

## DISCIPLINE DECISION

REVIEWING PANEL: Caroline Brett, Public Member  
Joe Wade, Discipline Tribunal Chair, Registrant  
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 VEHICLE INDUSTRY COUCIL</b>	)
	)
- and -	)
	)
<b>2514511 ONTARIO INC. O/A AUDI NIAGARA</b>	)
	)
- and -	)
	)
<b>STEVEN M. ALIZADEH</b>	)
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	)
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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:** July 10, 2024

**Findings:**

2514511 Ontario Inc. o/a Audi Niagara has breached subsections 4(2) and 9(3) of the Code of Ethics, O. Reg. 332/08.

All allegations against Steven M. Alizadeh are withdrawn.

## **Order:**

1. 2514511 Ontario Inc. o/a Audi Niagara (“the Dealer”) shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from August 29, 2024.
2. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the Automotive Certification Course, no later than ninety (90) calendar days from August 29, 2024. This shall remain effect for a period of one year from the date of Discipline Tribunal’s order.
3. The Dealer 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.

## **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 Tribunal and the Appeals Tribunal. The evidence before this Reviewing Panel is contained in an Agreed Statement of Facts, dated May 9, 2024, which provides in relevant part as follows:

### **Background:**

1. 2514511 Ontario Inc. o/a Audi Niagara (the “Dealer”) was first registered as a motor vehicle dealer in and around January 2018.

### **OMVIC Publications:**

2. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars, and guidelines, reminding dealers 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.

### **Direct Correspondence with Dealer:**

3. On or about March 29, 2022, a representative of the Registrar attended the Dealer’s premises to make inquiries about the purchase of a vehicle, while posing as a member of the public (also known as a ‘mystery shop’). The salesperson, acting on behalf of the Dealer, provided a worksheet that indicated a \$10 OMVIC fee was added to advertised price.
4. As a result, the Registrar issued a caution letter to the Dealer on or about December 16, 2022, advising the Dealer and its staff to adhere to the all-in-price advertising requirements outlined in Section 36 of Regulation 333/08.

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

5. On or before August 17, 2023, the Dealer published an advertisement for a red 2020 Audi Q3 45 Progressive SUV, stock# 61PU1755 (VIN# \*\*\*033483) with an advertised price of \$37,990 plus sales taxes.
6. On or about August 17, 2023, a representative of the Registrar (the "Representative") made inquiries about the vehicle, while posing as a member of the public (also known as a 'mystery shop').
7. The Representative was advised that there was a \$10 OMVIC fee added to the vehicle's advertised price.
8. As a result, the Dealer's advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.
9. As particularized above, the Dealer has violated the following section of the Code of Ethics:

#### ***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.

#### ***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, as well as the 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) 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 Joint Submission is also accepted for the reasons that follow.

### **Reasons for Decision**

The penalty proposed in the Joint Submission is in line with previous Discipline Tribunal Decisions dealing with similar conduct. Furthermore, although the mystery shopper identified one instance of an "all in" violation and despite that previous warning had been made, the Reviewing Panel received no evidence to suggest a pattern of behaviour or that other consumers were being charged fees that were not disclosed in "all in" advertising. Cases where there is a pattern of conduct or a group of consumers subjected to the same issues would be distinguishable from this matter.

The Reviewing Panel identified no concerns with the Parties' Joint Submission on Penalty. There is no basis for the Reviewing Panel to identify anything in this disposition

which is inconsistent with the public interest or deficient on any material objectives of a meaningful penalty.

Dated: August 29, 2024

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

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

