

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 -

1336440 ONTARIO LIMITED o/a CAR CLUB LONDON

- AND -

OSMAN EL-HINDI

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: April 20, 2018

Findings: Breach of Section 3, 4 and 9 of the Code of Ethics

Order:

1. Car Club London is ordered to pay a fine in the amount of \$500.00, no later than April 20, 2018.
2. Osman El-Hindi is ordered to attend and successfully complete the OMVIC certification course (the "course") in person, no later than July 20, 2018.
3. Car Club London agrees 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:

Background

1. 1336440 Ontario Limited, operating as Car Club London is owned and operated by Osman El-Hindi. Car Club London is registered as a dealer.
2. Osman El-Hindi is the sole officer and director of the dealer and is registered as a salesperson (Car Club London and Osman El-Hindi will be referred to interchangeably as the "Registrants").

POA Convictions

3. The Registrants were both convicted under the Act for failing to comply with the requirements of a consignment agreement under section 45 of Ontario Regulation 333/08. The convictions were entered on June 19, 2014 after the hearing of an appeal.
4. The Registrants were sentenced to fines and a term of probation under the Provincial Offences Act (the "POA"). Car Club London was fined \$3000 and Osman El-Hindi was fined \$2,000. In addition, the Court ordered restitution to the consumer for the amount of \$5,200. The Registrants were given 12 months to pay the fines and 6 months to pay the restitution amount.
5. The Registrants failed to comply with the restitution order.

Consumer Compensation Claim

6. On or about September 15, 2015, OMVIC received a letter from the consumer stating that she had not received any restitution from the Registrants.
7. On or about May 2, 2016, OMVIC received a claim from the consumer for compensation under the Motor Vehicle Dealers Compensation Fund (the "Fund").
8. OMVIC notified the Registrants about the Fund claim on or about May 3, 2016 by email and registered mail. The Registrants were cautioned about the failure to pay the restitution amount and reminded about their obligations under the Act.



9. The Registrants paid the restitution and POA fines only after receiving OMIVC's correspondence that a claim had been made to the Fund against the Registrants and the discipline proceedings were initiated, respectively.
10. The Registrants have engaged in professional misconduct by acting without integrity, respect and professionalism in failing to comply with the restitution order and in failing to pay the court ordered POA fines, and thereby are in violation of 3, 8 and 9 of the Code of Ethics.

Joint Submission on Penalty

1. Car Club London agrees to pay a fine in the amount of \$500.00, no later than April 20, 2018.
2. Osman El-Hindi agrees to attend and successfully complete the OMVIC certification course (the "course") in person, no later than July 20, 2018.
3. Car Club London 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 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. Car Club London is ordered to pay a fine in the amount of \$500.00, no later than April 20, 2018.
2. Osman El-Hindi is ordered to attend and successfully complete the OMVIC certification course (the "course") in person, no later than July 20, 2018.
3. Car Club London agrees 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

