

**DISCIPLINE COMMITTEE**  
**OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**

PANEL:           Mr. Robert MacKay, Chair           Public Member  
                  Mr. Achilles Pelitis, Vice-Chair   Registrant  
                  Mr. Wally Pietrasko, Vice-Chair   Registrant

**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 :**

**Appearances<sup>1</sup>:**

<b>REGISTRAR, MOTOR VEHICLE DEALERS ACT, 2002</b>	)	<b>Ms. Michelle Samaroo for the Registrar</b>
- and -	)	
<b>DOWNTOWN FORD/DOWNTOWN LINCOLN</b>	)	
<b>and</b>	)	<b>Mr. Ilan Mints for the Registrants</b>
<b>SHAHIN ALIZADEH</b>	)	
<b>and</b>	)	
<b>TIMOTHY LO</b>	)	
	)	
	)	
	)	
	)	<b>Date of Hearing: March 11 and April 21, 2021</b>

**Date of Decision: May 3, 2021**

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<sup>1</sup> Also present at the hearing were independent legal counsel Mr. Zachary Al-Khatib, and Hearing Administrators Mr. David Daily. The hearing was recorded by Ms. Marley Zelden of Atchison & Denman.

**Findings:**

2281610 Ontario Inc o/a Downtown Ford/Downtown Lincoln has breached the following:

Sections 4 and 9 of the Code of Ethics, Regulation 332/08

Mr. Timothy Lo has breached the following:

Section 6 and 9 of the Code of Ethics, Regulation 332/08

## DECISION AND REASONS

### Introduction

This was a hearing before a panel of the Discipline Committee (the "Panel") of the Ontario Motor Vehicle Industry Council ("OMVIC") pursuant to section 17 of the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Schedule B ("MVDA"). OMVIC has a mandate to maintain a fair and informed marketplace by protecting the rights of consumers, enhancing industry professionalism and ensuring fair, honest and open competition for registered motor vehicle dealers.

The two-day hearing was convened March 11 and continued April 21, 2021 (the "Hearing"). The Hearing was held virtually using video conferencing with the consent of the parties to comply with Provincial physical distancing recommendations.

### The Allegations

The allegations against 2281610 Ontario Inc o/a Downtown Ford/Downtown Lincoln, Mr. Shahin Alizadeh, and Mr. Timothy Lo (the "Registrants") were set out in the Notice of Complaint, dated December 10, 2019. The Notice of Complaint was entered as Exhibit 1 at the hearing. The Notice of Complaint is attached as Appendix "A" of the Decision and Reasons of the Panel.

## Preliminary Matters:

### Panel Composition

The Panel raised the issue of casual encounters between one Panel member and one of the Registrants which occurred approximately 20 years earlier. Both parties consented to proceeding with the Panel as composed.

### Motion to Close the hearing to a specific person

At the outset, Ms. Samaroo, on behalf of the Registrar, requested the Panel make an order excluding Mr. Paul Burroughs from the Hearing. Mr. Mints did not oppose the request.

### Submissions on the Request for an order

Ms. Samaroo submitted that Mr. Burroughs had been involved in earlier negotiations to resolve the matter before the Panel in his role as the Chair of the Discipline Committee. This, according to Ms. Samaroo, made it inappropriate for Mr. Burroughs to attend the Hearing. His presence intimidated her and made her uncomfortable making submissions on the manner and circumstances of how this matter came before this Panel.

Mr. Mints had no submissions on the request for an order.

The Panel sought and received advice from independent legal counsel, Mr. Al-Khatib. That advice was essentially that, based on the jurisprudence of the Supreme Court (and particularly the *Dagenais-Mentuck* test)<sup>2</sup>, to close a public proceeding to one or all members of the public was a high legal test. There must be a real and substantial risk to the fairness of the proceedings. He also reminded the Panel that Mr. Burroughs is not a party to the matters at this Hearing.

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<sup>2</sup> See *Canadian Broadcasting Corp. v The Queen*, 2011 SCC 3, at para 13.

After recessing to consider the submissions on the request for an order excluding Mr. Burroughs from the hearing the Panel made the following findings:

- As we are functioning by Video hearing, Mr. Burroughs with his camera and mic off was not visible or audible to the participants other than his name appearing among the attendees;
- As Mr. Burroughs is not a party to this matter, and therefore a member of the public;
- There were no submissions that the fairness of the hearing was at risk with Mr. Burroughs viewing the hearing; and
- The issue of how the matter came to a hearing was not an issue before the Panel. The only task of the Panel was to hear the submissions on the expected Agreed Statement of Facts and if that were to be accepted, hear and decide on a Joint Submission as to Penalty.

