

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 -

PARK LANE CHEVROLET CADILLAC LTD.

- and -

DAVID BAILEY

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: August 20, 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 \$5,000 no later than **November 30, 2021.**
2. David Bailey is ordered to pay a fine in the amount of \$2,500 no later than **November 30, 2021.**
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete Automotive Certification Course, at the Dealer's expense. Current sales staff will be offered the Course no later than **October 15, 2021.**
4. The Dealer and Bailey 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. Park Lane Chevrolet Cadillac Ltd. (the "Dealer") was first registered as a motor vehicle dealer in around May 2000.
2. David Bailey ("Bailey") was first registered as a motor vehicle salesperson in or around June 1983. At all material times, Bailey was the officer and person in charge of the day-to-day activities of the Dealer.

OMVIC publications re: All-in pricing

3. Since the winter of 2008, OMVIC has issued numerous publications reminding registrants of their obligations to advertise all-inclusive vehicle prices. These publications are referenced in the attached Schedule A and continue to be available on OMVIC's website.

Direct correspondence with Dealer:

4. By email dated October 9, 2012, the Dealer was reminded of the Dealer's all-in pricing requirements.

Dealer non-compliance:

5. On or before September 26, 2020 the Dealer published an advertisement for a 2015 Chevrolet Cruze 1LT (VIN 1G1PC5SB1F7243195) with an advertised price of \$11,586 plus tax and licensing.
6. On or before this same date, the Dealer published an advertisement for a 2016 Chevrolet Cruze Premier (VIN 3G1BG5SM3GS608320) with an advertised price of \$14,881 plus tax and licensing.
7. On this same date, representatives of the Registrar made inquiries about both vehicles, while posing as members of the public. The Dealer's representative advised the Registrar's representatives that the selling price of both vehicles included an additional \$299 administration fee as well as the \$10 OMVIC fee. As such, the Dealer's advertised

prices were not all-inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Continued advertising non-compliance:

8. Between on or about April 9, 2021 and April 12, 2021, the Dealer published additional advertisements which stated the vehicle prices were plus a \$299 administration fee and the \$10 OMVIC fee. As such the Dealer's advertised vehicle prices were not all-inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Generally:

9. As the person in charge of the day-to-day activities of the Dealer, Bailey failed to ensure that the Dealer's advertising, as well as its registered employees, comply with the Act and Code of Ethics. As such, Bailey has contravened sections 6 and 9 of the Code of Ethics.
10. The Dealer has agreed the individuals employed by the Dealer in the position of Sales Manager will successfully complete the MVDA Key Elements Course (the "Course") no later than October 15, 2021.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002* (the "Act"), 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 breached the following section of the Code of Ethics, as set out in Regulation 332/08:

Disclosure and marketing:

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.

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.

Accountability:

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 Bailey has 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.

It is thereby agreed that the Dealer and Bailey have both 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.

Additional written submissions from OMVIC

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$5,000 no later than **November 30, 2021.**
2. David Bailey agrees to pay a fine in the amount of \$2,500 no later than **November 30, 2021.**

3. The Dealer agree to offer all current and future sales staff the opportunity to complete Automotive Certification Course, at the Dealer's expense. Current sales staff will be offered the Course no later than **October 15, 2021.**
4. The Dealer and Bailey 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 and Bailey 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 parties advised the Chair that the named parties had not been the subject of discipline previously. 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 \$5,000 no later than **November 30, 2021.**
2. David Bailey is ordered to pay a fine in the amount of \$2,500 no later than **November 30, 2021.**
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete Automotive Certification Course, at the Dealer's expense. Current sales staff will be offered the Course no later than **October 15, 2021.**
4. The Dealer and Bailey 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

