

## DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member  
Nelson Caetano, Registrant  
Joe Malfara, 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 :

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| <b>ONTARIO MOTOR VEHICLE<br/>INDUSTRY COUNCIL</b>         | ) |
|   | ) |
| - and -   | ) |
|   | ) |
| <b>STEWART VEHICLE LEASING LTD<br/>o/a KIA OF TIMMINS</b> | ) |
|   | ) |
| - and -   | ) |
|   | ) |
| <b>MARTIN PAUL STEWART</b>                                | ) |
|   | ) |
| - and -   | ) |
|   | ) |
| <b>LAURENT DUBEAU</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:** April 4, 2025

**Findings:** **Stewart Vehicle Leasing Ltd o/a Kia of Timmins (the “Dealer”) has breached the following:**

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

**Martin Paul Stewart has breached the following:**

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

**Laurent Dubeau has breached the following:**

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

**Order:**

1. Stewart Vehicle Leasing Ltd (the “Dealer”) shall pay a fine in the amount of **\$3,000** no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
2. Martin Paul Stewart (“M. Stewart”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
3. Laurent Dubeau (“Dubeau”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
4. 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 the date of the Discipline Tribunal’s Order.

**Overview**

This matter proceeded on the basis of an Agreed Statement of Facts, dated February 19, 2025, a jointly proposed disposition 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:

The allegations against Bruce George Stewart contained in paragraphs 2, 5, 6, and 12 of the Notice of Referral to Discipline Tribunal (“NORD”) dated October 2, 2024 are hereby withdrawn.

**Background:**

1. Stewart Vehicle Leasing Ltd o/a Kia of Timmins (the “Dealer”) was first registered as a motor vehicle dealer in and around November 1986.
2. Martin Paul Stewart (“M. Stewart”), also known as “Marty”, was first registered as a salesperson in and around January 1996. At all material times, M. Stewart has been a part owner and the General Manager responsible for the day-to-day activities of the Dealer.
3. Laurent Dubeau (“Dubeau”), also known as “Larry”, was first registered as a salesperson in and around October 2006.

## **OMVIC Publications**

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

## **Prior Caution Letter**

5. On or about July 28, 2016, the Registrar issued a Notice of Complaint to the Dealer and its Person in Charge, alleging, *inter alia*, a failure to comply with all-in pricing obligations pursuant to section 36(7) of O. Reg. 333/08, as well as contraventions of the Code of Ethics.
6. On or about October 7, 2016, the Notice of Complaint was withdrawn and a representative of the Registrar issued a caution letter to the Dealer and its Person in Charge, to remind them, *inter alia*, of the Dealer's all-in pricing obligations under section 36 of O. Reg. 333/08.

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

7. On or before July 25, 2024, the Dealer published an advertisement for a 2017 Kia Sportage SX, stock# K24145A (VIN# \*138955) with an advertised price of \$21,467 plus taxes and licensing.
8. On or about the same date, an OMVIC Representative made inquiries about the vehicle, while posing as a member of the public (also known as a mystery shop).
9. Dubeau, acting on behalf of the Dealer, created a worksheet for the vehicle. The worksheet indicated the following additional charges being added to the price of the vehicle:
  - a. Admin fee of \$599
  - b. OMVIC fee of \$12.50
  - c. Tire and Rim 3 years fee of \$499
10. The OMVIC Representative e-mailed Dubeau to inquire about the fees. Dubeau advised that the \$499 Tire and Rim 3 years fee was optional, but the \$599 Admin fee and the \$12.50 OMVIC fee were mandatory.
11. As such, 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.

## **M. Stewart's Non-Compliance:**

12. M. Stewart failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.

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

13. In regards to the above-noted 2017 Kia Sportage SX, Dubeau failed to represent the additional fees in a legal manner and thereby violated sections 4(2) and 9(3) of the Code of Ethics. Dubeau also failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.
14. As particularized above, the Dealer and Dubeau has violated the following section of the Code of Ethics:

*Disclosure and marketing*

s. 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.

15. As particularized above, the Dealer, M. Stewart, and Dubeau have violated the following section of the Code of Ethics:

*Professionalism*

s. 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.

16. As particularized above, M. Stewart and Dubeau violated the following section of the Code of Ethics:

*Accountability*

s. 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.

### **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) and 9(3) of the OMVIC Code of Ethics; (2) Stewart has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics; (3) Dubeau has breached subsections 4(2), 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the parties' proposed resolution for the reasons below.

### **Reasons for Decision**

The Reviewing Panel received and considered comprehensive written materials from the parties and was left satisfied that the proposed resolution has no risk of being contrary to the public interest. The outcome is clearly connected to the admitted breaches of the Code of Ethics and consistent with other outcomes ordered in this

Tribunal in similar cases. In such circumstances, disposition under Rule 1.07 is appropriate and ordered accordingly.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

Dated: April 4, 2025

*S. Darvish*

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Sherry Darvish, Discipline Tribunal Chair,  
Public member  
On behalf of:

Nelson Caetano, Registrant  
Joe Malfara, Registrant

