

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 -

709226 ONTARIO LIMITED o/a DILAWRI JEEP DODGE CHRYSLER

- and -

SHIV DILAWRI

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: December 2, 2021

Findings: Breach of Sections 4, 6 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$5,000 no later than **December 31, 2021.**
2. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **December 31, 2021.**
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 no later than **December 31, 2021.** 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 Dilawri agree 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. 709226 Ontario Limited o/a Dilawri Jeep Dodge Chrysler (the "Dealer") was first registered as a motor vehicle dealer in or around April 1987.
2. Shiv Dilawri ("Dilawri") was first registered as a motor vehicle salesperson in or around October 1982. At all material times, Dilawri has been the Director, as well as the person in charge of the day-to-day activities of the Dealer.

OMVIC registrant education re: All-in pricing

3. Since the Act was proclaimed, OMVIC has issued numerous publications and webinars reminding dealers of their obligation to ensure advertised vehicle prices include all additional costs ("all-in pricing regulation"). The dates of said publications are attached hereto as Schedule A. All of these publications continue to be available on OMVIC's website.

Direct correspondence with Dealer:

4. By letter dated April 9, 2010, the Dealer was reminded of the all-in pricing regulation.
5. By email dated December 29, 2011, Dilawri was reminded, on behalf of the Dealer, of the all-in pricing regulation.
6. By email dated February 27, 2019, the Dealer was reminded of the all-in pricing regulation.
7. By email dated July 16, 2019, Dilawri was reminded, on behalf of the Dealer, of the all-in pricing regulation.

8. On or about July 24, 2019, OMVIC hosted for the Dealer's staff a webinar to review the advertising regulations.
9. During an inspection on or about March 6, 2020, a representative of the Registrar reminded the Dealer of the all-in pricing regulation.

Dealer's current non-compliance

10. On or before November 24, 2020, the Dealer advertised a 2018 Dodge Journey (VIN 3C4PDDCG4JT237307), with a selling price of \$24,998 plus HST and the cost of license plates.
11. On or about November 24, 2020, representatives of the Registrar made inquiries about the above referenced vehicle, while posing as members of the public. A representative of the Dealer advised the Registrar's representatives that the advertised vehicle price did not include the following additional costs: \$599 for "safety and PDI" and the \$10 OMVIC fee.
12. On or about January 9, 2021, the vehicle was subsequently sold to a purchaser for its all-inclusive advertised price.
13. The Dealer's representative was not clear and truthful with the Registrar's representatives about the prices associated with the vehicle. This is contrary to sections 4 and 9 of the Code of Ethics.
14. Dilawri has failed to ensure the Dealer conducts its business in compliance with the Regulations and Code of Ethics, and thus has personally contravened sections 6 and 9 of the Code of Ethics.
15. The Dealer has since agreed the subject representative will successfully complete the MVDA Key Elements course no later than **January 31, 2022**.
16. The Dealer has since named a new individual as the person in charge of the day-to-day activities of the Dealer. This individual has successfully completed the Automotive Certification course.

It is thereby agreed that the Dealer has breached section 4(1) of the Code of Ethics, as set out in regulation 332/08:

Disclosure and marketing:

4. (1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles

It is thereby agreed that the Dealer and Dilawri have breached section 9(1) 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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$5,000 no later than **December 31, 2021.**
2. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **December 31, 2021.**
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete Course. Current sales staff will be offered the Course no later than **December 31, 2021.** 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 Dilawri agree 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 and Dilawri have breached subsections 4, 6 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 is ordered to pay a fine in the amount of \$5,000 no later than **December 31, 2021.**
2. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **December 31, 2021.**
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete Course. Current sales staff will be offered the Course no later than **December 31, 2021.** 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 Dilawri agree 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', is written over a horizontal line.

Paul Burroughs, Chair