

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 -

LEONARDO CASTANO SUCRE

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 16, 2020

Findings: Breach of Section 9 of the Code of Ethics

Order:

1. Sucre is ordered to pay a fine in the amount of \$2,000. \$1,000 will be paid no later than **December 31, 2020**. The remaining balance (\$1,000) will be paid no later than **March 31, 2021**.
2. Sucre is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **December 31, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter delivering the Course within the prescribed timeframe.
3. Sucre 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. Leonardo Castano Sucre o/a Lion Enterprise Autos ("Sucre" or "Lion Enterprise") was registered as a motor vehicle dealer from on or about February 26, 2009 until his license was revoked by the Registrar on or about October 22, 2018.
2. The Registrar's Notice of Proposal which resulted in the revocation of Sucre's registration as a dealer is attached hereto as Schedule "A".
3. While he was registered, Sucre's registered premises as a motor vehicle dealer were located at 825 Kipling Avenue in Toronto, Ontario.
4. In addition to having been previously registered as a motor vehicle dealer, Sucre has been registered as a motor vehicle salesperson since approximately October 2008. He is currently registered as salesperson to Your Car Toronto Inc.

Non-compliance:

5. On or about August 2, 2019, and in response to an anonymous complaint, a representative of the Registrar attended the former premises of Lion Enterprise at 825 Kipling Avenue. The Registrar's representative posed as a member of the general public during this visit.
6. The Registrar's representative discovered Sucre there and spoke to him about a 2015 Nissan Rogue (VIN 5N1AT2MM5FC753613) parked at the location.
7. Sucre stated that the vehicle was for sale, and discussed various features about the vehicle, as well as its selling price. He then provided the Registrar's representative with a business card bearing the name and contact details for Lion Enterprises, stated that the business card belonged to his wife, and invited her to contact Lion Enterprises if she had further questions about the vehicle.
8. Sucre's attempt to trade the vehicle on behalf of Lion Enterprises was contrary to section 4(1) of the Act, as well as sections 9(1) and 9(2) of the Code of Ethics.

By failing to comply with the following section of the Act:

Prohibition:

4 (1) No person shall,

(a) act as a motor vehicle dealer unless the person is registered as a motor vehicle dealer under this Act; or

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

Professionalism:

9. (1) 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.

9. (2) In carrying on a business, a registrant shall act with honesty, integrity and fairness.

Joint Submission on Penalty

1. Sucre agrees to pay a fine in the amount of \$2,000. \$1,000 will be paid no later than **December 31, 2020**. The remaining balance (\$1,000) will be paid no later than **March 31, 2021**.
2. Sucre agrees to successfully complete the Automotive Certification Course (the "Course") no later than **December 31, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter delivering the Course within the prescribed timeframe.
3. Sucre 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 Sucre has 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. Sucre is ordered to pay a fine in the amount of \$2,000. \$1,000 will be paid no later than **December 31, 2020**. The remaining balance (\$1,000) will be paid no later than **March 31, 2021**.

2. Sucre is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **December 31, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter delivering the Course within the prescribed timeframe.
3. Sucre 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

A handwritten signature in black ink, appearing to read "Paul Burroughs", with a horizontal line underneath the signature.

Paul Burroughs, Chair