

DISCIPLINE DECISION

REVIEWING PANEL: Paul Burroughs, Registrant
Debra Mattina, Public Member
Achilles Pelitis, Registrant

IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE MOTOR VEHICLE
DEALERS ACT, 2002, S.O. 2002, c.30, Sch. B

BETWEEN:

REGISTRAR, MOTOR VEHICLE DEALERS ACT, 2002

-AND-

CAMBRIDGE VEHICLES LP O/A CAMBRIDGE
HYUNDAI

Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, 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: October 13, 2022

Findings: Breach of Sections 4 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,500 no later than **November 30, 2022.**
2. The Dealer is ordered to have all current and future staff review the "August 2017 - Advertising Webinar". The Dealer will provide OMVIC with written confirmation from all current staff that this has occurred, no later than **November 30, 2022**
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the OMVIC Automotive Certification Course (the "Course"). Current sales staff be offered the Course no later than **November 30, 2022.** Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the

parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

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.

Background:

Pursuant to section 14(4)4 of the Motor Vehicle Dealers Act, 2002 (the "MVDA"), a Notice of Complaint was issued on December 14, 2021 by the Registrar, MVDA against Cambridge Vehicles LP o/a Cambridge Hyundai for violating the Code of Ethics, as set out in Ontario Regulation 332/08.

The Notice of Complaint was referred to the Discipline Committee to hear and determine whether the aforementioned parties failed to comply with the Code of Ethics.

Pursuant to section 4.1 of the Statutory Powers Procedure Act and Rule 1.07 of the Discipline Committee's Rules of Practice, the Parties wish to dispose of this proceeding without a hearing, according to the following Agreed Statement of Facts and Penalty.

Agreed Statement of Facts

1. Cambridge Vehicles LP o/a Cambridge Hyundai (the "Dealer") was first registered as a motor vehicle dealer in or around July 2008.

OMVIC registrant education re: all-in pricing

2. Since the Act was proclaimed, OMVIC has issued various publications and webinars reminding dealers of their obligation to advertise all-inclusive vehicle prices ("all-in pricing"). The dates of said publications are attached hereto as Schedule A. All these publications continue to be available on OMVIC's website.

Dealer's current non-compliance

3. On or about January 14, 2022, OMVIC representatives made inquiries about a 2021 Jeep Wrangler (VIN 1C4HJXDN0MW539476), while posing as a member of the public.
4. The Dealer advertised the vehicle with a selling price of \$49,999.00 exclusive of tax and licensing fees.

5. The Dealer's representative advised the OMVIC representatives that the aforementioned advertised vehicle price was not inclusive of the following additional fees:
 - a. \$599 administration fee; and
 - b. \$10 OMVIC fee.
6. Thus, the advertised price was not all-inclusive. Therefore, the Dealer acted contrary to section 36(7) of O Reg 333/08 and sections 4(1) and 9(1) of the Code of Ethics, O Reg 332/08.
7. The individual who had primary responsibility for the day-to-day activities of the Dealer at the time of the non-compliance is no longer employed by the Dealer.
8. The Dealer has since voluntarily agreed they will require the subject salesperson to successfully complete the MVDA Key Elements course, no later than November 30, 2022.

By failing to comply with the following section of the *Motor Vehicle Dealers Act, 2002*, SO 2002, c 30 (the "Act"):

Regulation 333/08:

Advertising:

36. (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 sections 4(1) and 9(1) 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.

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.

Written Submissions

The Registrar advised by written submission that the dealer has not been brought before the

Discipline Committee previously.

In addition, the Registrar advised that Mark Erwin who was named in the Notice of Complaint and was the person in charge of the day-to-day activities of the Dealer, is no longer employed by the Dealer. Therefore, the Registrar is withdrawing all allegations against Mr Erwin and any other allegations not addressed in the Agreed Statement of Facts. This would specifically refer to allegations numbered 2, 4, 5 and 9 in the Notice of Complaint.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$2,500 no later than **November 30, 2022.**
2. The Dealer agrees to have all current and future staff review the "August 2017 - Advertising Webinar". The Dealer will provide OMVIC with written confirmation from all current staff that this has occurred, no later than **November 30, 2022**
3. The Dealer also agrees to offer all current and future sales staff the opportunity to complete the OMVIC Automotive Certification Course (the "Course"). Current sales staff be offered the Course no later than **November 30, 2022.** Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts, 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 subsection 4 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 reviewing panel also agrees with the Parties' Joint Submission on Penalty and determines that the settlement is in the public interest, Accordingly, the Reviewing panel makes the following Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,500 no later than **November 30, 2022.**
2. The Dealer is ordered to have all current and future staff review the "August 2017 - Advertising Webinar". The Dealer will provide OMVIC with written confirmation from all current staff that this has occurred, no later than **November 30, 2022**
3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the OMVIC Automotive Certification Course (the "Course"). Current sales staff be offered the Course no later than **November 30, 2022.** Future sales staff will

be offered the Course within 90 days of being retained in this capacity by the Dealer. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer agrees 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



Dated: October 13, 2022

Paul Burroughs, Chair
On behalf of
Debra Mattina, Member
Achilles Pelitis, Member