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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 -

WALDEMAR MIGON

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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:** January 3, 2012

**Findings:** Breach of Sections 6 and 9 of the Code of Ethics

- Order:**
1. Migon agrees to pay a fine in the amount of \$2,500 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
  2. Migon agrees to pay a fine in the amount of \$2,500 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
  3. Migon agrees to complete the OMVIC certification course, within 120 days of the date of the Discipline Committee Order.
  4. Migon agrees 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. Waldemar Migon ("Migon") was first registered as a salesperson on or around June 2000. Migon was employed with Addison Chevrolet Buick GMC Ltd (the "dealer") from July 13, 2010 to March 15, 2011.
2. On or about January 27, 2011, the dealer took a 2001 Oldsmobile Alero, (VIN 1G3NF52E51C175791) on trade.
3. On or about March 9, 2011, Migon transferred this vehicle into his son in law Robert Stolarczyk's name without the knowledge or consent of the dealer, contrary to section 9 of the Code of Ethics, Regulation 332/08.
4. Additionally, Migon's actions with respect to this transaction caused the dealer to contravene section 60(1) of the *Highway Traffic Act*. As such, Migon has breached section 6(2) of Code of Ethics, Regulation 332/08.
5. On or about March 14, 2011, Migon was operating a demonstrator vehicle which was owned by the dealer when he struck another party's vehicle.
6. Migon failed to remain at the scene of the accident, and failed to report the accident to the dealer.
7. Subsequently Migon was charged with "fail[ing] to remain at the scene of an accident".
8. On or about May 5, 2011, Migon's driver's license was suspended for "Street Racing/Warn[ing] Range". This suspension expired on or about August 9, 2011.

It is thereby agreed that Migon has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

6. A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading in motor vehicles.

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. Migon agrees to pay a fine in the amount of \$2,500 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Migon agrees to pay a fine in the amount of \$2,500 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
3. Migon agrees to complete the OMVIC certification course, within 120 days of the date of the Discipline Committee Order.



4. Migon agrees 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 Migon breached subsections 6(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. Migon agrees to pay a fine in the amount of \$2,500 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Migon agrees to pay a fine in the amount of \$2,500 within 120 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
3. Migon agrees to complete the OMVIC certification course, within 120 days of the date of the Discipline Committee Order.
4. Migon agrees 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

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Catherine Poultney, Chair