

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 -

THE AUTO KING INC.

- AND -

IIAN IFRAIMOV

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: June 25, 2015

Findings: Breach of Sections 4 and 9 of the Code of Ethics

Order:

1. The Dealer and Ifraimov are ordered to pay a fine in the amount of \$3,000. \$500 will be paid within 30 days of the date of the Discipline Committee Order and the remaining balance of \$2,500 within one year of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Ifraimov is ordered to successfully complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay 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.
4. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* 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. The Auto King Inc. (the "Dealer") was first registered as a motor vehicle dealer in or around January 2008. Ilan Ifraimov ("Ifraimov") was first registered as a motor vehicle salesperson in or around January 2008. At all material times, Ifraimov was the officer and director of the Dealer.
2. On or about January 8, 2008, the Dealer executed terms and conditions of registration. As per condition 6, the Dealer agreed to comply with OMVIC's Code of Ethics and Standards of Business Practice as may be amended from time to time. As per condition 20, the Dealer agreed to disclose in writing on the bill of sale all material facts about the vehicles it sells to its customers, including but not limited to, accidented and repaired.
3. During an inspection dated February 7, 2008, a representative of the Registrar reviewed the January 8, 2008 terms and conditions with the Dealer.
4. During an inspection dated May 23, 2012, the Dealer was reminded of their obligation to ensure to provide consumers with written disclosure of a vehicle's history and condition, including but not limited to accidents and out of province history.
5. On or about March 12, 2014, the Dealer purchased a 2004 Acura MDX (VIN 2HNYD18664H002241), declared with an \$8,526 accident history. On or about March 21, 2014, the Dealer sold this vehicle without providing the consumer with the required written disclosure of the vehicle's \$8,526 accident history. This is contrary to sub section 42(19) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has subsequently provided OMVIC with confirmation that the consumer is now fully aware of their pertinent vehicle history.
6. On or about March 26, 2014, the Dealer purchased a 2005 Dodge Dakota (VIN 1D7HW48K95S151967), declared as having previously being registered in Quebec. On or about June 14, 2014, the Dealer sold this vehicle without providing the consumer with the required written disclosure of the vehicle's out of province history. This is contrary to sub section 42(22) and 42(25) of regulation 333/08, as well as section 7 and 9 of the Code of Ethics. The Dealer has subsequently provided OMVIC with confirmation that the consumer is now fully aware of their pertinent vehicle history.

By failing to comply with the following regulations under the *Motor Vehicle Dealers Act, 2002*:



Disclosure

42. (19) If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.
- (22) If the motor vehicle previously received treatment in a jurisdiction other than Ontario that was equivalent to having had a permit issued under section 7 of the Highway Traffic Act or having been trading in Ontario, a statement to that effect and a statement of which jurisdictions, except if one or more permits have been issued for the vehicle under section 7 of that Act to cover at least the seven previous consecutive years.
- (25) Any other fact about the motor vehicle that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle on the terms of the purchase or lease.

It is thereby agreed that the Dealer and Iffraimov have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

7. A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.
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 and Iffraimov agree to pay a fine in the amount of \$3,000. \$500 will be paid upfront (within 30 days of the date of the Discipline Committee Order) and the remaining balance within one year of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Iffraimov agrees to successfully complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer agrees to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay 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.
4. The Dealer agrees to comply with the *Motor Vehicle Dealers Act, 2002* 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 and Iffraimov breached subsections 7 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 and Ifraimov are ordered to pay a fine in the amount of \$3,000. \$500 will be paid within 30 days of the date of the Discipline Committee Order and the remaining balance of \$2,500 within one year of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Ifraimov is ordered to successfully complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The Dealer will pay all costs associated with this.
3. The Dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay 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.
4. The Dealer shall comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee



Catherine Poultney, Chair