Therefore, the Registrars request to close the Hearing to a member of the public was denied.

Counsel for the Registrar asked for a recess to confer with opposing counsel in light of the decision of the Panel not to close the Hearing to a member of the public. The request was granted.

Upon reconvening Ms. Samaroo made a request for an adjournment. The reason for the adjournment was to consider whether to seek judicial review of the interlocutory decision of the Panel to not close the Hearing to a member of the public. Counsel for the registrants did not oppose the adjournment request.

The Panel sought and considered the advice on independent legal counsel. The Discipline Committee Rules of Practice<sup>3</sup> were reviewed and the Panel considered the

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<sup>3</sup> Rule 10 Adjournments

fact that counsel for the Registrants had no objection or comment on the adjournment request. The request to adjourn had been made sine die, nonetheless the request was granted by the Panel with the condition the parties decide on a date to return within 30 days of adjourning.

Subsequently the date to reconvene was fixed at April 8, 2021. Prior to that date, Mr. Mints, on behalf of the Registrants, requested an adjournment. The Registrar did not oppose the motion to adjourn. The Panel accepted the motion and the date to reconvene was set to April 21, 2021

Once reconvened Ms. Samaroo, on behalf of the Registrar, stated that discussions with the Registrants had resulted in a Resolution Agreement. The Registrar and the Registrants would therefore be jointly presenting an Agreed Statement of Facts and a Joint Submission as to Penalty would then be made. The Panel sought and received confirmation that the parties agreed to presenting the Agreed Statement of Facts and the Joint Submission on Penalty at the same time.

#### Agreed Statement of Facts

The Agreed Statement of Facts and Joint Submission on Penalty<sup>4</sup> which had been signed by the parties was contained in Tab 6 of the Registrars Book of Documents and was entered as Exhibit 2<sup>5</sup>. During the course of the submissions that followed, Ms. Samaroo reviewed the Agreed Statement of Facts and the Joint Submission on Penalty. The Agreed Statement of Facts, Exhibit 2 Tab 6, provided as follows:

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<sup>4</sup> Prior to the beginning of the Hearing, the exhibits were delivered to the Panel members electronically in the interests of hearing economy and on consent of the parties.

<sup>5</sup> Also entered at the Hearing in the interest of organizing the documents during a virtual hearing was the Registrants Brief of Authorities (Exhibit 3), Bradley v. Ontario College of Teachers (Exhibit 4a), and OMVIC Registrar v. Peterborough Subaru (Exhibit 4b).

## **Agreed Statement of Facts**

The parties to this proceeding agree that:

1. 2281610 Ontario Inc o/a Downtown Ford/Downtown Lincoln (the "Dealer") was first registered as a motor vehicle dealer in around January 2016. Shahin Alizadeh ("Alizadeh") was first registered as a motor vehicle salesperson in around May 1983. Timothy Lo ("Lo") was first registered as a motor vehicle salesperson in or around December 2001. At all material times, Alizadeh was an Officer, and Lo was the sales manager, of the Dealer.

### ***Background:***

2. On or before August 24, 2017, the Dealer published an advertisement for a 2014 Scion TC (Stock #P00118A). The advertisement inaccurately listed certain features which the vehicle was not equipped with. On or about September 6, 2017, OMVIC received a complaint, from the consumer who had subsequently purchased the vehicle, regarding the inaccurate information presented in the above referenced advertisement. A representative of the Registrar reminded Lo of the importance of ensuring accuracy in the representations made in the Dealer's advertisements.
3. On or before August 26, 2018, the Dealer published an advertisement for a 2010 Lincoln MKZ (Stock #180349A). The advertisement allegedly inaccurately listed certain features which the vehicle was not equipped with. On or about November 28, 2018, OMVIC received a complaint, from the consumer who had subsequently purchased the vehicle, regarding the inaccurate information presented in the above referenced advertisement. A representative of the Registrar reminded Lo of the importance of ensuring accuracy in the representations made in the Dealer's advertisements.
4. On or before April 10, 2019, the Dealer published an advertisement for a 2019 Ford F-250 (Stock #190131) which allegedly inaccurately indicated a higher, more expensive, equipment trim level than the subject vehicle came equipped with. On or about

April 15, 2019, a representative of Registrar reminded the Dealer of the importance of ensuring accuracy in the statements made in its vehicle advertisements.

