

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 -

L. AND H. MOTORS LIMITED

-AND-

DOUGLAS LANGFORD

-AND-

BRUCE LANGFORD

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 and 9 of the Code of Ethics

Order:

1. The dealer agrees to pay a fine in the amount of \$1,500 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council
2. Douglas Langford and Bruce Langford agree to complete the OMVIC certification course within 90 days of acceptance of this offer. The dealer will incur all costs associated with this.
3. The dealer agrees to offer all sales staff the opportunity to complete the OMVIC certification course within 90 days of acceptance of this offer. The dealer will incur all costs associated with this.
4. The dealer agrees to audit its records from July 18, 2011 to present to ensure that customers have been provided with proper written disclosure on their bills of sale, in accordance with Section 42 Regulation 333/08 of the Act. If there are any transactions wherein the dealer failed to make proper written disclosure on the bills of sale, the dealer agrees that a letter will be sent to the customers involved in these transactions. 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. The dealer will complete this within 90 days of the date of the Discipline Committee Order.

5. The dealer, Douglas Langford and Bruce Langford agree 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. L. and H. Motors Limited ("the dealer") was first registered as a motor vehicle dealer in or around January 1983. Douglas Langford and Bruce Langford are officers and directors of the corporation.
2. During an inspection on or about July 17, 2007, a representative of the Registrar found the dealer had failed to disclose 2 former daily rental vehicles on the retail bills of sale. At this time, the dealer was advised of his obligation to provide purchasers with written disclosure of a vehicle's former daily rental history.
3. On or about January 25, 2011, the dealer purchased a 2010 Ford Escape (VIN 1FMCU9EG8AKD13522) declared as a former daily rental unit. On about May 20, 2011, the dealer sold this vehicle without providing the purchaser with written disclosure of the vehicle's former rental history. This is contrary to sections 42(7) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. After the Notice of Complaint was issued, the dealer provided OMVIC with confirmation from the purchaser that oral disclosure of the rental history was made prior to sale.

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

Regulation 333/08:

42. Additional information in contracts of sale and leases

7. If any of the following is true of the motor vehicle, a statement to the effect that the vehicle was previously,
 - i. leased on a daily basis, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer under the *Motor Vehicle Dealers Act* or the *Motor Vehicle Dealers Act, 2002*,

- ii. used as a police cruiser or used to provide emergency services, or
- iii. used as a taxi or limousine.

It is thereby agreed that the dealer, Douglas Langford and Bruce Langford have 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.

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 agrees to pay a fine in the amount of \$1,500 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Douglas Langford and Bruce Langford agree to complete the OMVIC certification course within 90 days of acceptance of this offer. The dealer will incur all costs associated with this.
3. The dealer agrees to offer all sales staff the opportunity to complete the OMVIC certification course within 90 days of acceptance of this offer. The dealer will incur all costs associated with this.
4. The dealer agrees to audit its records from July 18, 2011 to present to ensure that customers have been provided with proper written disclosure on their bills of sale, in accordance with Section 42 Regulation 333/08 of the Act. If there are any transactions wherein the dealer failed to make proper written disclosure on the bills of sale, the dealer agrees that a letter will be sent to the customers involved in these transactions. 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. The dealer will complete this within 90 days of the date of the Discipline Committee Order.
5. The dealer, Douglas Langford and Bruce Langford agree 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) 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 agrees to pay a fine in the amount of \$1,500 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Douglas Langford and Bruce Langford agree to complete the OMVIC certification course within 90 days of acceptance of this offer. The dealer will incur all costs associated with this.
3. The dealer agrees to offer all sales staff the opportunity to complete the OMVIC certification course within 90 days of acceptance of this offer. The dealer will incur all costs associated with this.
4. The dealer agrees to audit its records from July 18, 2011 to present to ensure that customers have been provided with proper written disclosure on their bills of sale, in accordance with Section 42 Regulation 333/08 of the Act. If there are any transactions wherein the dealer failed to make proper written disclosure on the bills of sale, the dealer agrees that a letter will be sent to the customers involved in these transactions. 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. The dealer will complete this within 90 days of the date of the Discipline Committee Order.
5. The dealer, Douglas Langford and Bruce Langford agree 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