

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 -

HUNT CLUB HOLDINGS INC. o/a HYUNDAI ON HUNT CLUB

- AND -

SHIV DILAWRI

- AND -

JESSIE DELLA-VEDOVA

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: January 4, 2021

Findings: Breach of Sections 4, 6 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$3,000 no later than **January 30, 2021.**
2. Della-Veldova is ordered to successfully complete the MVDA Key Elements Course no later than **January 30, 2021.** This date is subject to any pandemic related disruptions Georgian college may have in delivering this course within the specified time frame.
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 **January 30, 2021.**

4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive certification course (the "Course"). Current sales staff will be offered the Course no later than **January 30, 2021**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. 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, Dilawri, and Della-Vedova 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. Hunt Club Holdings Inc o/a Hyundai on Hunt Club (the "Dealer") was first registered as a motor vehicle dealer in around March 2011. Shiv Dilawri ("Dilawri") was first registered as a motor vehicle salesperson in around October 1982. Jessie Della-Vedova ("Della-Vedova") was first registered as a motor vehicle salesperson in around December 2003
2. At all material times, Dilawri was the Officer of the Dealer and Della-Vedova was the person in charge of the day to day activities at the Dealer.

OMVIC registrant education:

3. Since the Act was proclaimed, OMVIC has issued the following publications and webinars reminding dealers of their obligations to disclose former daily rental vehicles in advertisements:

	Dealer Standard: Publication date:	OMVIC bulletins Publication date:	Webinars Publication date:
A.	Winter 2008	April 2010	April 2015
B.	Spring 2010	September 2012	August 2017
C.	Spring 2011		
D.	Fall 2013		

The contents of these publications continue to be available on OMVIC's website.

Direct correspondence with Dealer:

4. During an inspection on or about March 19, 2020, the Dealer was reminded of its advertising disclosure obligations.
5. By letter dated May 28, 2020, Della-Vedova was reminded of the Dealer's advertising disclosure obligations.

Dealer's current non-compliance:

6. On or before June 29, 2020, the dealer placed advertisements for the following vehicles, but failed to disclose that they were former daily rental units.
 - a. 2019 Hyundai Santa Fe (VIN 5NMS3CAD9KH004294)
 - b. 2019 Hyundai Santa Fe (VIN KM8SNDHF5KU296733)
 - c. 2019 Kia Sportage (VIN KNDPNCAC4K7517032)

This is contrary to section 36(5) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. When the subject vehicles were sold, their former daily rental status was disclosed on the bills of sale.

7. Dilawri has failed to ensure that the Dealer conducts its business in compliance with the Act and Code of Ethics and thus has personally contravened sections 6 and 9 of the Code of Ethics.
8. Della-Vedova has failed to ensure that the Dealer conducts its business in compliance with the Act and Code of Ethics and thus has personally contravened sections 6 and 9 of the Code of Ethics.

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

Regulation 333/08:

36. Advertising:

5. If any of the following is true of a motor vehicle, an advertisement that attempts to induce a trade in the specific vehicle shall indicate in a clear, comprehensible, and prominent manner, that the vehicle was previously,

(a) leased on a daily basis, unless subsequently owned by a person who was not a registered motor vehicle dealer.

It is thereby agreed that the Dealer has breached section 4(2) of the Code of Ethics, as set out in regulation 332/08:

Disclosure and marketing:

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.

It is thereby agreed that Dilawri and Della-Veldova have breached section 6(2) 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.

It is thereby agreed that the Dealer, Dilawri, and Della-Veldova have breached section 9(1) of the Code of Ethics, as set out in Regulation 332/08:

Professionalism

9 (3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$3,000 no later than **December 31, 2020.**
2. Della-Veldova agrees to successfully complete the MVDA Key Elements Course no later than **January 30, 2021.** This date is subject to any pandemic related disruptions Georgian college may have in delivering this course within the specified time frame.
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 **December 31, 2020.**
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Automotive certification course (the "Course"). Current sales staff will be offered the Course no later than **December 31, 2020.** Future sales staff will be offered the Course within 90 days of being retained in this capacity. 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, Dilawri, and Della-Veldova 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, Dilawri and Della-Veldova have breached subsections 4, 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 \$3,000 no later than **January 30, 2021.**
2. Della-Veldova is ordered to successfully complete the MVDA Key Elements Course no later than **January 30, 2021.** This date is subject to any pandemic related disruptions Georgian college may have in delivering this course within the specified time frame.
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 **January 30, 2021.**
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5. The Dealer, Dilawri, and Della-Veldova 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