

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 -

SCARBOROROTOWN CHRYSLER DODGE JEEP LTD.

- AND -

CRIAG HIND

- AND -

FARID BHANJI

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: August 29, 2016

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

Order:

1. The Dealer and Hind are ordered to pay a fine in the amount of \$2,000 within 90 days of the date of the Discipline Committee Order.
2. Bhanji is ordered to pay a fine in the amount of \$6,000 within 90 days of the date of the Discipline Committee Order.
3. The General Manager and Bhanji are ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
4. 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 or who are otherwise required to do so pursuant to the Act.

5. The Dealer 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. Scarborough Chrysler Dodge Jeep Ltd. (the "Dealer") was first registered as a motor vehicle dealer in or around July 2010. Craig Hind ("Hind") was first registered as a motor vehicle salesperson in or around January 1983. Farid Bhanji ("Bhanji") was first registered as a motor vehicle salesperson in or around August 1989. At all material times, Hind was an officer and director, as well as the Person in Charge of the Dealer. Bhanji was the used car sales manager.
2. During an inspection on or about December 14, 2011, Bhanji was also identified during the previous inspection in December 2011, as the person in charge of website advertising.
3. In or around April 2015, Mr. Bhanji sent emails to staff encouraging them to purposely mislead consumers regarding inventory availability.
4. In or around April 2015, Mr. Bhanji sent emails to staff encouraging them to purposely mislead consumers regarding vehicle pricing.

Non-Compliance:

Online Review, September 21, 2015:

5. On or about September 21, 2015 an advertisement published by or on behalf of the Dealer for a 2014 Dodge Grand Caravan (VIN 2C4RDGBG4ER289685) was found. Upon further review, it was confirmed that the vehicle had been sold by the Dealer on or about July 11, 2015. Thus, the advertised vehicle was no longer available, despite being promoted as such. This is misleading and contrary to section 28 of the Act and sections 4 and 9 of the Code of Ethics.
6. On or about September 21, 2015 an advertisement published by or on behalf of the Dealer for a 2014 Chrysler Town + Country (VIN 2C4RC1BXER386342) was found.



Upon further review, it was confirmed that the vehicle had been sold by the Dealer on or about July 14, 2015. Thus, the advertised vehicle was no longer available, despite being promoted as such. This is misleading and contrary to section 28 of the Act and sections 4 and 9 of the Code of Ethics.

7. On or about September 21, 2015 an advertisement published by or on behalf of the Dealer for a 2015 Dodge Ram 1500 (VIN 2C4RC1BG6ER336201) was found. Upon further review, it was confirmed that the vehicle had been sold by the Dealer on or about July 14, 2015. Thus, the advertised vehicle was no longer available, despite being promoted as such. This is misleading and contrary to section 28 of the Act and sections 4 and 9 of the Code of Ethics.
8. On or about September 21, 2015 an advertisement published by or on behalf of the Dealer for a 2015 Dodge Grand Caravan (VIN 2C4RDGBG3FR524448) was found. Upon further review, it was confirmed that the vehicle had been sold by the Dealer on or about July 28, 2015. As such, this is contrary to section 36(12) of Regulations 333/08 as well as sections 4 & 9 of the Code of Ethics.
9. On or about September 21, 2015, an advertisement published by or on behalf of the Dealer for a 2015 Chrysler Town + Country (VIN 2C4RC1HG7FR739080) was found. Upon further review, it was confirmed that the vehicle had been sold by the Dealer on or about July 30, 2015. Thus, the advertised vehicle was no longer available, despite being promoted as such. This is misleading and contrary to section 28 of the Act and sections 4 and 9 of the Code of Ethics.

Dealer Inspection, October 29, 2015:

10. During an inspection on or about October 29, 2015, Bhanji provided current advertisements published by or on behalf of the Dealer.

Upon further review of said advertisements, it was confirmed that the following vehicles had been sold:

- a) 2015 Chrysler 200 (VIN 1C3CCCFBXFN683727) – Sold April 17, 2015
- b) 2015 Jeep Patriot (VIN 1C4NJRAB6FD302949) – Sold August 27, 2015
- c) 2015 Dodge Ram 1500 (VIN 3C6RR7KT2FG532696) – Sold August 31, 2015
- d) 2014 Jeep Patriot (VIN 1C4NJRAB5ED820050) – Sold September 18, 2015
- e) 2014 Jeep Patriot (VIN 1C4NJRAB9ED804398) – Sold October 6, 2015

Thus, the advertised vehicles were no longer available, despite being promoted as such. This is misleading and contrary to section 28 of the Act and sections 4 and 9 of the Code of Ethics.



By failing to comply with the following section of the *Motor Vehicle Dealers Act, 2002 Regulation 333/08*:

28. No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to trading in motor vehicles.

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

4 1) A registrant shall be clear and truthful in describing the feature, 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.

2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

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 Hind agrees to pay a fine in the amount of \$2,000 within 90 days of the date of the Discipline Committee Order.
2. Bhanji agrees to pay a fine in the amount of \$6,000 within 90 days of the date of the Discipline Committee Order.
3. The GM and Bhanji agree to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
4. 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 the date of the Discipline Committee Order. 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 or who are otherwise required to do so pursuant to the Act.
5. The Dealer 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 the Dealer, Hind and Bhanji breached subsections 4 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 Hind are ordered to pay a fine in the amount of \$2,000 within 90 days of the date of the Discipline Committee Order.
2. Bhanji is ordered to pay a fine in the amount of \$6,000 within 90 days of the date of the Discipline Committee Order.
3. The General Manager and Bhanji are ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
4. 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 or who are otherwise required to do so pursuant to the Act.
5. The Dealer 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



Paul Burroughs, Chair

