



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 -

CARL WATKIN

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: January 16, 2012

Findings: Breach of Sections 7, 8 and 9 of the Code of Ethics

- Order:**
1. Watkin agrees that he will not represent any charges or fees on a bill sale as being required by law, unless said charges or fees are legally required
 2. Watkin agrees not to be a partner, shareholder, officer, director or have direct or indirect control of a dealership.
 3. Watkin agrees not to be the final signatory on any sales or lease contracts on behalf of the dealer.
 4. Watkin agrees to successfully complete the OMVIC certification course within 90 days of the date of the Discipline Committee Order.
 5. Watkin agrees to maintain books and records which accurately record the nature of transactions involving the purchase, sale or lease of a motor vehicle. Watkin will not be involved in the creation of books and records, which are misleading as to the nature of a transaction involving the purchase, sale or lease of a motor vehicle.
 6. Watkin agrees to comply with the *Motor Vehicle Dealers Act, 2002* 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.

The Agreed Statement of Facts read:

1. Soufan International Inc o/a Prime Motors of London (the "dealer") has been registered as a motor vehicle dealer since in or around June 1996. Carl Watkin ("Watkin") was first registered as a motor vehicle salesperson in or around August 2003. Watkin has been registered to the dealer since obtaining his salesperson license.
2. On or about November 27, 2010, Watkin sold a consumer a 2008 Chevrolet Impala, (VIN 2G1WB58K489230934). The consumer declined to purchase an extended warranty product for \$995.
3. Subsequently a second bill of sale was created by Watkin which included said warranty product and increased the cost of the dealer administration fee by \$200. Additionally, a Coast to Coast warranty application was also completed by Watkin. The consumer's signature was falsified on both of these documents. This is contrary to section 27 of the Act, as well as sections 7 and 9 of the Code of Ethics.
4. Furthermore, this vehicle was registered in the United States in 2008. Watkin failed to provide the purchaser with written disclosure of the vehicle's previous out of province registration. This is contrary to section 42(22) of Regulation 333/08, as well as sections 7, 8 and 9 of the Code of Ethics.
5. After OMVIC became involved in the situation, the dealer agreed to rescind the contract and refund a portion of the purchaser's deposit.
6. On or about July 7, 2011, Watkin was charged with the following:
 - a. Falsify[ing] a document relating to a trade in a motor vehicle contrary to Section 27 of the Motor Vehicle Dealers Act, 2002, Statutes of Ontario 2002, Chapter 30, Schedule B, and thereby committed an offence contrary to Section 32 of the said Act.
 - b. CARL GORDON WATKIN between the 27th day of November, 2010, and the 2nd day of December, 2010, inclusive, at the City of London in the West Region and elsewhere in the Province of Ontario did commit the offence of engag[ing] in an unfair practice contrary to Section 14 and Section 17 of the Consumer Protection Act, 2002, Statutes of Ontario 2002, Chapter 30, Schedule A, and thereby committed an offence under Section 116(1)(b)(ii) of the said Act.
7. On or about October 24, 2011 Watkin entered a guilty plea on the following, and was fined \$5000:
 - a. Falsify[ing] a document relating to a trade in a motor vehicle contrary to Section 27 of the Motor Vehicle Dealers Act, 2002, Statutes of Ontario 2002, Chapter 30, Schedule B, and thereby committed an offence contrary to Section 32 of the said Act.



- b. CARL GORDON WATKIN between the 27th day of November, 2010, and the 2nd day of December, 2010, inclusive, at the City of London in the West Region and elsewhere in the Province of Ontario did commit the offence of engag[ing] in an unfair practice contrary to Section 14 and Section 17 of the Consumer Protection Act, 2002, Statutes of Ontario 2002, Chapter 30, Schedule A, and thereby committed an offence under Section 116(1)(b)(ii) of the said Act.

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

27. No registrant shall furnish, assist in furnishing or induce or counsel another person to furnish or assist in furnishing any false or deceptive information or documents relating to a trade in a motor vehicle.

Regulation 333/08:

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 Watkin has breached the following sections of the Code of Ethics, as set out in 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.
8. In carrying on business, registrants shall not engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as insulting to human dignity or integrity and shall not use symbols that, having regard to all of the circumstances, would reasonably be regarded as offensive.
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. Watkin agrees that he will not represent any charges or fees on a bill sale as being required by law, unless said charges or fees are legally required.
2. Watkin agrees not to be a partner, shareholder, officer, director or have direct or indirect control of a dealership.
3. Watkin agrees not to be the final signatory on any sales or lease contracts on behalf of the dealer.
4. Watkin agrees to successfully complete the OMVIC certification course within 90 days of the date of the Discipline Committee Order.



5. Watkin agrees to maintain books and records which accurately record the nature of transactions involving the purchase, sale or lease of a motor vehicle. Watkin will not be involved in the creation of books and records, which are misleading as to the nature of a transaction involving the purchase, sale or lease of a motor vehicle.
6. Watkin agrees to comply with the *Motor Vehicle Dealers Act, 2002* 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 7(1), 8(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. Watkin agrees that he will not represent any charges or fees on a bill sale as being required by law, unless said charges or fees are legally required.
2. Watkin agrees not to be a partner, shareholder, officer, director or have direct or indirect control of a dealership.
3. Watkin agrees not to be the final signatory on any sales or lease contracts on behalf of the dealer.
4. Watkin agrees to successfully complete the OMVIC certification course within 90 days of the date of the Discipline Committee Order.
5. Watkin agrees to maintain books and records which accurately record the nature of transactions involving the purchase, sale or lease of a motor vehicle. Watkin will not be involved in the creation of books and records, which are misleading as to the nature of a transaction involving the purchase, sale or lease of a motor vehicle.
6. Watkin agrees to comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee

Catherine Poultney, Chair