

## 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 -

ROSE CITY FORD SALES LIMITED

- AND -

DANNY JIRJIS

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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:** July 4, 2018

**Findings:** Breach of Sections 4 and 6 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$1,500.00 no later than **July 31, 2018.**
2. Jirjis is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **October 1, 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 will provide OMVIC with written confirmation from said staff that this has occurred, no later than **July 31, 2018.**
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the Course no later than **October 1, 2018.** 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.

5. The Dealer and Jirjis 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. Rose City Ford Sales Limited (the "Dealer") was first registered as a motor vehicle dealer in about June 1983. Dany Jirjis (the "Jirjis") was first registered as a motor vehicle sales person in about June 2002. Jirjis was first registered as a salesperson at the Dealer in about May 2006.

#### **OMVIC Publications:**

2. In or around December 2008, OMVIC issued a bulletin advising dealers of up and coming changes to the Act. Included in the bulletin was the requirement for dealers to advertise all inclusive vehicle prices ("all-in pricing") in advertisements.
3. After the Act was proclaimed, OMVIC further issued the following Dealer Standard publications reminding dealers of their disclosure and all-in pricing obligations.
  - a. Spring 2010
  - b. Summer 2010
  - c. Spring 2011
  - d. Spring 2013
  - e. Fall 2013
  - f. Issue #1 2014
  - g. Issue #2 2014
  - h. Issue #3 2014
  - i. Issue #4 2014
  - j. Issue #3 2015
  - k. Issue #1 2016
  - l. Issue #2 2016
  - m. Issue #3 2016
  - n. Issue #4 2016

4. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of requirements to advertise all-in prices.
  - a. January 2010 (2 publications)
  - b. April 2010
  - c. February 2012
  - d. August 2012
  - e. April 2013
  - f. April 2014
  - g. June 2014
  - h. April 2015

**Prior warnings:**

5. By fax dated January 26, 2010, the Dealer was advised that the advertised vehicle prices for lease, finance, or cash offers must be the all-inclusive price.
6. By e-mail dated February 3, 2010, the Dealer was reminded that advertisements need to be the all-inclusive price.
7. By e-mail dated on or about August 19, 2011, the Dealer was reminded of the requirements of all-inclusive price advertising.
8. By e-mail dated December 18, 2013, the Dealer was reminded that the all-inclusive price must be disclosed in a clear, comprehensible and prominent manner.
9. By e-mail dated February 3, 2016, the Dealer was reminded that the all-inclusive price of the vehicle must be disclosed prominently.

**Current advertising non-compliance:**

10. On or about June 26, 2017 OMVIC received a consumer complaint alleging Jirjis attempted to induce the sale of a 2008 Ford Edge on behalf of the Dealer, while adding a \$499 administration fee onto the Dealer's advertised price of the vehicle.
11. On or about June 27, 2017 an OMVIC staff member made inquiries about the aforementioned vehicle, while posing as a member of the public. Jirjis attempted to induce the sale of this vehicle on behalf of the Dealer, while adding an additional \$449 administration fee to the advertised price. As such, the Dealer's advertisement did not promote an all-inclusive vehicle price, contrary to section 36(7) of Regulation 333/08, as well as section 4(2) of the Code of Ethics.
12. Jirjis failed to be clear and truthful in describing the prices connected with the subject motor vehicle. This is contrary to section 4(1) of the Code of Ethics. Moreover, Jirjis' conduct caused the Dealer to contravene the Regulations, and in doing so he has also contravened section 6(2) of the Code of Ethics.

13. The Dealer failed to ensure that its sales staff conducted business in compliance with the Regulations. As such, the Dealer contravened sections 4(2) and 6(1) of the Code of Ethics.
14. On or about July 15, 2017, Jirjis subsequently sold the subject vehicle on behalf of the Dealer for less than the advertised price.

By failing to comply with the following:

Regulation 333/08

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 has contravened the following subsections of the Code of Ethics, as set out in Regulation 332/08:

- 4 (2) 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.
6. (1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

It is thereby agreed that Jirjis has contravened the following subsections of the Code of Ethics, as set out in Regulation 332/08:

- 4 .(1) 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.
6. (2) 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.

**JOINT SUBMISSION ON PENALTY:**

1. The Dealer agrees to pay a fine in the amount of \$1,500.00 no later than **July 31, 2018.**
2. Jirjis agrees to successfully complete the Automotive Certification Course (the "Course") no later than **October 1, 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 said staff that this has occurred, no later than **July 31, 2018.**
4. 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 no later than **October 1, 2018.** 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.
5. The Dealer and Jirjis 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 6 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 \$1,500.00 no later than **July 31, 2018.**
2. Jirjis is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **October 1, 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 will provide OMVIC with written confirmation from said staff that this has occurred, no later than **July 31, 2018.**
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5. The Dealer and Jirjis 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

A handwritten signature in black ink, appearing to read "Paul Burroughs", is written over a horizontal line. The signature is stylized and cursive.

*Paul Burroughs, Chair*

