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## 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 -

SUPREME AUTO GROUP INC

- AND -

AARON WILTSHIRE

- AND -

LAMONT WILTSHIRE

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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:** February 4, 2011

**Findings:** Breach of Sections 2 and 5 of the Code of Ethics

- Order:**
1. Supreme Auto Group Inc ("the dealer") will agree to and pay a fine in the \$3,000 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 acknowledges and agrees with all particulars referred to in the Notice of Complaint, dated August 31, 2010.
  3. The dealer agrees that all registered salespeople who have not completed the revised *Motor Vehicle Dealers Act, 2002* OMVIC certification course will do so, within 90 days of the date of the Discipline Committee Order. The dealer will incur all costs associated with this.
  4. The dealer will audit its records from March 17, 2010, to present to ensure that proper disclosure of daily rental, accident repair and true distance travelled has been made, in writing, to the purchaser at the time of the transaction. If there are any transactions wherein the dealer failed to make proper written disclosure, the dealer shall contact the purchaser and make



the necessary disclosure in writing. If requested by the purchaser, the dealer will offer compensation for the failure to make disclosure. The dealer shall complete the audit and contact purchasers within 60 days of the date of the Discipline Committee Order.

5. The dealer 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.

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. On or about August 14, 2009, the dealer purchased a 2008 Chrysler 300, (VIN 2C3KA43RX8H176735), from Manheim auto auction. This vehicle was previously registered in the US as a rental vehicle. On or around December 8, 2009, the dealer sold this vehicle to a consumer, without providing written disclosure of the vehicle's previous rental use, contrary to section 2.4 of the Standards of Business Practice and clause 20 of the dealer's terms and conditions of registration.
2. On or about September 14, 2009, the dealer purchased a 2008 Chrysler Pacifica, (VIN 2A8GM48L08R627297) from Manheim auto auction. This vehicle was previously registered in the US as a rental vehicle. On or around October 27, 2009, the dealer sold this vehicle to a consumer, without providing written disclosure of the vehicle's previous rental use, contrary to section 2.4 of the Standards of Business Practice and clause 20 of the dealer's terms and conditions of registration.
3. On or about September 14, 2009, the dealer purchased a 2008 Dodge Caravan, (VIN 1D8HN44H58B127825) from Manheim auto auction. This vehicle was previously registered in the US as a rental vehicle. On or around March 7, 2010, the dealer sold this vehicle to a consumer, without providing written disclosure of the vehicle's previous rental use, contrary to Subsection 42(7) of the Act and clause 20 of the dealer's terms and conditions of registration.
4. On or about November 2, 2009, the dealer purchased a 2007 Nissan Maxima, (VIN 1N4BA41E57C816935). The wholesale bill of sale provided to the dealer, recorded the odometer reading at the point of sale as 121,440 KMS. On or around February 19, 2010 the dealer sold this vehicle to a consumer but recorded the odometer reading on the new vehicle purchase agreement as 77,160 KM, contrary to Subsection 42(3) of the Act and clause 23 of the dealer's terms and conditions of registration.
5. On or about December 7, 2009, the dealer purchased a 2004 Audi A62, (VIN WAUCD64B14N064683). The wholesale bill of sale provided to the dealer disclosed a "\$5000 Car Proof". On or around February 20, 2010 the dealer sold this vehicle to a consumer but did not disclose the accident information, contrary to Subsections 42(19)



and 42(25) of the Act and clause 20 of the dealer's terms and conditions of registration. The dealer has failed to comply with Subsection 5(16) of the Code of Ethics, as set out in Ontario Regulation 332/08.

It is thereby agreed that Supreme Auto Group Inc breached the following:

Standards of Business Practice, November 2000

2.4 Wholesale and retail contracts state on the front of the contract any of the following statements if they accurately describe the past regular use of the motor vehicle:

- a. "Daily rental" if the motor vehicle was a rental vehicle and has never been owned by a consumer
- b. "Police Cruiser"
- c. "Taxi vehicle"

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

5. A registered motor vehicle dealer who enters into a contract to sell or lease a motor vehicle to a person who is also a registered motor vehicle dealer shall ensure that the following information is disclosed in the contract:

16. If the total costs of repairs to fix the damage caused to the vehicle by an incident exceed \$3,000, a statement to that effect and if the dealer knew the total costs, a statement of the total costs. O. Reg. 332/08

### **Joint Submission on Penalty**

1. Supreme Auto Group Inc ("the dealer") will agree to and pay a fine in the \$3,000 within 90 days of the date of the Discipline Committee Order. The fine is payable the Ontario Motor Vehicle Industry Council.
2. The dealer acknowledges and agrees with all particulars referred to in the Notice of Complaint, dated August 31, 2010.
3. The dealer agrees that all registered salespeople who have not completed the revised *Motor Vehicle Dealers Act, 2002* OMVIC certification course will do so, within 90 days of the date of the Discipline Committee Order. The dealer will incur all costs associated with this.
4. The dealer will audit its records from March 17, 2010, to present to ensure that proper disclosure of daily rental, accident repair and true distance travelled has been made, in writing, to the purchaser at the time of the transaction. If there are any transactions wherein the dealer failed to make proper written disclosure, the dealer shall contact the purchaser and make the necessary disclosure in writing. If requested by the purchaser, the dealer will offer compensation for the failure to make disclosure. The dealer shall complete the audit and contact purchasers within 60 days of the date of the Discipline Committee Order.



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5. The dealer 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.

### **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 Aaron Wiltshire and Lamont Wiltshire breached subsections 2 and 5 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. Supreme Auto Group Inc ("the dealer") will agree to and pay a fine in the \$3,000 within 90 days of the date of the Discipline Committee Order. The fine is payable the Ontario Motor Vehicle Industry Council.
2. The dealer acknowledges and agrees with all particulars referred to in the Notice of Complaint, dated August 31, 2010.
3. The dealer agrees that all registered salespeople who have not completed the revised *Motor Vehicle Dealers Act, 2002* OMVIC certification course will do so, within 90 days of the date of the Discipline Committee Order. The dealer will incur all costs associated with this.
4. The dealer will audit its records from March 17, 2010, to present to ensure that proper disclosure of daily rental, accident repair and true distance travelled has been made, in writing, to the purchaser at the time of the transaction. If there are any transactions wherein the dealer failed to make proper written disclosure, the dealer shall contact the purchaser and make the necessary disclosure in writing. If requested by the purchaser, the dealer will offer compensation for the failure to make disclosure. The dealer shall complete the audit and contact purchasers within 60 days of the date of the Discipline Committee Order.
5. The dealer 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.

Ontario Motor Vehicle Industry Council  
Discipline Committee

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Catherine Poultney, Chair