5. By letter dated June 28, 2019, Alizadeh was reminded of the importance of ensuring accuracy in the representations made in the Dealer's vehicle advertisements.

***Consumer complaint:***

6. On or before July 25, 2019, the Dealer published an advertisement for a 2018 Ford Escape (Stock #R00465) which inaccurately listed the following features the vehicle was not equipped with:
  - a. Heated wiper [blades]
  - b. Ambient lighting
  - c. Navigation
  - d. Remote start[er]

As such, the Dealer failed to ensure the representations in the above referenced advertisement were truthful, contrary to sections 4 and 9 of the Code of Ethics.

7. On or about July 25, 2019 a consumer purchased this vehicle.
8. On or about August 22, 2019, OMVIC received a complaint from said consumer, regarding the inaccurate information presented which had appeared in the advertisement. The consumer was seeking compensation from the Dealer for the missing equipment.
9. A representative of the Registrar was in contact with representatives of the Dealer, including Lo regarding the consumer's concerns. The Dealer and consumer have since reached a resolution which is satisfactory to both parties.
10. In failing to ensure the Dealer's advertising contains accurate representations, Lo has breached sections 6 and 9 of the Code of Ethics.

It is thereby agreed that the Dealer has breached the following sections 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, and 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.

*Professionalism*

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.

It is thereby agreed that Lo has breached the following sections of the Code of Ethics as set out in Regulation 332/08:

*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.

*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.

**Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$2,500 no later than **February 26, 2021**.
2. Lo agrees to pay a fine in the amount of \$500 no later than **February 26, 2021**.



3. Lo agrees to complete the OMVIC Automotive Certification course within the 2021 calendar year, subject to any pandemic related disruptions Georgian College may incur in delivering these courses within the agreed upon time frame.
4. The Dealer agrees to offer the Automotive Certification course, or the MVDA Key Elements course, to all salespeople, business managers, and sales managers employed within their dealer group, at the Dealer's expense. The Dealer undertakes to do this within the 2021 calendar year, subject to any pandemic related disruptions Georgian College may incur in delivering these courses within the agreed upon time frame.
5. The Dealer and Lo agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

#### Withdrawal

During the submissions Ms. Samaroo stated the Registrar was withdrawing the complaint as it relates to Mr. Shahin Alizadeh.

#### Plea of the Registrants

The remaining Registrants admitted the allegation contained in the Notices of Complaint (Exhibit 1) namely paragraph 6. "Consumer complaint". A plea inquiry was conducted by the Panel Chair. At the conclusion of that process, the Panel was satisfied that the admission by the remaining Registrants was voluntary, informed, and unequivocal.

#### Decision

The Panel heard submissions by Ms. Samaroo, on behalf of the Registrar, and Mr. Mints, on behalf of the Registrants, with respect to the Agreed Statement of Facts. During the course of those submissions the parties highlighted the admitted facts and invited the Panel to make a finding of breaches against the remaining Registrants. In addition, the Panel sought and obtained advice from its independent legal counsel.

After deliberations, the Panel was satisfied that the admissions made by the Registrants was supported by the agreed-upon facts contained in the Agreed Statement of Facts.

Consequently, we made a finding against Downtown Ford/Downtown Lincoln and Mr. Timothy Lo in relation to the admitted complaint set out in the Notice of Complaint (Exhibit 1). In particular, the Panel found that:

2281610 Ontario Inc o/a Downtown Ford/Downtown Lincoln has breached the following:

Sections 4 and 9 of the Code of Ethics, Regulation 332/08

Mr. Timothy Lo has breached the following:

Section 6 and 9 of the Code of Ethics, Regulation 332/08

In reaching its decision the Panel relied exclusively on the evidence presented at the hearing as contained in the Agreed Statement of Facts (Exhibit 2). The Panel found the facts contained in it provided a sufficient foundation for the findings.

