

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 -

MATRIX WHEELS INC o/a DEALS ON WHEELS

- AND -

SYED MUHAMED AZAM GILANI

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: March 26, 2018

Findings: Breach of Section 4 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 **April 12, 2018**.
2. Gilani is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **April 12, 2018**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Gilani agree 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. Matrix Wheels Inc o/a Deals on Wheels Auto (the "Dealer") was first registered as a motor vehicle dealer in or around June 2007. Syed Muhamed Azam Gilani ("Gilani") was first registered as a motor vehicle salesperson in or around October 2006. At all material times, Gilani was the sole officer, as well as the Person in Charge of the Dealer.
2. On or about June 25, 2007, Gilani executed terms and conditions of registration on behalf of the Dealer. As per condition 6, the Dealer agreed to comply with OMVIC's Code of Ethics, and Standards of Business Practice, as may be amended from time to time.
3. On or about April 25, 2017, Gilani sold a 2005 Nissan Pathfinder (VIN 5N1AR18W95C724473) on behalf of the Dealer to a consumer. The vehicle was sold with a 36 month/36,000 kilometer extended warranty package from a third party provider, Autogard. The consumer alleges he paid an additional \$300, not reflected on the bill of sale, for "bumper to bumper" coverage from the warranty provider.
4. Shortly after purchase, the consumer began having mechanical issues with the "4 x 4 transfer case" on the vehicle and learnt the existing extended warranty package did not cover these types of repairs. The consumer allegedly sent a number of emails to the Dealer about this issue, but did not receive a response from the Dealer.
5. On or about May 12, 2017, the consumer and Gilani discussed the issues which were the subject of the consumer's previously sent emails. Unbeknownst to Gilani, the consumer was recording this conversation. Gilani advised the consumer he would rectify the warranty issues by end of day. I.e. the consumer would receive the upgraded warranty package from Autogard. Gilani failed to follow through on this commitment.
6. Gilani was not clear and truthful with respect to this motor vehicle trade. Moreover, he failed to adequately explain all terms of the contract, specifically relating to the extended warranty package. As such, Gilani's conduct contradicts sections 4 and 9 of the Code of Ethics.

7. Furthermore, Gilani's conduct has caused the Dealer to breach condition 6 of its terms and conditions of registration. This is contrary to section 9 of the Code of Ethics.
8. The Dealer has since agreed to refund the consumer the \$300 he allegedly paid for the upgraded warranty package.

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

4. A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those 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. The Dealer agrees to pay a fine in the amount of \$1,500 no later than **April 12, 2018**.
2. Gilani will successfully complete the Automotive Certification Course (the "Course") no later than **April 12, 2018**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Gilani 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 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. The Dealer is ordered to pay a fine in the amount of \$1,500 no later than **April 12, 2018**.
2. Gilani is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **April 12, 2018**.
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Gilani agree 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