

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 -)
)
J. LOCKWOOD LEASING LIMITED)
)
- and -)
)
CLAUDE LOCKWOOD)
)
)

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 4(2) and 9(3) of the Code of Ethics, Ontario Regulation 332/08

Claude Lockwood has contravened the following:

6(2) and 9(3) of the Code of Ethics, Regulation 332/08

Order:

1. J. Lockwood Leasing Limited (the "Dealer") shall pay a fine in the amount of **\$3,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
2. Claude Lockwood shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
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 the date of the Discipline Tribunal's Order.
4. The Dealer and Lockwood 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

Background:

1. J. Lockwood Leasing Limited (the "Dealer") was first registered as a motor vehicle dealer in and around September 2013.
2. Claude Lockwood ("Lockwood") was first registered as a salesperson in and around October 1982. At all material times, Lockwood has been the Director and Person in Charge of the day-to-day activities of the Dealer.

OMVIC Registrant Education re: All-in Pricing:

3. 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.

Dealer's Non-Compliance:

4. On or before February 6, 2024, the Dealer published an advertisement for a white 2020 Mercedes-Benz GLS 450, stock# 089978 (VIN# *** 089978) with an advertised price of \$81,888.
5. On or about February 6, 2024, a representative of OMVIC (the "Representative") attended the Dealer's premises to make inquiries about the purchase of a vehicle, while posing as a member of the public (also known as a 'mystery shop').
6. The Representative was advised that the following additional charges would be added to the advertised price:
 - a. \$799 Administrative fee
 - b. \$10 OMVIC fee

7. The Representative was further advised that the administrative fee was the cost of dealing with banks and paperwork and was on both cash and finance deals.
8. As a result, 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

Lockwood's Non-Compliance:

9. Lockwood 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.

DISPOSITIONS

10. 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.

11. As particularized above, the Dealer and Lockwood 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.

12. As particularized above, Lockwood 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, 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 4(2) and 9(3) of the OMVIC Code of Ethics, and Lockwood has breached subsections 6(2) and 9(3), as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*.

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 panel will accept this penalty.

The Reviewing Panel I found the submissions were appropriate, complete, and helpful. They enabled the Reviewing Panel to come to a quick and efficient decision.

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. J. Lockwood Leasing Limited (the “Dealer”) shall pay a fine in the amount of **\$3,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
2. Claude Lockwood shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
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 the date of the Discipline Tribunal’s Order.
4. The Dealer and Lockwood 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.

Dated: July 18 2024

Ontario Motor Vehicle Industry Council
Discipline Tribunal

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

Joe Wade, *Discipline Tribunal Chair*

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

