



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 -

301718 ONTARIO LIMITED o/a EMPIRE LEASING

- AND -

GRANT LOBSINGER

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: October 19, 2011

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

- Order:**
1. The dealer is ordered to pay a fine in the amount of \$3,000.00 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
 2. Julie Vaughan and Grant Lobsinger are ordered to complete the OMVIC certification course, as it is revised with regards to the *Motor Vehicle Dealers Act, 2002* within 60 days of date of the Discipline Committee Order. The dealer will incur all costs associated with this.
 3. The dealer agrees that a letter will be sent to all customers referred to in the Notice of Complaint. The purpose of this letter is to advise these customers of their vehicle histories. Where the customer indicates they were not aware of their vehicle history, the dealer will offer the customer compensation for the lack of disclosure at the time of sale. The letter to the customer will be mutually acceptable between parties.
 4. The dealer agrees to comply with Regulations 332/08 and 333/08 of the Act, and the 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.

The Agreed Statement of Facts read:

1. 301718 Ontario Limited o/a Empire Leasing (the "Dealer") was first registered as a motor vehicle dealer in or around May 1993. Grant Lobsinger is the sole director of the corporation.
2. On or about March 25, 2010, the Dealer purchased a 2000 GMC 1500 VIN 1GTEC14W9YE338884. This vehicle has an accident repair history with damage in the amount of \$3,589. On or about May 1, 2010, the Dealer sold this vehicle for \$3,950 without providing the purchaser with written disclosure of the accident repair information. This is contrary to sub-section 42(19) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics.
3. On or about April 22, 2010, the Dealer purchased a 1998 Jeep Grand Cherokee, VIN 1J4GZ88Z5WC121713 with the following declaration: "Carproof claim of \$3200". On or about May 5, 2010, the Dealer sold this vehicle for \$3,500 without providing the purchaser with written disclosure of the accident repair information. This is contrary to sub-section 42(19) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics.
4. On or about May 19, 2010, the Dealer purchased a 2002 Pontiac Sunfire, VIN 3G2JB52432S207011 declared as having a previous out of province registration. On or about June 16, 2010, the Dealer sold this vehicle for \$2,650 without providing the purchaser with written disclosure of the vehicle's previous out of province registration. This is contrary to sub-section 42(22) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics.
5. By correspondence dated April 28, 2011, the Dealer has advised the Registrar of certain safeguards implemented by the Dealer to ensure disclosure discrepancies do not occur in the future.

By failing to comply with the following sections of the General Regulations under the Act:

Section 42(19) of Regulation 333/08 of the Act:

42 Additional information in contracts of sale and leases

19. If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle



dealer knew the total costs, a statement of the total costs.

Section 42(22) of Regulation 333/08 of the Act:

42 Additional information in contracts of sale and leases

22. If the motor vehicle previously received treatment in a jurisdiction other than Ontario that was equivalent to having had a permit issued under section 7 of the *Highway Traffic Act* or having been traded in Ontario, a statement to that effect and a statement of which jurisdictions, except if one or more permits have been issued for the vehicle under section 7 of that Act to cover at least the seven previous consecutive years.

It is thereby agreed that the dealer and Grant Lobsinger have breached the following:

Code of Ethics, as set out in Ontario Regulation 332/08:

7. 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. 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 is ordered to pay a fine in the amount of \$3,000.00 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Julie Vaughan and Grant Lobsinger are ordered to complete the OMVIC certification course, as it is revised with regards to the *Motor Vehicle Dealers Act, 2002* within 60 days of date of the Discipline Committee Order. The dealer will incur all costs associated with this.
3. The dealer agrees that a letter will be sent to all customers referred to in the Notice of Complaint. The purpose of this letter is to advise these customers of their vehicle histories. Where the customer indicates they were not aware of their vehicle history, the dealer will offer the customer compensation for the lack of disclosure at the time of sale. The letter to the customer will be mutually acceptable between parties.
4. The dealer agrees to comply with Regulations 332/08 and 333/08 of the Act, and the 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 7(1) and 9(1) 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 \$3,000.00 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Julie Vaughan and Grant Lobsinger are ordered to complete the OMVIC certification course, as it is revised with regards to the *Motor Vehicle Dealers Act, 2002* within 60 days of date of the Discipline Committee Order. The dealer will incur all costs associated with this.
3. The dealer agrees that a letter will be sent to all customers referred to in the Notice of Complaint. The purpose of this letter is to advise these customers of their vehicle histories. Where the customer indicates they were not aware of their vehicle history, the dealer will offer the customer compensation for the lack of disclosure at the time of sale. The letter to the customer will be mutually acceptable between parties.
4. The dealer agrees to comply with Regulations 332/08 and 333/08 of the Act, and the 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 "C. Poultney".

Catherine Poultney, Chair