

DISCIPLINE DECISION

REVIEWING PANEL: Aviva Harari, Public Member
Joe Wade, Registrant
Achillis Pelitis, Registrant

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 -)
WILLIAMSON LINDSAY CHRYSLER)
DODGE JEEP RAM LTD.)
- and -)
JAMES D WILLIAMSON)
- and -)
ALEXANDER TODD WILLIAMSON)

This decision arises from a Notice of Complaint issued on November 7, 2023 by the Registrar.

Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal, a Reviewing Panel has 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: June 13, 2024

Findings:

Williamson Lindsay Chrysler Dodge Jeep Ram Ltd., has breached the following:

Section 4(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

James D Williamson and Alexander Todd Williamson have breached the following:

Section 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Order:

1. The **Dealer** shall pay a fine in the amount of **\$3,000** no later than ninety (90) calendar days from the date of the Discipline Committee's order.
2. **James D Williamson** shall successfully complete the MVDA Key Elements course no later than ninety (90) calendar days from the date of the Discipline Committee's order.
3. **Alexander Todd Williamson** shall successfully complete the MVDA Key Elements course no later than ninety (90) calendar days from the date of the Discipline Committee's order.
4. The **Dealer** shall offer all current and future sales staff the opportunity to complete the Automotive Certification Course (the "Course"). The **Dealer** will provide confirmation that current staff have been offered the Course no later than ninety (90) calendar days from the date of the Discipline Committee's order. Future sales staff will be offered the course within 90 calendar days of being retained in this capacity and this shall remain in effect for a period of one year from the date of the Discipline Committee's order. The **Dealer** will incur all costs associated with this.
5. The **Dealer**, **James D Williamson**, and **Alexander Todd Williamson** agree to comply with the *Motor Vehicle Dealers Act*, 2002, its regulations, and the Code of Ethics

Reasons for Decision

Introduction

This matter proceeded based on 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 Tribunal and the Appeals Tribunal.

Background:

1. Williamson Lindsay Chrysler Dodge Jeep Ram Ltd. (the "**Dealer**") was first registered as a motor vehicle dealer in and around January 1983.
2. James D Williamson ("**J. Williamson**"), also known as Jim, was first registered as a salesperson in and around July 2000. At all material times, **J. Williamson** has been a General Manager, an officer, and a Person in Charge of the day-to-day activities of the **Dealer**.
3. Alexander Todd Williamson ("**A. Williamson**"), also known as Todd, was first registered as a salesperson in and around September 1992. At all material times, **A. Williamson** has been a General Manager, an officer, and a Person in Charge of the day-to-day activities of the **Dealer**.

OMVIC Registrant Education re: All-in Pricing:

4. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars, and guidelines, reminding dealers of their all-in pricing obligations.

Prior OMVIC Caution Letter:

5. On or about April 21, 2022, OMVIC Representatives made inquiries about a vehicle advertised for sale on the **Dealer's** website, while posing as members of the public.
6. A salesperson, acting on behalf of the **Dealer**, provided the OMVIC Representatives with a worksheet for the vehicle. The worksheet showed a \$598 "Williamson Protection" fee added to the advertised price of the vehicle.
7. On or about January 31, 2023, OMVIC sent a caution letter to the **Dealer** to remind the Dealer and staff of the **Dealer's** all-in pricing obligations pursuant to section 36 of O. Reg. 333/08.

Dealer's Contravention of the Code of Ethics:

8. On or before May 3, 2023, the **Dealer** published an advertisement for a 2019 Jeep Compass Trailhawk, stock# U1586 (VIN# [REDACTED]) with an advertised price of \$28,888 plus taxes and licensing.
9. On or about this same date, representatives of the Registrar (the "Registrar's Representative") made inquiries about the vehicle, while posing as members of the public.

