

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 -

2129893 ONTARIO INC o/a
DELUXE MOTORSPORTS GROUP

- AND -

OMID HAMIDZADEH FARD

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: June 21, 2018

Findings: Breach of Sections 4 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,250 no later than **July 16, 2018**.
2. Fard is ordered to successfully complete the Automotive Certification course (the "course") no later than **November 15, 2018**.
3. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer is further ordered to provide OMVIC with written confirmation from each of its sales staff that the dealer has complied with this requirement, no later than **July 16, 2018**.
4. The Dealer is ordered to offer all of its current sales staff, and all new sales staff it retains in the future, the opportunity to complete the Automotive Certification Course. Current sales staff will be offered the course no later than **July 16, 2018**. Future sales staff will be offered the course within 90 days of being retained in this capacity. The Dealer will incur call costs associated with this. It is understood between the parties this

clause does not apply to sales staff who have already completed the course or who are otherwise not required to complete the course pursuant to the Act.

5. The Dealer and Fard are ordered to comply with the Act 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.

Agreed Statement of Facts

The parties to this proceeding agree that:

1. 2129893 Ontario Inc o/a Deluxe Motorsports Group (the "Dealer") was first registered as a motor vehicle dealer in about November 2016. Omid Hamidzadeh Fard ("Fard") was first registered as a motor vehicle salesperson in about September 2000. At all material times, Fard was the sole officer and Person in Charge of the Dealer.
2. Fard successfully completed the Automotive Certification Course (the "Course") on or about August 9, 2016.
3. On about November 17, 2016, Fard executed terms and conditions of registration on behalf of the Dealer. Per condition 1. The Dealer agreed to comply with the Code of Ethics as set out in Regulation 332/08 and the Standards of Business Practice, as may be amended from time to time. Moreover, the Dealer also agreed to read all correspondence and bulletins released by the Ontario Motor Vehicle Industry Council (OMVIC).

OMVIC publications:

4. Since the Act was proclaimed, OMVIC has issued numerous Dealer Standard publications reminding dealers of the requirement to advertise all inclusive vehicle prices ("all-in pricing"). Specifically, the following publications have been issued by OMVIC since the Dealer became registered in the industry:
 - a. Issue #4 2016
 - b. Issue #2 2017

5. Furthermore, OMVIC also issued the following recent bulletins which reminded dealers of their all-in pricing advertising obligations:
 - a. July 2017
 - b. August 2017

Direct Correspondence with Dealer:

6. During a new dealer inspection on or about November 29, 2016, a representative of the Registrar discussed the advertising regulations with Fard, on behalf of the Dealer.

Consumer complaint:

7. On or before October 16, 2017, the Dealer advertised a 2010 Mercedes Benx GLK (Stock #D0227T) with a selling price of \$17,999 plus tax and licensing fees. On this same date, a consumer made inquiries about this vehicle. Fard, on behalf of the Dealer, advised the consumer that the advertised vehicle price did not include the following non-negotiable extra fees:
 - a. \$690 safety
 - b. \$199 licensing
 - c. \$10 OMVIC fee
8. As such, the Dealer's advertised price was not all-inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
9. Moreover, Fard's conduct has caused the Dealer to breach condition 1 of the Dealer's terms and conditions of registration, and is therefore contrary to section 9 of the Code of Ethics.

By failing to comply with the following Regulations of the *Motor Vehicle Dealers Act, 2002*,

36. Advertising:

7. If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,
 - (a) the amount that a buyer would be required to pay for the vehicle; and
 - (b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.

It is thereby agreed that the Dealer and Fard have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

4. 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.

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. The Dealer agrees to pay a fine in the amount of \$1,250 no later than **July 16, 2018**.
2. Fard agrees to successfully complete the Automotive Certification course (the "course") no later than **November 15, 2018**.
3. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from each of its sales staff that the dealer has complied with this requirement, no later than **July 16, 2018**.
4. The Dealer agrees to offer all of its current sales staff, and all new sales staff it retains in the future, the opportunity to complete the Automotive Certification Course. Current sales staff will be offered the course no later than **July 16, 2018**. Future sales staff will be offered the course within 90 days of being retained in this capacity. The Dealer will incur call costs associated with this. It is understood between the parties this clause does not apply to sales staff who have already completed the course or who are otherwise not required to complete the course pursuant to the Act.
5. The Dealer and Fard agree to comply with the Act 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 the Dealer breached subsections 4 and 9 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 \$1,250 no later than **July 16, 2018**.
2. Fard is ordered to successfully complete the Automotive Certification course (the "course") no later than **November 15, 2018**.
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5. The Dealer and Fard are ordered to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council
Discipline Committee



Paul Burroughs, Chair