### Penalty

The Joint Submission on Penalty contained in the Agreed Statement of Facts, Exhibit 2 invited the Panel to make an order regarding penalty:

1. The Dealer is ordered to pay a fine in the amount of \$2,500 no later than February 26, 2021.
2. Lo is ordered to pay a fine in the amount of \$500 no later than February 26, 2021.
3. Lo is ordered to complete the OMVIC Automotive Certification course within the 2021 calendar year, subject to any pandemic related disruptions Georgian College may incur in delivering these courses within the agreed upon time frame.

4. The Dealer is ordered to offer the Automotive Certification course, or the MVDA Key Elements course, to all salespeople, business managers, and sales managers employed within their dealer group, at the Dealer's expense. The Dealer undertakes to do this within the 2021 calendar year, subject to any pandemic related disruptions Georgian College may incur in delivering these courses within the agreed upon time frame.
5. The Dealer and Lo agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

### Penalty Decision and Reasons

The Panel was of the view that the parties had come to a fair and equitable resolution, having carefully balanced the issues of protection of the public interest and remediation of the Registrants and their conduct. The Panel noted the Registrants have avoided the delay and expense that would have been incurred in resolving the allegations at a contested hearing. And further noted, Mr. Mints highlighted for the Panel that the Registrants had themselves offered to comply with penalty order 4 within their dealer group not just the one dealership where the breaches occurred.

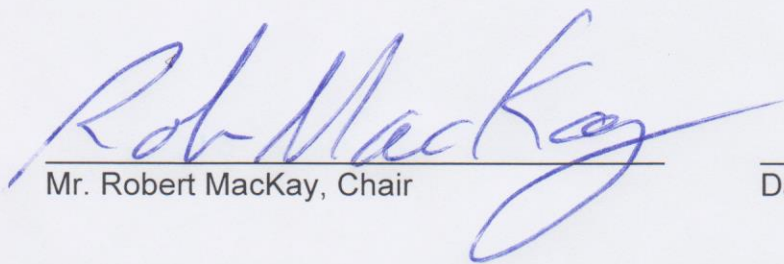
The Panel therefore made an order:

1. The Dealer is ordered to pay a fine in the amount of \$2,500 no later than July 21, 2021<sup>6</sup>.
2. Lo is ordered to pay a fine in the amount of \$500 no later than July 21, 2021.
3. Lo is ordered to complete the OMVIC Automotive Certification course within the 2021 calendar year, subject to any pandemic related disruptions Georgian College may incur in delivering these courses within the agreed upon time frame.
4. The Dealer is ordered to offer the Automotive Certification course, or the MVDA Key Elements course, to all salespeople, business managers, and sales managers employed within their dealer group, at the Dealer's expense. The Dealer undertakes to do this within the 2021 calendar year, subject to any pandemic related disruptions Georgian College may incur in delivering these courses within the agreed upon time frame.
5. The Dealer and Lo agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

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<sup>6</sup> Dates in paragraphs 1 and 2 were adjusted to accommodate later conclusion of the Hearing.

I, Robert MacKay, sign this decision and reasons for the decision as Chair of this discipline Panel and on behalf of the members of the discipline panel as listed below.



Mr. Robert MacKay, Chair

Date: May 3, 2021

Panel Members:

- Mr. Robert MacKay
- Mr. Achilles Pelitis
- Mr. Wally Pietrasko

Appendix "A"

**IN THE MATTER OF**  
**THE VIOLATION OF THE CODE OF ETHICS and Standards of Business Practice**

TO: 2281610 Ontario Inc o/a  
Downtown Ford/Downtown Lincoln  
354 Richmond Street East  
Toronto, ON M5A1P7

AND TO: Shahin Alizadeh  
6A Beaumont Road  
Toronto, ON M4W1V4

AND TO: Timothy Lo  
346 Port Royal Trail  
Scarborough ON M1V2L7

**NOTICE OF COMPLAINT**

Take notice that pursuant to section 17 of the *Motor Vehicle Dealers Act, 2002*, (the "Act"), the Registrar is issuing a Notice of Complaint against 2281610 ONTARIO INC. o/a DOWNTOWN FORD/DOWNTOWN LINCOLN, and SHAHIN ALIZADEH, and TIMOTHY LO for violating the Code of Ethics, as set out in Ontario Regulation 332/08.

