submit the aforementioned Business Application.
8. Moreover, the Dealer has failed to indicate on numerous registration applications that his business is now incorporated. This is also contrary to section 31 of Regulation 333/08, as well as section 9 of the Code of Ethics.
9. Since the issuance of the Notice of Complaint, the Dealer has submitted the aforementioned Business Application.

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

Notice of events to registrar

31. (1) Every registrant shall, within five days after the occurrence of the event, notify the registrar in writing of,

- (a) any change to the information that the registrant supplied for the purpose of obtaining 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:

Joint Submission on Penalty

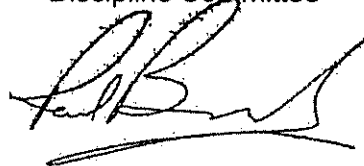
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3. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Decision of the Chair

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 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:

4. The Dealer is ordered to pay a fine in the amount of \$750, no later than **December 14, 2017**.
5. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course no later than **December 14, 2017**. Future sales staff will be offered the course within 90 days of be retained in this capacity. The Dealer will incur 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.
6. The Dealer agrees to 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