10. A salesperson, acting on behalf of the **Dealer**, provided the OMVIC Representative and the Registrar's Representative with a worksheet for the 2019 Jeep Compass Trailhawk. The following additional charges were added to the price of the vehicle:
 - a. Carproof fee of \$45
 - b. Fuel fee of \$180
 - c. OMVIC fee of \$10
11. A "Williamson Protection" fee of \$598 was also added onto the advertised price, but the salesperson advised that it was optional and could be removed.
12. As such, the **Dealer's** advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.

J. Williamson's Contravention of the Code of Ethics:

13. **J. Williamson** failed to ensure that the **Dealer** conducted its business in compliance with the *Motor Vehicle Dealers Act, 2002* (the "Act"), its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.

A. Williamson's Contravention of the Code of Ethics:

14. **A. Williamson** failed to ensure that the **Dealer** conducted its business in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.

It is thereby agreed that the **Dealer** failed to comply with the follow section of the Act, O. Reg. 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 section of the Code of Ethics, as set out in O. Reg. 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 **J. Williamson** and **A. Williamson** have contravened the following section of the Code of Ethics, as set out in O. Reg. 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, J. Williamson**, and **A. Williamson** have contravened the following section of the Code of Ethics, as set out in O. Reg. 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.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts, as well as the additional submissions provided by the Parties, the Reviewing Panel is satisfied that the evidence set out in the Agreed Statement of Facts substantiate that the **Dealer** has breached subsections 4(2) and 9(3) of the OMVIC Code of Ethics, and **J. Williamson** and **A. Williamson** have breached subsections 6(2) and 9(3), as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*.

The **Dealer, J. Williamson** and **A. Williamson** ought to have been aware of the all-inclusive pricing requirements set forth by OMVIC, having been provided with this information through distribution of industry publication and specifically to the dealer.

An aggravating factor is that the **Dealer** was issued a caution letter on or about January 31, 2023 to remind the **Dealer** and staff of the all-in pricing obligations pursuant to section 36 of O. Reg. 333/08. The **Dealer** and its staff showed a blatant disregard to the written warning as discovered in a subsequent mystery shop May 3, 2023. **J. Williamson** and **A. Williamson** failed in their obligations as persons of authority to ensure compliance by the **Dealer**.

On or about May 3, 2023, a salesperson of the **Dealer** provided a worksheet to an OMVIC representative showing mandatory fees totalling \$390 above the advertised price of a requested vehicle during a mystery shop. While other fees were also added to the advertised price and represented as "non-mandatory", the aggravating factor is that fees for OMVIC, Fuel and Carproof ought to have been included in the all-in price.

The Reviewing Panel also agrees with the Parties' Joint Submission on Penalty and determines that the penalty is in the public interest and serves as a general and specific deterrence. Accordingly, the Reviewing panel makes the following Order:

1. The **Dealer** shall pay a fine in the amount of **\$3,000** no later than ninety (90) calendar days from the date of the Discipline Committee's order.
2. **James D Williams** shall successfully complete the MVDA Key Elements course no later than ninety (90) calendar days from the date of the Discipline Committee's order.

3. **Alexander Todd Williamson** shall successfully complete the MVDA Key Elements course no later than ninety (90) calendar days from the date of the Discipline Committee's order.
4. The **Dealer** shall offer all current and future sales staff the opportunity to complete the Automotive Certification Course (the "Course"). The **Dealer** will provide confirmation that current staff have been offered the Course no later than ninety (90) calendar days from the date of the Discipline Committee's order. Future sales staff will be offered the course within 90 calendar days of being retained in this capacity and this shall remain in effect for a period of one year from the date of the Discipline Committee's order. The **Dealer** will incur all costs associated with this.
5. The **Dealer**, **James D Williamson**, and **Alexander Todd Williamson** agree to comply with the *Motor Vehicle Dealers Act, 2002*, its regulations, and the Code of Ethics.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: June 13, 2024

A handwritten signature in black ink, appearing to read 'Joe Wade', written over a horizontal line.

Joe Wade, *Discipline Tribunal Chair*

On behalf of
Aviva Harari, *Public Member*
Achillis Pelitis, *Member*