

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 -

OTTAWA CHRYSLER JEEP DODGE INC.

- AND -

SEAN GIBSON

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 24, 2016

Findings: Breach of Section 4 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$4,500 within 90 days of the date of the Discipline Committee Order.
2. Gibson is ordered to successfully complete the most recent OMVIC certification course (the "course") within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
3. 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 within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 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.
4. The Dealer and Gibson shall 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. Ottawa Chrysler Jeep Dodge Inc., the ("Dealer") was first registered as a motor vehicle dealer in or around April 2006. Sean Gibson ("Gibson") was first registered as a motor vehicle salesperson in or around August 2006. At all material times, Gibson was an officer and director, as well as the Person in Charge, of the Dealer.
2. On or before March 21, 2016, a direct mail advertising campaign was published by or on behalf of the Dealer which implied a sales promotion was endorsed and/or connected to a government program. This advertisement was contrary to section 4 of the Code of Ethics. A copy of said advertisement is attached hereto as Schedule "A".

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

Section 4(2): A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with the trading in motor vehicles, are legal, decent, ethical and truthful. O. Reg. 332/08, s. 4 (2).

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$4,500 within 90 days of the date of the Discipline Committee Order.
2. Gibson agrees to successfully complete the most recent OMVIC certification course (the "course") within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 days of being 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.



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

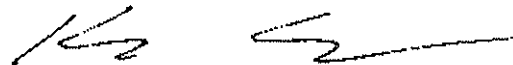
Decision of the Chair

The parties appeared before me on three separate occasions via teleconference as part of a Pre-Hearing Conference. Sarah Aouchiche appeared on behalf of OMVIC, and Matthew J. Halpin appeared on behalf of the Respondents. A Pre-Hearing Conference is held to allow the parties to exchange positions, and to discuss the issues without prejudice with a view to reaching an agreed upon settlement. Following full and frank discussions between the parties in the instant case, agreement was reached on the facts of the case and on the penalties merited by those facts.

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer and Gibson breached subsection 4 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 \$4,500 within 90 days of the date of the Discipline Committee Order.
2. Gibson is ordered to successfully complete the most recent OMVIC certification course (the "course") within 90 days of acceptance of this offer. The Dealer will incur all costs associated with this.
3. 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 within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 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.
4. The Dealer and Gibson 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



Keith Cooper, Chair



