

## DISCIPLINE DECISION

REVIEWING PANEL: Joe Wade, Registrant  
Caroline Brett, Public Member  
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

BETWEEN:

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

-AND-

KAMIL MANCEWICZ o/a KLM MOTORS

---

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:** January 10, 2023

**Findings:** Breach of Section 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$2,250. \$1,000 will be paid no later than **January 31, 2023**, and the remaining balance (\$1,250) will be paid no later than **April 30, 2023**.
2. The Dealer is ordered to successfully complete the Automotive Record Keeping course no later than **January 31, 2023**
3. 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 June 2, 2022 by the Registrar, MVDA against Kamil Mancewicz o/a KLM Motors, 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 Penally.

### **Agreed Statement of Facts**

1. Kamil Mancewicz o/a KLM Motors (the "Dealer") was first registered as a motor vehicle dealer in or around March 2011.
2. The Dealer successfully completed the Automotive Certification course (the "Course") on or about August 27, 2010. The Course syllabus includes dealers' obligation to retain all repair and reconditioning records for said vehicles.

### **Direct correspondence with Dealer:**

3. During an inspection of the Dealer's books and records on about June 6, 2019, a representative of the Registrar reminded the Dealer of his obligation to keep all repair and reconditioning records relating to the vehicles he sells, as per section 52 of Ontario Regulation 333/08.
4. By letter dated August 9, 2019, the Dealer was again reminded of his obligation to retain all repair and reconditioning records relating to the vehicles he sells.

### **Dealer non-compliance:**

5. During an inspection of the Dealer's books and records on or about December 22, 2022, the following non-compliant vehicle trades were found:
6. On or about May 21, 2020, the Dealer purchased a 2019 Honda Accord (VIN 1HGCV2F9XKA[REDACTED]). This vehicle had sustained significant accident damage and was branded as salvage by the Ministry of Transportation ("MTO"). It was purchased by

the Dealer in its damaged state. On or about January 26, 2021, the Dealer sold this vehicle. At the time of sale, the vehicle was branded rebuilt, indicating that it had been repaired prior to sale. The Dealer failed to retain his repair and reconditioning records for the vehicle, contrary to section 52(d) of Ontario Regulation 333/08, as well as section 9 of the Code of Ethics.

7. On or about June 17, 2020, the Dealer purchased a 2019 Acura TLX (VIN 19UUB1F57KA [REDACTED]). This vehicle had sustained significant accident damage and was branded as salvage by the MTO. It was purchased by the Dealer in its damaged state. On or about September 17, 2021, the Dealer sold this vehicle. At the time of sale, the vehicle was branded as rebuilt, indicating that it had been repaired prior to sale. The Dealer failed to retain his repair and reconditioning records for the vehicle, contrary to section 52(d) of Ontario Regulation 333/08, as well as section 9 of the Code of Ethics.
8. On or about September 15, 2020, the Dealer purchased a 2017 Honda Accord (VIN 1HGCR2F59HA [REDACTED]). This vehicle had sustained significant accident damage and was branded as salvage by the MTO. It was purchased by the Dealer in its damaged state. On or about May 28, 2021, the Dealer sold this vehicle. At the time of sale, the vehicle was branded as rebuilt, indicating that it had been repaired prior to sale. The Dealer failed to retain his repair and reconditioning records for the vehicle, contrary to section 52(d) of Ontario Regulation 333/08, as well as section 9 of the Code of Ethics.
9. On or about October 6, 2020, the Dealer purchased a 2018 Toyota Corolla (VIN 2T1BURHE5JC [REDACTED]). This vehicle had sustained significant accident damage and was branded as salvage by the MTO. It was purchased by the Dealer in its damaged state. On or about February 9, 2021, the Dealer sold this vehicle. At the time of sale, the vehicle was branded rebuilt, indicating it had been repaired prior to sale. The Dealer failed to retain his repair and reconditioning records for the vehicle, contrary to section 52(d) of Ontario Regulation 333/08, as well as section 9 of the Code of Ethics.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:  
**Regulation 333/08:**

**52. Records of Motor Vehicles**

52. (1) *A registered motor vehicle dealer shall maintain a record of every motor vehicle that comes into the dealer's possession for the purpose of a trade in the vehicle.*

(2) *The record required under subsection (1) for a motor vehicle shall include,*

*(d) if the registered motor vehicle dealer causes work to be done on the vehicle, including any repair or reconditioning, the full and accurate particulars of the work, the sources of any parts used for the work, the cost of the work and the name of the person doing the work;*

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

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 dealer has not been to discipline previously. As indicated in both the NOD and ASFP, the vehicles in question were subsequently branded Rebuilt. This indicates they were subject to, and passed, an additional structural safety inspection, which includes the repairer providing the Motor Vehicle Inspection Station the repair records. The Dealer did not however, retain a copy of said records in his own files, as required by the MVDA.

Paragraphs 8c and 8f from the Notice of Complaint have been withdrawn, along with any previous reminders OMVIC provided the Dealer regarding material fact non-disclosure.

### **Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$2,250. \$1,000 will be paid no later than **January 31, 2023**, and the remaining balance (\$1,250) will be paid no later than **April 30, 2023**.
2. The Dealer agrees to successfully complete the Automotive Record Keeping course no later than **January 31, 2023**
3. 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 9(1) 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 \$2,250. \$1,000 will be paid no later than **January 31, 2023**, and the remaining balance (\$1,250) will be paid no later than **April 30, 2023**.
2. The Dealer is ordered to successfully complete the Automotive Record Keeping course no later than **January 31, 2023**

3. 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: January 4, 2023

---

Joe Wade, *Chair*  
On behalf of  
Caroline Brett, *Member*  
Paul Burroughs, *Member*

