

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 -

CARLINE AUTOMOTIVE CORPORATION

- and -

MOSTAFA TAHMASEBI

- and -

JOHN MOORE

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 13, 2021

Findings: Breach of Sections 6 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$3,500 no later than **July 31, 2021.**
2. Tahmasebi is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **December 31, 2021.**

3. 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 **December 31, 2021**. 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. As in all other areas of its business, the Dealer, Tahmasebi, and Moore agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Written Reasons:

Through written submissions, the parties added the two following mitigating circumstances that the Chair accepts:

1. The parties have never been to discipline before.
2. The person in charge of the Dealer at the time of the incidents has tragically passed away. He was originally a named party to the Notice of Complaint.

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. Carline Automotive Corporation (the "Dealer") was first registered as a motor vehicle dealer in around November 1999.
2. Mostafa Tahmasebi (Tahmasebi") was first registered as a motor vehicle salesperson in or around April 2001. Tahmasebi became an Officer and Director of the Dealer around June 2011.
3. John Moore ("Moore") was first registered as a motor vehicle salesperson in or around June 1997. At all material times, Moore was a salesperson at the Dealer.

4. On or about October 4, 2016, Moore successfully completed the Automotive Certification course (the "Course"). Included in the Course materials is detailed information with respect to registrants' obligations under the Code of Ethics as well as dealers' obligation to provide information upon request to the Registrar.

Dealer's failure to respond to OMVIC

5. On or about October 22, 2019, Moore and Tahmasebi attended OMVIC's head office to discuss, among other things, the Registrar's concerns with a pattern of complaints emerging about the Dealer. These included the Dealer failing to respond to both its consumers, and OMVIC staff, within a timely manner.
6. By email dated October 30, 2019, a representative of the Registrar requested that Moore provide a written outline or "action plan", on behalf of the Dealer, of the steps the Dealer intended to implement to eliminate the concerns discussed during the above referenced meeting.
7. Moore failed to respond to the above referenced email. By email dated November 7, 2019 a representative of the Registrar again requested the Dealer's action plan. This email was addressed to Farhad Kiani ("Kiani"), whom the Dealer identified as an additional Officer of the Dealer.
8. On this same date, Kiani informed the Registrar's representative that he had not been associated with the Dealer since 2004. As such, the Dealer had failed to notify the Registrar of changes made to the Dealer's Officers and Directors within five days of the changes having occurred. This is contrary to section 31 of Regulation 333/08, as well as section 9 of the Code of Ethics
9. By telephone and email, on or about November 8, 2019, a representative of the Registrar advised Tahmasebi that the two previous correspondences sent to the Dealer had gone unanswered, and again requested the Dealer's action plan. The representative also requested that the Dealer update its corporate records to reflect its current officers and Directors.
10. By email sent November 12, 2019, a representative of the Registrar again requested Tahmasebi provide the Dealer's action plan, in addition to the Dealer's updated corporate records.
11. By letter dated January 2, 2020, a representative of the Registrar again requested Tahmasebi provide the Dealer's action plan, in addition to the Dealer's updated corporate records.

12. By email dated January 7, 2020, a representative of the Registrar again requested Tahmasebi provide the Dealer's action plan, in addition to the Dealer's updated corporate records.
13. By email received January 13, 2020, Moore, submitted an application requesting to update the Dealer's corporate records ("business change notice"). This business change notice was initially incomplete. After a delay, the Dealer has since provided all of the outstanding information required to complete the business change notice.
14. To date, despite numerous correspondence from representatives of the Registrar, the Dealer has failed to provide OMVIC with the Dealer's action plan referred to above, which is satisfactory. This is contrary to its obligation to act in a professional manner, as outlined in section 9 of the Code of Ethics.
15. In causing the Dealer to not conduct its business in accordance with the law, Tahmasebi and Moore have personally breached sections 6 and 9 of the Code of Ethics.

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

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.

It is thereby agreed that Tahmasebi, and Moore have breached the following section of the Code of Ethics, as set out in Regulation 332/08:

Accountability:

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 \$3,500 no later than **July 31, 2021.**
2. Tahmasebi agrees to successfully complete the Automotive Certification Course (the "Course") no later than **December 31, 2021.**
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 no later than **December 31, 2021.** 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. As in all other areas of its business, the Dealer, Tahmasebi, and Moore 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 Dealer, Tahmasebi, and Moore have breached subsections 6 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 \$3,500 no later than **July 31, 2021.**
2. Tahmasebi is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **December 31, 2021.**
3. 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 **December 31, 2021.** 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. As in all other areas of its business, the Dealer, Tahmasebi, and Moore 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

A handwritten signature in black ink, appearing to read "Paul Burroughs", with a horizontal line underneath it.

Paul Burroughs, Chair