

## **DISCIPLINE DECISION**

REVIEWING PANEL: Joe Wade, Discipline Tribunal Chair, Registrant  
Caroline Brett, Public Member  
Stuart Sherman, 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 :

<b>ONTARIO MOTOR VEHILCE</b>	)
<b>INDUSTRY COUCIL</b>	)
- and -	)
<b>2226015 ONTARIO INC.</b>	)
<b>o/a ORILLIA HYUNDAI</b>	)
- and -	)
<b>TONY DEL GOBBO</b>	)
- and -	)
<b>ANTON VAN YZENDOORN</b>	)
	)
	)
	)

---

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:** July 10, 2024

## Findings:

- 2226015 Ontario Inc. o/a Orillia Hyundai (the “**Dealer**”) has breached subsection 4(2) of the Code of Ethics, O. Reg. 332/08
- Tony Del Gobbo has breached subsection 6(2) of the Code of Ethics, O. Reg. 332/08; and
- Anton Van Yzendoorn has breached subsections 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

## Order:

1. 2226015 Ontario Inc. o/a Orillia Hyundai (the “Dealer”) shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from August 29, 2024.
2. Tony Del Gobbo and Anton Van Yzendoorn shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from August 29, 2024.
3. 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 ninety (90) calendar days from August 29, 2024.
4. The Dealer, Del Gobbo and Anton Van Yzendoorn 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, Joint Submission on Penalty and the Parties’ Waiver of Hearing which were all filed with this Reviewing Panel pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. The allegations against the respondents are contained in an Agreed Statement of Facts, dated June 17, 2024, which provides as follows:

### **Background:**

1. 2226015 Ontario Inc. o/a Orillia Hyundai (the “Dealer”) was first registered as a motor vehicle dealer in and around June 2010.
2. Tony Del Gobbo (“Del Gobbo”) was first registered as a salesperson on or about December 21, 1982. At all relevant times, Del Gobbo was registered as an Officer, General Manager and the Person in Charge of the Dealer. As the Person in Charge, Del Gobbo was assigned primary responsibility for, and agreed to be accountable for compliance with the Act and Regulations thereunder.

3. Anton Van Yzendoorn (“Van Yzendoorn”) was first registered as a motor vehicle salesperson on or about June 7, 2023, and since then Van Yzendoorn has so been registered with 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 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:**

5. On or before June 14, 2023, the Dealer published an advertisement for a red 2019 Hyundai Kona Trend, stock# OH3147A (VIN# KM8K3CA56KU328638), with an advertised price of \$26,598 plus sales taxes and licensing.
6. On this same date, an OMVIC representative made inquiries about the vehicle, while posing as a member of the public.
7. Van Yzendoorn, acting on behalf of the Dealer, provided the OMVIC representative with a worksheet for the vehicle. The following additional charges were added at that time:
  - a. Wireless Protect fee of \$698
  - b. OMVIC fee of \$10
8. As a result, the Dealer’s advertised vehicle price was not all-inclusive. In doing so, the Dealer contravened section 36(7) of Ontario Regulation 333/08 and, therefore, violated section 4(2) of the Code of Ethics.

Van Yzendoorn’s Non-compliance:

9. Van Yzendoorn caused the Dealer to contravene the Act and its Regulations, and, therefore, contravened sections 6(2) and 9(3) of the Code of Ethics.

Del Gobbo’s Non-compliance:

10. Del Gobbo omitted to ensure that the Dealer conducted its business in compliance with the Act and its Regulations, and, therefore, contravened section 2 6(2) of the Code of Ethics.
11. 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.

12. As particularized above, Van Yzendoorn has 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.

*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.

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

The Reviewing Panel notes that the proposed penalty is in line with previous Discipline Tribunal Decisions that dealt with similar conduct. Furthermore, although the mystery shopper identified one instance of an "all in" violation, the Reviewing Panel is unclear if this is a repeated pattern, as there is no evidence before the Reviewing panel that other consumers were charged fees that were not disclosed in "all in" advertising.

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.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

Dated: August 29, 2024

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

Joe Wade, *Discipline Tribunal Chair*

Caroline Brett, Public Member  
Stuart Sherman, Registrant Member

