

## DISCIPLINE DECISION

REVIEWING PANEL: Aviva Harari, Public Member  
Joe Wade, Discipline Tribunal Chair, Registrant  
Wally Pietraszko, 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 VEHICLE INDUSTRY COUNCIL</b>	)
	)
<b>- and -</b>	)
	)
<b>1437404 ONTARIO INC. O/A BELLEVILLE HYUNDAI</b>	)
	)
<b>- and -</b>	)
	)
<b>DAVID WALLER</b>	)
	)
<b>- and -</b>	)
	)
<b>STEWART BENNETT</b>	)

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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:** September 18, 2024

**Findings:** **1437404 Ontario Inc. o/a Belleville Hyundai has breached the following:**

- Section 4(2), 6(1) and 9(3) of the Code of Ethics, O. Reg. 332/08

**David Waller has breached the following:**

- Section 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

**Stewart Bennett has breached the following:**

- Section 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

**Order:**

1. 1437404 Ontario Inc. o/a Belleville Hyundai (“Belleville Hyundai”) shall pay a fine in the amount of **\$1,500** no later than ninety (90) calendar days from October 17, 2024.
2. David Waller shall pay a fine in the amount of **\$500** no later than ninety (90) calendar days from October 17, 2024.
3. Stewart Bennett agrees to pay a fine in the amount of **\$500** no later than ninety (90) calendar days from October 17, 2024.
4. David Waller shall successfully complete the MVDA Key Elements course (the “Course”), no later than ninety (90) calendar days from October 17, 2024.
5. Stewart Bennett shall successfully complete the Course, no later than ninety (90) calendar days from October 17, 2024.
6. Belleville Hyundai shall offer to all current and future salespersons to **fund** their completion of the Course no later than ninety (90) calendar days from October 17, 2024.
7. Belleville Hyundai, David Waller and Stewart Bennett agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

**Overview**

This matter proceeded on an Agreed Statement of Facts, dated August 15, 2024, a Joint Submission on Penalty and a waiver of oral hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. The Agreed Statement of Facts states in relevant part as follows:

**WITHDRAWALS:**

1. Paragraphs 5-8 of the Notice of Complaint dated April 18, 2024, are hereby withdrawn.

**BACKGROUND:**

2. 1437404 Ontario Inc. o/a Belleville Hyundai (the “Dealer”) was first registered as a motor vehicle dealer on or about February 7, 2001.

3. David Waller ("Waller") was first registered as a motor vehicle salesperson on or about September 21, 1998. At all material times, Waller has been a director, a salesperson and the person-in-charge of the Dealer.
4. Stewart Bennett ("Bennett") was first registered as a motor vehicle salesperson on or about May 19, 2000. Since on or about September 14, 2021, Bennett has been registered salesperson for the Dealer.

#### **OMVIC Registrant education re: all-in pricing**

5. Since the Act was proclaimed, the Ontario Motor Vehicle Council ("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. Educational materials continue to be available on OMVIC's website.

#### **Dealer's Current Non-Compliance**

6. On or about August 8, 2023, an OMVIC investigator attended the Dealer's premises, posing as a member of the public.
7. The OMVIC investigator had an advertisement for a 2018 Volkswagen Beetle Convertible (VIN: \*\*\*517542) printed from the Dealer's website. The advertisement indicated that the vehicle had a selling price of \$32,998.
8. The OMVIC investigator located the 2018 Volkswagen Beetle Convertible and confirmed that it was the same vehicle in the advertisement by matching its VIN. The OMVIC investigator then met with Bennett to discuss pricing.
9. The OMVIC investigator asked Bennett if there was anything added to the advertised price other than HST. Bennett advised the investigator that there were additional fees totalling approximately \$1,000, including an administration fee.
10. The advertised price was not all inclusive. Bennett and the Dealer did not comply with s.36(7) of Ontario Regulation 333/08, as a result, their conduct was a violation of sections 4(2) and 9(3) of the Code of Ethics.

#### **GENERALLY**

11. The Dealer failed to ensure that its registered salespeople carry on their duties in compliance with the Regulations and Code of Ethics, contrary to section 6(1) and 9(3) of the Code of Ethics.
12. As a registered salesperson, director and person-in-charge of the Dealer's day-to-day activities, Waller failed to ensure that the Dealer carries on business in compliance with the Regulations and Code of Ethics, contrary to sections 6(2) and 9(3) of the Code of Ethics.
13. As a registered salesperson of the Dealer, Bennett failed to ensure that the Dealer carries on business in compliance with the Regulations and Code of Ethics, contrary to sections 6(2) and 9(3) 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. (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.

**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. (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 David Waller has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:**

**Accountability:**

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.

**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 Stewart Bennett has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:**

**Accountability:**

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.

**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.

**Decision of the Reviewing Panel**

Having reviewed and considered the Agreed Statement of Facts and written submissions provided by the Parties, the Reviewing Panel is satisfied that the evidence contained in the Agreed Statement of Facts substantiates the allegations that: (1) the Dealer has breached subsections 4(2), 6(1) and 9(3) of the Code of Ethics; (2) Waller has breached subsections 6(2) and 9(3) of the Code of Ethics; and (3) Bennett has breached subsections 6(2) and 9(3) of the Code of Ethics.

The Reviewing Panel accordingly granted the consent disposition requested.

**Reasons for Decision**

The evidence and written materials provided by the Parties left the Reviewing Panel with no concerns that the proposed resolution may be contrary to the public interest. The Registrants admittedly failed to act in compliance with their obligations under the Code of Ethics and the rationale for the disposition jointly requested was amply explained in the written materials.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

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

Dated: October 17, 2024

Joe Wade, Discipline Tribunal Chair  
On behalf of the Reviewing Panel

Aviva Harari, Public Member  
Wally Pietraszko, Registrant

