

DISCIPLINE DECISION

REVIEWING PANEL: Caroline Brett, Public Member
Joe Wade, Discipline Tribunal Chair, Registrant
Wally Pietraszko, 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 :

ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL)
)
- and -)
)
BOYER FORD LINCOLN (BOBCAYGEON) LTD)
)
- and -)
)
BRANDON WESLEY BOYER)
)

This matter proceeded by way of Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. This Reviewing Panel has reviewed and considered written materials from the Parties together with a waiver of the requirement for an oral hearing and hereby makes the following Order:

Date of Decision: November 19, 2024, 2024

Findings: **Boyer Ford Lincoln (Bobcaygeon) Ltd. (the “Dealer”) has breached the following:**

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

Brandon Wesley Boyer has breached the following:

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

Order:

1. Boyer Ford Lincoln (Bobcaygeon) Ltd. (the “Dealer”) shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from November 19, 2024.
2. Brandon Wesley Boyer (“Boyer”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from November 19, 2024.
3. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the Automotive Certification Course, no later than ninety (90) calendar days from November 19, 2024.
4. The Dealer and Boyer 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.

Overview

This matter proceeded on the basis of an Agreed Statement of Facts, dated June 27, 2024, a Joint Submission on Penalty and a waiver of oral hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. The Agreed Statement of Facts states in relevant part as follows:

Amendment:

1. The Notice of Complaint dated January 8, 2024 is amended to reflect that the Ontario Motor Vehicle Industry Council (“OMVIC”) replaces the Registrar, *Motor Vehicle Dealers Act, 2002* as a party to this proceeding.

Background:

2. Boyer Ford Lincoln (Bobcaygeon) Ltd. (the “Dealer”) was first registered as a motor vehicle dealer in and around March 2019.
3. Brandon Wesley Boyer (“Boyer”) was first registered as a salesperson in and around September 2005. At all material times, Boyer has been a Director and the Person in Charge of the day-to-day activities of the Dealer.

OMVIC Publications:

4. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding registrants of their all-in pricing obligations. The dates of said publications are attached hereto as Schedule “A”. Educational materials continue to be available on OMVIC’s website.

Prior OMVIC Caution Letter:

5. 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 Non-Compliance:

6. On or before May 3, 2023, the Dealer published an advertisement for a white 2023 Ford Mustang GT Premium, stock# M3564 (VIN# *****306116) with an advertised price of \$61,035 plus taxes and licensing.
7. On or about this same date, representatives of OMVIC and the Registrar (the "Representatives") made inquiries about the vehicle, while posing as members of the public.
8. A salesperson, acting on behalf of the Dealer, provided the Representatives with a worksheet for the white 2023 Ford Mustang GT Premium. The worksheet showed a selling price of \$58,840 but also the following additional charges added to the price of the vehicle:
 - a. Freight: \$2,095
 - b. Admin fee: \$499
 - c. OMVIC fee: \$10
 - d. Air excise tax: \$100
 - e. Wheel locks: \$99
9. Adding these fees to the selling price showed a total of \$61,643, a \$608 increase from the advertised price of \$61,035 plus taxes and licensing.
10. As such, the Dealer's advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of the O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.

Boyer's Non-Compliance:

11. Boyer 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.
12. As particularized above, the Dealer has violated the following section of the Code of Ethics:

Disclosure and marketing

s. 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.
13. As particularized above, the Dealer and Boyer have violated the following section of the Code of Ethics:

Professionalism

s. 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.

14. As particularized above, Boyer has violated the following section of the Code of Ethics:

Accountability

s. 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.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts and written submissions provided by the Parties, the Reviewing Panel is satisfied that the evidence contained in the Agreed Statement of Facts substantiates the allegations that: (1) the Dealer has breached subsections 4(2) and 9(3) of the OMVIC Code of Ethics; (2) Boyer has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the Joint Submission on Penalty for the reasons that follow.

Reasons for Decision

The evidence and submissions filed left the Reviewing Panel with no concerns that the disposition proposed by the Parties may be contrary to the public interest. The Reviewing Panel accordingly granted the order requested.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: November 19, 2024

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

Joe Wade, Discipline Tribunal Chair
On behalf of:

Caroline Brett, Public Member
Wally Pietraszko, Registrant Member