**REASONS**

Section 17 of the Act establishes a Discipline Committee and empowers the Discipline Committee to deal with breaches of the Code of Ethics. The Code of Ethics applies to all Registrants registered under the *Motor Vehicle Dealers Act, 2002*. Any Registrants that disregard or violate the Code of Ethics are subject to having their conduct reviewed by the Discipline Committee. The Code of Ethics requires that all Registrants conduct business with Integrity, Accountability, Compliance, Respect and Professionalism as well as ensuring that minimum requirements are met when it comes to Disclosure in Marketing and the Disclosure of Information in Contracts of Sale and Lease.

2281610 ONTARIO INC. o/a DOWNTOWN FORD/DOWNTOWN LINCOLN, and SHAHIN ALIZADEH, and TIMOTHY LO have violated one or more of the principles of the Code of Ethics and should therefore have their conduct reviewed by the Discipline Committee.

**PARTICULARS**

The reasons for this notice are:

**Background:**

1. 2281610 Ontario Inc o/a Downtown Ford/Downtown Lincoln (the "Dealer") was first registered as a motor vehicle dealer in around January 2016. Shahin Alizadeh ("Alizadeh") was first registered as a motor vehicle salesperson in around May 1983.

Timothy Lo ("Lo") was first registered as a motor vehicle salesperson in or around December 2001. At all material times, Alizadeh was an Officer, and Lo was the sales manager, of the Dealer.

**Background:**

2. On or before August 24, 2017, the Dealer published an advertisement for a 2014 Scion TC (Stock #P00118A). The advertisement inaccurately listed certain features which the vehicle was not equipped with. On or about September 6, 2017, OMVIC received a complaint, from the consumer who had subsequently purchased the vehicle, regarding the inaccurate information presented in the above referenced advertisement. A representative of the Registrar reminded Lo of the importance of ensuring accuracy in the representations made in the Dealer's advertisements.
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**Consumer complaint:**

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  - c. Navigation
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As such, the Dealer failed to ensure the representations in the above referenced advertisement were truthful, contrary to sections 4 and 9 of the Code of Ethics.

7. On or about July 25, 2019 a consumer purchased this vehicle.

8. On or about August 22, 2019, OMVIC received a complaint from said consumer, regarding the inaccurate information presented which had appeared in the advertisement, and seeking compensation from the Dealer for the missing equipment.
9. A representative of the Registrar was in contact with both Lo and Alizadeh regarding the consumer's concerns. The parties were unable to reach a resolution that was satisfactory to both parties.
10. In failing to ensure the Dealer's advertising contains accurate representations, both Lo and Alizadeh have breached sections 6 and 9 of the Code of Ethics.

**If you disagree with the allegations contained in this notice, please provide a written Statement of Response to the particulars set out above, to OMVIC within 15 days of service of this notice.**

The Discipline Committee can order one or more of the following:

- Dismiss the file
- Order a fine up to \$25,000, per party
- Require the registrant to take further educational courses
- If the Registrant is a motor vehicle dealer, require the motor vehicle dealer to fund educational courses for salespersons employed by the dealer or to arrange and fund such educational courses
- Award Costs

Decisions of the Discipline Committee will be published. Hearings before the Discipline Committee will be recorded.

#### **APPLICATION OF THE STATUTORY POWERS PROCEDURE ACT**

The *Statutory Powers Procedure Act, R.S.O. 1990 c.s.22*, applies to the hearing to be held by this Discipline Committee. A party to a proceeding may be represented by counsel or an agent.

The Registrar states that the good character, propriety of conduct or competence of the Dealer shall be an issue in any hearing before the Discipline Committee and OMVIC has, therefore, furnished herein reasonable information of allegations with respect thereto.

The Rules of Practice of the Discipline Committee will apply, copy attached. A Notice of Hearing and Book of Disclosure will be provided in accordance with the Rules of Practice of the Discipline Committee.

Take note that as per the attached Rules of Practice, failure to attend a hearing before the Discipline Committee will result in a decision being determined *ex parte*, in your absence.

#### **APPLICATION OF THE RULES OF PRACTICE OF THE DISCIPLINE COMMITTEE**

This is to serve notice that the Registrar shall make application for its cost pursuant to Rule 13 of the Rules of Practice

#### **FURTHER PARTICULARS/SUPPLEMENTAL NOTICE**

The Registrar may provide further and other particulars in respect of any other matters herein or in respect to any other matter including further particulars of violations of the Code of Ethics, Standards of Business Practice.

DATED at Toronto, this      day of                      , 2019

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John Carmichael  
Registrar,  
*Motor Vehicle Dealers Act, 2002*