

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 -

1647377 ONTARIO LIMITED o/a DRAGON AUTO SALES AND SERVICE

- AND -

PETER COUTSOSTAVROS

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: November 17, 2015

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 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. 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. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. 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.
3. 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. 1647377 Ontario Limited o/a Dragon Auto Sales and Service (the "Dealer") was registered as a motor vehicle dealer in or around May 2014. Peter Coutsostavros ("Coutsostavros") was first registered as a motor vehicle salesperson in or around May 2014. At all material times, Coutsostavros was the sole officer and director of the Dealer.
2. On or about October 23, 2014, Coutsostavros submitted a business application on behalf of the Dealer. As per section C of the application, the Dealer acknowledged its business premises must meet the following requirements:
 - a. [must] accommodate an exclusive office for the dealership
 - b. [must] have permanent signage at location for the dealership
 - c. [will be] the only business of any kind operating at the premises and unit number
3. On or about November 24, 2014, Coutsostavros executed terms and conditions of registration on behalf of the Dealer. These include but are not limited to the following:
 - a. As per condition 1, the Dealer agreed to comply with the Act, Code of Ethics, and Standards of Business Practice, as may be amended from time to time.
 - b. As per condition 8, the Dealer agreed to operate exclusively from a location approved by the Registrar.
 - c. As per condition 11, the Dealer agreed to maintain all books and records at the Dealer's registered premises.
4. During an inspection on or about December 5, 2014, a representative of the Registrar attempted to conduct a routine scheduled inspection. The representative was met by Coutsostavros in front of the Dealer premises. At this time, the Dealer had yet to receive their key from the landlord for his premises. The representative reminded Coutsostavros of the dealership's premises requirements.
5. During a premises inspection on or about December 12, 2014, a representative of the Registrar determined the Dealer's business premises did not meet the above mentioned requirements. Specifically, the Dealer's office is not clearly separate from other business



operating at the location. It does not provide an exclusive area for the Dealer to conduct business. In addition to this, there is insufficient space to store 6 years of books and records. This is contrary to section 28 of Regulation 333/08, as well as section 9 of the Code of Ethics.

6. In an email dated December 15, 2014, a representative of the Registrar reminded the Dealer of their premises requirements.
7. During a premises inspection on or about January 14, 2015, a representative of the Registrar determined the Dealer's business premises remained not in compliance for the above mentioned reasons.
8. In an email dated January 14, 2015, a representative of the Registrar reminded the Dealer of their premises requirements.
9. During a premises inspection on or about June 10, 2015, a representative of the Registrar determined the Dealer's business premises remained not in compliance for the above mentioned reasons.
10. During a premises inspection July 13, 2015, a representative of the Registrar determined the Dealer's business premises remained not in compliance for the above mentioned reasons.
11. Since the issuance of the Notice, the Dealer has since moved to a compliant location.

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

Place of business

28(7) A registered motor vehicle dealer shall maintain an office, in accordance with subsection (8), at each place from which the dealer is authorised to trade.

28(8) The office shall be of sufficient size to permit the secure storage of records that this Regulation requires the registered motor vehicle dealer to keep at the place.

It is thereby agreed that the Dealer and Coutsoyavros have breached the following sections 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 \$750 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry



Council.

2. 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. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. 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.
3. 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 Coutsostavros 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 \$750 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. 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. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. 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.
3. 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

