

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 -

KINGS AUTO LTD.

- and -

REFAAT HANNA

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: March 4, 2019

Findings: Breach of Section 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$500 no later than **March 1, 2019**
2. The Dealer agrees 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 Fact

The parties to this proceeding agree that:

1. Kings Auto Ltd. (the "Dealer") was first registered as a motor vehicle dealer in about May 1996. Refaat "Ralph" Hanna ("Hanna") was first registered as a motor vehicle salesperson in about May 1994. At all material times Hanna was an officer and director as well as the Person in Charge of the Dealer.
2. On or about January 24, 2018 the Dealer purchased a 2013 Hyundai Sonata (VIN: KMHEC4A40DA078084) (the "Vehicle").
3. On or about June 2, 2018 the Dealer sold the Vehicle to a consumer. Shortly thereafter, and as required in all retail motor vehicle sales, appropriate insurance was arranged by the consumer, ownership was transferred into the consumer's name, and the consumer's license plate were affixed to the Vehicle.
4. Further to a request made by the consumer, the Dealer agreed to deliver the Vehicle to the consumer's home, free of charge.
5. On or about June 6, 2018 during the attempted delivery to the consumer, an employee of the dealer was involved in a collision with the Vehicle. The accident was determined not to be the fault of the Dealer's employee.
6. As a result of this collision, the consumer no longer wanted to take delivery of the Vehicle. Hanna, on behalf of the Dealer, refused to cancel the vehicle trade, but agreed to have the Vehicle repaired at the Dealer's body shop.
7. The consumer's insurer deemed the Vehicle to have sustained approximately \$5,866 in damage.
8. On about June 20, 2018 the consumer contacted OMVIC regarding the aforementioned situation. After OMVIC became involved, Hanna, on behalf of the Dealer, compensated the consumer \$600 for the damage caused to the Vehicle. In exchange for the \$600 in compensation, the consumer executed a release of claim in favour of the Dealer, thereby agreeing not to pursue the Dealer further with respect to this matter.
9. In compelling the consumer to take delivery of the Vehicle in a materially different state than that which was contracted for, Hanna and the Dealer have contravened section 9(1) and 9(2) of the Code of Ethics, as it relates to the circumstances described herein.

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

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. O. Reg. 332/08, s. 9 (1).

9. (2) In carrying on a business, a registrant shall act with honesty, integrity and fairness. O. Reg. 332/08, s. 9 (2).



Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$500 no later than **March 1, 2019**
2. 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 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:

3. The Dealer is ordered to pay a fine in the amount of \$500 no later than **March 1, 2019**
4. The Dealer agrees 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



Paul Burroughs, Chair

