

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 -

2387798 ONTARIO INC
o/a BARRHAVEN HONDA

- AND -

VIK 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: August 20, 2018

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

Order:

1. The Dealer is ordered to pay a fine in the amount of \$500 no later than **September 30, 2018**.
2. Dilawri is ordered to pay a fine in the amount of \$150 no later than **September 30, 2018**.
3. Dilawri is ordered to successfully complete the Automotive Certification course (the "course") no later than **October 15, 2018**.
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 no later than **October 15, 2018**. Future sales staff will be offered the course within 90 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 or who are otherwise required to do so pursuant to the Act.
5. The Dealer and Dilawri are ordered 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. 2387798 Ontario Inc o/a Barrhaven Honda (the "Dealer") was first registered as a motor vehicle dealer in around October 2017. Vikrum Dilawri ("Dilawri") was first registered as a salesperson in around July 1990. At all material times, Dilawri was the Director, as well as the Person in Charge, of the Dealer.
2. On or about October 10, 2017, a consumer expressed interest in leasing a 2017 Honda Civic EX. The consumer left a \$500 deposit on the vehicle. The consumer did not sign a lease agreement ("bill of sale") at this time.
3. On or about October 14, 2017, the consumer returned to the Dealer and indicated he was no longer interested in completing the transaction. The Dealer did not return the deposit. The Dealer continued to refuse to return of the deposit.
4. In the absence of an executed bill of sale, the refusal by Dilawri, on behalf of the Dealer, to return the consumer's deposit has caused the Dealer to breach section 38 of Regulation 333/08, as well as section 9 of the Code of Ethics.
5. As such, Mr. Dilawri's conduct also breaches the Code of Ethics. Specifically, sections 6 and 9.
6. The Dealer has now agreed to reimburse to the consumer, the deposit in the amount of \$500 by July 31, 2018.

By failing to comply with the following sections of the Motor Vehicle Dealers Act, 2002 (the "Act"):

Regulation 333/08:

Deposits given before contract made

38. If a customer who is not a registered motor vehicle dealer gives a registered motor vehicle dealer a deposit...before entering into a contract for the purchase or lease of a motor vehicle, then requests the return of the deposit...before entering into the contract, the dealer shall immediately return the deposit...to the customer, even if,

- a) the dealer is not the dealer who sells or leases the vehicle being sold or leased to the customer; or
- b) the customer does not enter into a contract for the purchase of a lease of a motor vehicle.

It is hereby agreed that the Dealer and Dilawri have breached the following section 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. Moreover, Dilawri's conduct with respect to this has breached the following section of the Code of Ethics:

Accountability

6. (2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading in motor vehicles.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$500 no later than **August 15, 2018**.
2. Dilawri agrees to pay a fine in the amount of \$150 no later than **August 15, 2018**.
3. Dilawri agrees to successfully complete the Automotive Certification course (the "course") no later than **October 15, 2018**.
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 no later than **October 15, 2018**. Future sales staff will be offered the course within 90 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 or who are otherwise required to do so pursuant to the Act.
5. The Dealer and Dilawri agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

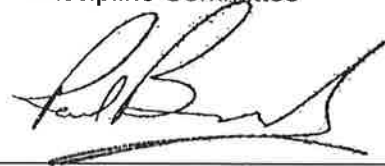
Decision of the Chair

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 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 \$500 no later than **September 30, 2018**.
2. Dilawri is ordered to pay a fine in the amount of \$150 no later than **September 30, 2018**.

3. Dilawri is ordered to successfully complete the Automotive Certification course (the "course") no later than **October 15, 2018**.
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 no later than **October 15, 2018**. Future sales staff will be offered the course within 90 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 or who are otherwise required to do so pursuant to the Act.
5. The Dealer and Dilawri are ordered 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