



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 -

SEVEN VIEW PLYMOUTH CHRYSLER LIMITED

-AND-

PASQUALE MAGARELLI

-AND-

DOMENIC MATERA

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: December 24, 2010

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

- Order:**
1. Seven View Plymouth Chrysler Limited is ordered to pay a penalty of \$2,250.00 within 90 days of the date of the decision of the Discipline Committee in this matter.
 2. Seven View Plymouth Chrysler Limited is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, as it is revised with regards to the *Motor Vehicle Dealers Act, 2002* within 90 days of the acceptance of this offer. Seven View Plymouth Chrysler Limited will incur all costs associated with this.
 3. Seven View Plymouth Chrysler Limited agrees to comply with Regulation 332/08 Code of Ethics under the *Motor Vehicle Dealers Act, 2002* and the Standards of Business Practice, as may be amended from time to time.
 4. OMVIC agrees to waive its costs in this matter.



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. During and inspection on or about January 11, 2005, the dealer was reminded by a representative of the Registrar of their obligation to ensure daily rental vehicles are disclosed in writing, on the Bill of Sale.
2. On or about January 5, 2010, the dealer purchased a 2009 Dodge Caliber, VIN 1B3HB48A99D216678 from Manheim Auto Auctions declared as a daily rental, Quebec unit. On or about January 12, 2010, the dealer sold this vehicle, without providing the purchaser with written disclosure of the previous rental and Quebec registration history. This is contrary to sections 7 and 9 of the Code of Ethics.
3. On or about January 5, 2010, the dealer purchased a 2009 Chrysler PT Cruiser, VIN 3A8FY48989T503359 from Manheim Auto Auctions declared as a daily rental, Quebec unit. On or about January 20, 2010, the dealer sold this vehicle, without providing the purchaser with written disclosure of the previous rental and Quebec registration history. This is contrary to sections 7 and 9 of the Code of Ethics.
4. On or about March 3, 2010, the dealer purchased a 2008 Dodge Ram, VIN 3D7KS29D548G170315 from Manheim Auto Auctions declared as a daily rental unit. On or about March 26, 2010, the dealer sold this vehicle, without providing the purchaser with written disclosure of the previous rental history. This is contrary to sections 7 and 9 of the Code of Ethics.

It is thereby agreed that Seven View Plymouth Chrysler Limited breached the following sections of the Code of Ethics:

1. 7(1) 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. O. Reg. 332/08.
2. 9(1) 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. O. Reg. 332/08.

9(2) In carrying on a business, a registrant shall act with honesty, integrity and fairness. O. Reg. 332/08.

9(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle. O. Reg. 332/08.

Joint Submission on Penalty:



1. Seven View Plymouth Chrysler Limited is ordered to pay a penalty of \$2,250.00 within 90 days of the date of the decision of the Discipline Committee in this matter.
2. Seven View Plymouth Chrysler Limited is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, as it is revised with regards to the *Motor Vehicle Dealers Act, 2002* within 90 days of the acceptance of this offer. Seven View Plymouth Chrysler Limited will incur all costs associated with this.
3. Seven View Plymouth Chrysler Limited agrees to comply with Regulation 332/08 Code of Ethics under the *Motor Vehicle Dealers Act, 2002* and the Standards of Business Practice, as may be amended from time to time.
4. OMVIC agrees to waive its costs in this matter.

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. Seven View Plymouth Chrysler Limited is ordered to pay a penalty of \$2,250.00 within 90 days of the date of the decision of the Discipline Committee in this matter.
2. Seven View Plymouth Chrysler Limited is ordered to offer all registered salespeople the opportunity to complete the OMVIC certification course, as it is revised with regards to the *Motor Vehicle Dealers Act, 2002* within 90 days of the acceptance of this offer. Seven View Plymouth Chrysler Limited will incur all costs associated with this.
3. Seven View Plymouth Chrysler Limited agrees to comply with Regulation 332/08 Code of Ethics under the *Motor Vehicle Dealers Act, 2002* and the Standards of Business Practice, as may be amended from time to time.
4. OMVIC agrees to waive its costs in this matter.

Ontario Motor Vehicle Industry Council
Discipline Committee

Catherine Poultney, Chair