

DISCIPLINE DECISION

REVIEWING PANEL: Caroline Brett, Public Member
Joe Wade, Registrant
Paul Burroughs, 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 -)
VPRO AUTO GROUP INC.)
- and -)
DANNY LIN)

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 26, 2024

Findings: The Dealer has contravened the following:
Sections 7(1), 9(1) and 9(3) of the Code of Ethics, Ontario Regulation
332/08

Danny Lin has contravened the following:
6(2) and 9(1) of the Code of Ethics, Regulation 332/08

Order:

1. VPRO Auto Group Inc. (the "Dealer") shall pay a fine in the amount of **\$10,000** no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
2. Danny Lin shall pay a fine of **\$1,500** no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
3. Danny Lin shall successfully complete the MVDA Key Elements course no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
4. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the MVDA Key Elements Course, no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
5. The Dealer and Danny Lin shall comply with the *Motor Vehicle Dealers Act, 2002*, O. Reg. 333/08, O. Reg. 332/08 and its Code of Ethics, and the Standards of Business Practice.

Reasons for Decision

The parties to this proceeding agree that:

Withdrawals:

1. The allegations against Sheng Yu and Xianglai Gao contained in the Notice of Complaint dated July 4, 2023, are hereby withdrawn.

Background:

2. VPRO Auto Group Inc. (the "Dealer") was first registered as a motor vehicle dealer in or around January 2008. Prior to on or about April 27, 2023, the Dealer operated as Intrinsic Auto Limited.
3. Danny Lin ("Lin") was first registered as a motor vehicle salesperson in or around May 3, 2017. At all material times, Yu has been a Director of the Dealer and the Person in Charge of the day-to-day activities of the Dealer.
4. On or about April 13, 2016, Lin successfully completed the Automotive Certification Course.
5. Included in the Course materials are dealers' obligations to ensure that they disclose all material facts about the vehicles they sell, including but not limited to a vehicle's accident repair history ("disclosure obligations").
6. On or about April 21, 2017, Lin executed terms and conditions of registration on behalf of the Dealer.

7. As per condition 18, the Dealer agreed to disclose in writing, on the bill of sale, all material facts about the vehicles it sells.
8. As per condition 22, the Dealer agreed not to receive any new private sources of financing without prior approval of the Registrar.

OMVIC publications re: material fact disclosure:

9. OMVIC has issued numerous educational materials, publications and webinars to remind registrants of their disclosure obligations, including but not limited to, their obligation to disclose in writing on the bill of sale a vehicle's accident repair history. The dates of said publications are attached hereto as Schedule "A". Educational materials continue to be available on OMVIC's website.

Dealer non-compliance:

10. During an inspection of the Dealer on or about January 11, 2023, the following areas of non-compliance were found:

Failure to disclose previous accidents:

11. On or about July 12, 2022, the Dealer purchased a 2018 Toyota Sienna (VIN *208234). This vehicle had incurred previous damage in the amount of \$3,554. On or about July 29, 2022, Lin sold this vehicle on behalf of the Dealer but failed to disclose to the purchaser the previous damage history, in writing on the bill of sale. This is contrary to sections 42(19) and 42(25) of O. Reg. 333/08, as well as sections 7(1) and 9(3) of the Code of Ethics. The Dealer has since provided confirmation that the purchaser was aware of the vehicle's damage history at the time of purchase.
12. On or about November 1, 2022, Lin sold a 2016 BMW X5 (VIN *P22032) on behalf of the Dealer. This vehicle had incurred previous damage in the amount of \$12,134, which was not disclosed to the purchaser in writing on the bill of sale. This is contrary to sections 42(19) and 42(25) of O. Reg. 333/08, as well as sections 7(1) and 9(3) of the Code of Ethics. The Dealer has since attempted to contact the purchaser, but was unable to locate the individual.

Unapproved new sources of financing:

13. On or about May 1, 2022, the Dealer received \$270,000 in new financing, without obtaining prior approval of the Registrar. This is contrary to condition 22 of the Dealer's terms and conditions and section 9(1) of the Code of Ethics.
14. On or about May 1, 2022, the Dealer also received an additional \$80,000 in financing from a different source than that referenced above, without obtaining prior approval of the Registrar. This is contrary to condition 22 of the Dealer's terms and conditions and section 9(1) of the Code of Ethics.
15. On or about June 1, 2022, the Dealer received an additional \$230,000 in new financing from a different source than those referenced above, without obtaining prior approval of the Registrar. This is contrary to condition 22 of the Dealer's terms and conditions and section 9(1) of the Code of Ethics.

16. On or about June 1, 2022, the Dealer also received an additional \$100,000 in financing from a different source than those referenced above, without obtaining prior approval of the Registrar. This is contrary to condition 22 of the Dealer's terms and conditions and section 9(1) of the Code of Ethics.
17. On or about August 1, 2023, the Dealer received an additional \$300,000 in new financing from a different source than those referenced above, without obtaining prior approval of the Registrar. This is contrary to condition 22 of the Dealer's terms and conditions and section 9(1) of the Code of Ethics

Lin's contravention of the Code of Ethics:

18. Lin failed to ensure that the Dealer conducts its business in compliance with the Act, its Regulations and the Code of Ethics, and therefore personally contravened sections 6(2) and 9(1) of the Code of Ethics.

GENERALLY

19. It is thereby agreed that the Dealer has breached the following sections of the Code of Ethics, as set out in O. Reg 332/08:
 - 7 (1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.
 - 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.
 - 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.
20. It is thereby agreed that Lin has breached the following sections of the Code of Ethics, as set out in O. Reg 332/08:
 - 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.
 - 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.

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 facts as set out in the Agreed Statement of Facts support the allegations that the Dealer has breached subsections 7(1), 9(1) and 9(3) of the OMVIC Code of Ethics, and Lin has breached

subsections 6(2) and 9(1), as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*.

The Reviewing Panel examined all documents presented by the parties and found them appropriate, complete and helpful. The written submissions were both relevant and helpful to the Reviewing Panel. They enabled the Reviewing Panel to come to a quick and efficient decision.

There were concerns that the registrant was unable to contact the owner of one of the vehicles that had significant undisclosed damage. However, OMVIC raised no concerns in their submissions concerning any consumer harm and the Reviewing Panel inferred that they were satisfied.

Regarding the unapproved sources of financing, the Reviewing Panel shares the regulator's concerns and was satisfied that the penalty is significant.

In keeping with the principles in *R. Anthony-Cook*, 2016 SCC 43, the Reviewing Panel found the penalty to be in keeping with the "public interest" test. The Reviewing Panel will accept this penalty. The Panel is also hopeful that an inspection of this dealership will be forthcoming.

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. VPRO Auto Group Inc. (the "Dealer") shall pay a fine in the amount of **\$10,000** no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
2. Danny Lin shall pay a fine of **\$1,500** no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
3. Danny Lin shall successfully complete the MVDA Key Elements course no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
4. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the MVDA Key Elements Course, no later than one-hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.
5. The Dealer and Danny Lin shall comply with the *Motor Vehicle Dealers Act, 2002*, O. Reg. 333/08, O. Reg. 332/08 and its Code of Ethics, and the Standards of Business Practice.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: July 18, 2024

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

Joe Wade, *Discipline Tribunal Chair*

On behalf of
Caroline Brett, *Public Member*
Paul Burroughs, *Member*