



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 -

BAYVIEW CHRYSLER DODGE LTD

- AND -

STEPHEN ORR

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: August 4, 2011

Findings: Breach of Section 4 of the Code of Ethics

Order:

1. The dealer is ordered to pay a fine in the amount of \$3,500.00, 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 and Stephen Orr agree that they are obliged to comply with Regulation 332/08 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.

Agreed Statement of Facts

The parties to this proceeding agree that:



1. Bayview Chrysler Dodge Ltd (the "dealer") was first registered as a motor vehicle dealer in or around February 1983. Stephen Orr ("Orr") was first registered as a motor vehicle salesperson in or around June 1983. Orr is a director of the dealer.
2. On March 17, 2011, the dealer published an advertisement in The Observer for a 2010 Dodge Challenger. The dealer failed to disclose this was a used vehicle, contrary to sub-section 36(6) of Regulation 333/08 of the *Motor Vehicle Dealers Act, 2002* ("the Act"), and section 4 of Code of Ethics, Regulation 332/08.
3. Furthermore, this same advertisement promoted said vehicle with discounts calculated from the manufacturer suggested retail price of a new model. This is misleading, contrary to section 28 of the Act, and section 4 of the Code of Ethics, Regulation 332/08.

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

Section 28:

No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to trading in motor vehicles.

Section 36(6) of Regulation 333/08:

If an advertisement that attempts to induce a trade in a specific motor vehicle discloses the model year of the vehicle and the model year so disclosed is the current model year or the immediately previous model year, the advertisement shall indicate, in a clear, comprehensible and prominent manner, that the vehicle is a used motor vehicle, if that is true of the vehicle.

It is thereby agreed that the dealer and Stephen Orr have breached the following:

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

4. (1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.
- (2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

Joint Submission on Penalty

1. The dealer is ordered to pay a fine in the amount of \$3,500.00, 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 and Stephen Orr agree that they are obliged to comply with Regulation 332/08 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 and Stephen Orr breached subsections 4(1) and 4(2) 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 and Stephen Orr shall pay a fine of \$3,500.00 to OMVIC within 90 days of this Order.
2. The dealer and Stephen Orr agree that they are obliged to comply with Regulation 332/08 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", written over a horizontal line.

Catherine Poultney, Chair