

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 -

SCOTT EDWARDS

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: May 21, 2015

Findings: Breach of Sections 6, 7 and 9 of the Code of Ethics

Order:

1. Edwards is ordered to pay a fine in the amount of \$12,500.00 within eighteen months of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council by a lump sum payment in the amount of \$3,000.00, to be paid within 90 days of the date of this Order. The balance of \$9,500.00 shall thereafter be payable by way of fifteen equal monthly instalments, each of which shall be payable on the 15th day of each month, or the next business day thereafter.
2. Edwards is ordered to successfully complete the OMVIC certification course within 120 days of the date of the Discipline Committee Order.
3. Edwards 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. Scott Edwards ("Edwards") is a motor vehicle salesperson who was first registered on or around July 31, 2009.
2. Edwards was registered as a salesperson with 1716114 Ontario Inc. o/a Your Car Auto Finance ("YCAF") from on or about November 10 2009 to July 31, 2010 and then again from on or about December 3, 2010 to April 15, 2013.
3. The Registrar issued a Notice Proposal to Revoke the Registrations of 1716114 Ontario Ltd. o/a Your Car Auto Finance, Derek Booth and Scott Edwards on June 25, 2014. Each of these registrants appealed the Proposal. 1716114 Ontario Ltd. o/a Your Car Auto Finance and Derek Booth withdrew their respective Notice of Appeal on or about Friday, May 15, 2015.
4. During the course of Edwards' employment at YCAF he did not consistently exercise due diligence in his dealings with consumers and purchasers, including:
 - Failing to provide all customers with the Retail Bills of Sale for vehicles purchased from YCAF. This is contrary to sections 40(9)(c) of Regulation 333/08 as well as sections 6(2) and 9(4) of the Code of Ethics;
 - Omitting reference to total distance travelled on Bills of Sale. This is contrary to sections 42(3) of Regulation 333/08 as well as sections 6(2), 9(3) and 9(4) of the Code of Ethics;
 - Failing to accurately record distance travelled on trade-in disclose statements. This is contrary to section 43(4)11 of Regulation 333/08 as well as sections 6(2), 7(1), 9(3) and 9(4) of the Code of Ethics;
 - Failing to accurately describe Terms of Warranty on Retail Bills of Sale. This is contrary to sections 40(2)1 and 39(2)15 of Regulation 333/08 as well as sections 6(2), 9(3) and 9(4) of the Code of Ethics.
 - Ensuring that liens on vehicles taken-in on trade were discharged in accordance with his representations. This is contrary to section 9.7 of the Standards of Business Practice which is contrary to section 9 of the Code of Ethics;
 - Failing to provide consumers with duplicate bills of sale, for greater clarity the Retail Bills of Sale provided by Edwards to consumers were not always identical to those maintained by YCAF and by lenders. This is contrary to section 27 of the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Sched. B. This conduct is also contrary to sections 6(2), 7(1), 9(3) and 9(4) of the Code of Ethics.
 - Failing to accurately disclose the existence of charges and encumbrances in favour of third parties on retail Bills of Sale. This is contrary to the Implied Conditions and Warranties in a contract of sale, as set out in section 13(b) and (c) of the *Sale of Goods Act*, R.S.O. 1990, c. S. 1. This conduct is also contrary to section 9(2) of the *Consumer Protection Act*, 2002 S.O. 2002, c. 30, Sched. A.



This conduct is also contrary to sections 6(2), 7(1), 9(3) and 9(4) of the Code of Ethics.

- Failing to accurately disclose terms of financing, including cost of borrowing on Bills of Sale and related documents. This is contrary to sections 40(1) and 44 of Regulation 333/08 as well as sections 6(2), 7(1), 9(3) and 9(4) of the Code of Ethics.
5. Edwards agrees that his continuing registration as a motor vehicle salesperson shall be subject to terms and conditions of registration.

It is thereby agreed that Edwards has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

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.

7(1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

9(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud, or any unethical practice in respect of a trade in motor vehicles.

9(4) A registrant shall provide conscientious service to the registrant's customers in the course of a trade in a motor vehicle and shall demonstrate reasonable knowledge, skill, judgment and competence.

Joint Submission on Penalty

1. Edwards agrees to pay a fine in the amount of \$12,500 within eighteen months of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council by a lump sum payment in the amount of \$3,000.00, to be paid within 90 days of the date of this Order. The balance of \$9,500 shall thereafter be payable by way of fifteen equal monthly instalment, each of which shall be payable on the 15th day of each month, or the next business day thereafter.
2. Edwards agrees to successfully complete the OMVIC certification course within 120 days of the date of the Discipline Committee Order.
3. Edwards 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 Edwards breached subsections 6, 7 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. Edwards is ordered to pay a fine in the amount of \$12,500.00 within eighteen months of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council by a lump sum payment in the amount of \$3,000.00, to be paid within 90 days of the date of this Order. The balance of \$9,500.00 shall thereafter be payable by way of fifteen equal monthly instalments, each of which shall be payable on the 15th day of each month, or the next business day thereafter.
2. Edwards is ordered to successfully complete the OMVIC certification course within 120 days of the date of the Discipline Committee Order.
3. Edwards 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



Catherine Poultney, Chair

