



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 -

ADDISON CHEVROLET BUICK GMC LIMITED

- AND -

CLARKE ADDISON

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: March 24, 2011

Findings: Breach of Section 4 and 6 of the Code of Ethics

Order:

1. The dealer is ordered to pay a fine in the amount of \$2,000.00, within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. The dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, as it is revised with regards to the Act, within 90 days of the date of the Discipline Committee Order. The dealer will incur all costs associated with this.
3. The dealer agrees to comply with 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.



Agreed Statement of Facts

The parties to this proceeding agree that:

1. Addison Chevrolet Buick GMC Limited (the "dealer") was first registered as a motor vehicle dealer in or around August 2006. Clarke Addison was first registered as a motor vehicle salesperson in or around January 1983. Clarke Addison is sole officer and director of the corporation.
2. On or about March 8, 2010, the dealer signed terms and conditions of registration. As per condition # 1, the dealer agreed to ensure all personnel trading in motor vehicles on behalf of the dealership have a valid salesperson license.
3. Buffy Bradshaw ("Bradshaw") was originally registered as a salesperson in or round October 1998. Bradshaw's registration terminated in or around October 2008 and was not reinstated until in or around November 2010.
4. The dealership continued to retain Bradshaw's services trading in motor vehicles from the time of the expiration of her registration until November 9, 2010 when the dealership was apprised of the lapse in registration.
5. Robert Bush ("Bush") was originally registered as a salesperson in or round June 1983. Bush's registration terminated in or around May 2010 and was not reinstated until in or around November 2010.
6. The dealership continued to retain Bush's services trading in motor vehicles from the time of the expiration of his registration until November 9, 2010 when the dealership was apprised of the lapse in registration.

By failing to comply with the following section of the Act:

Section 4(3):

A motor vehicle dealer shall not retain the services of a salesperson unless the salesperson is registered in that capacity.

It is thereby agreed that the dealer and Clarke Addison have breached the following:

Section 6 (1) of the Standards of Business Practice:

A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

Joint Submission on Penalty

1. The dealer is ordered to pay a fine in the amount of \$2,000.00, within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. The dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, as it is revised with regards to the Act, within 90 days of the



date of the Discipline Committee Order. The dealer will incur all costs associated with this.

3. The dealer agrees to comply with 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 and Clarke Addison breached subsections 4 and 6 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 \$2,000.00, within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. The dealer is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, as it is revised with regards to the Act, within 90 days of the date of the Discipline Committee Order. The dealer will incur all costs associated with this.
3. The dealer agrees to comply with the Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee

Catherine Poultney, Chair