

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 -

GERASIMOS YANNAKIS o/a AUTOTEC MECHANICAL

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: May 18, 2018

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

Order:

1. The Dealer is ordered to pay a fine in the amount of \$1,500 no later than **October 15, 2018**.
2. The Dealer shall 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. Gerasimos Yannakis o/a Autotec Mechanical (the "Dealer") was first registered as a motor vehicle dealer in or around March 2013. Gerasimos Yannakis ("Yannakis") is the sole proprietor of the Dealer.
2. On or about March 20, 2013, Yannakis successfully completed the Automotive Certification Course.
3. On or about March 21, 2013, Yannakis executed terms and conditions of registration on behalf of the Dealer. As per condition 23, the Dealer agreed it is under a positive obligation to disclose in writing, on the bill of sale, all material facts about the vehicles it sells.

OMVIC publications:

4. In the summer of 2013, OMVIC issued a Dealer Standard publication reminding dealers of the requirement to provide purchasers with written disclosure of a vehicle's accident repair history ("disclosure").
5. After the Act was proclaimed, OMVIC further issued the following publications reminding dealers of their disclosure requirements:
 - a. OMVIC bulletin: December 2013
 - b. Dealer Standard: Issue #4: 2014
 - c. Dealer Standard: Issue #4: 2016

Direct correspondence with Dealer:

6. During an inspection on or about June 11, 2013, a representative of the Registrar reminded the Dealer of its obligation to provide purchasers with written disclosure of all material facts about the vehicles it sells, including but not limited to accident repair histories.
7. During an inspection on or about June 19, 2014, a representative of the Registrar reminded the Dealer of its obligation to provide purchasers with written disclosure of all material facts about the vehicles it sells, including but not limited to accident repair histories.
8. By letter dated February 9, 2015, the Dealer was further reminded of its obligation to provide purchasers with written disclosure of all material facts about the vehicles it sells, including but not limited to accident repair histories.
9. During an inspection on or about December 6, 2017, a representative of the Registrar found the following non-compliance issues:



- a. On or about May 2, 2016, the Dealer purchased a 2005 Mazda RX8 , (VIN JM1FE173950152030) with the following declarations:
1. Vehicle declared a total loss by the insurer
 2. Repair Estimate: \$9579.12
 3. Total distance driven is unknown, but as of 11/20//2015 it was believed to be 191179 km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Unreadable

On or about November 23, 2015, the Dealer sold this vehicle without disclosing any of the information above. This is contrary to section 42(4), 42(19), 42(21) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since reached out to the purchaser to inform them of their vehicle's history.

- b. On or about September 5, 2017, the Dealer purchased a 2007 Chevrolet Cobalt, (VIN1G1AL15F977293079) with the following declarations:
1. Vehicle declared a total loss by the insurer
 2. Repair Estimate: \$7549
 3. Total distance driven is unknown, but as of 8/21/2017 it was believed to be 166797km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Good

On or about September 7, 2017, the Dealer sold this vehicle without disclosing any of the information above. This is contrary to section 42(4), 42(19), 42(21) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since reached out to the purchaser to inform them of their vehicle's history.

10. In failing to make the required disclosures on the above referenced bills of sale, the Dealer has breached condition 23 of its terms and conditions of registration. This is contrary to section 9 of the Code of Ethics.

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

Regulation 333/08:

42. Additional information in contracts of sale and leases:

4. If the motor vehicle is a used motor vehicle and the registered motor vehicle dealer cannot determine the total distance that the vehicle has been driven but can determine the distance that the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that the total distance that the vehicle has been driven is believed to be higher than that distance.

19. If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.



21. If the motor vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the Highway Traffic Act, a statement to that effect.

It is thereby agreed that the Dealer has breached sections 7 and 9 of the Code of Ethics, as set out in regulation 332/08:

Compliance

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.

Professionalism

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.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$1,500 no later than **October 15, 2018**.
2. The Dealer agrees 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 subsection 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 \$1,500 no later than **October 15, 2018**.
2. The Dealer shall 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

