

## DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member  
Joe Wade, Registrant  
Jon Lemaire, 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>	)
	)
- and -	)
	)
<b>CARDEALSDIRECT INC. O/A CARDEALSDIRECT</b>	)
	)
- and -	)
	)
<b>ALIAKSANDR KALIADA</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:** December 10, 2024

**Findings:** Cardealsdirect Inc o/a Cardealsdirect (the “Dealer”) has breached the following:

- Sections 7(1), 9(1) and 9(3) of the Code of Ethics, O. Reg. 332/08

**Aliaksandr Kaliada (“Kaliada”) has breached the following:**

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

## **Order:**

1. Cardealsdirect Inc. o/a Cardealsdirect (the "Dealer") shall pay a fine in the amount of **\$3,500** no later than ninety (90) calendar days from December 10, 2024.
2. Aliaksandr Kaliada ("Kaliada") shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from December 10, 2024.
3. 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 December 10, 2024.
4. The Dealer and Kaliada 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.

## **Overview**

This matter proceeded on the basis of an Agreed Statement of Facts, dated September 19, 2024, 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:

### **Background:**

### **Amendment:**

The Notice of Referral to Discipline ("NORD") dated June 4, 2024, is amended to reflect that the name, Cardealsdirect Inc. o/a Cardealsdirect replaces V.I. N Trading Inc. o/a Cardealsdirect.

### **Withdrawals:**

The allegations contained in paragraphs 6, 9 and 12 of the Notice of Referral to Discipline ("NORD") dated June 4, 2024, are hereby withdrawn.

### **Background:**

1. Cardealsdirect Inc. o/a Cardealsdirect (the "Dealer") was first registered as a motor vehicle dealer in or around June 2006.
2. Aliaksandr Kaliada ("Kaliada") was first registered as a salesperson in or around November 2002. At all material times, Kaliada has been the Person in Charge of the day-to-day activities of the Dealer.

## **OMVIC Publications**

3. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding dealers of their obligations to disclose all material facts about the vehicles they sell, specifically pertaining to the odometer. The dates of said publications are attached hereto as Schedule "A". Educational materials continue to be available on OMVIC's website.

**Dealer's Non-Compliance:**

4. On or about August 12, 2023, the Dealer sold a 2013 BMW 3-series (VIN# \*\*\* 980355) to the consumer for \$19,829.
5. The bill of sale indicated that the vehicle had a total travel distance of 160,000 kilometres.
6. On or about August 23, 2023, the consumer picked up the vehicle. Shortly after picking up the vehicle, the consumer discovered that the total distance travelled indicated on the vehicle's odometer was about 174,000 kilometres.
7. The Dealer's failure to indicate the accurate total travel distance on the bill of sale is contrary to section 42(3) of O. Reg. 333/08 as well as sections 7(1) and 9(3) of the Code of Ethics.
8. Subsequently, the consumer filed a complaint with OMVIC regarding the discrepancies in the total travel distance indicated on the bill of sale and the total travel distance displayed on the odometer.
9. By a letter dated November 6, 2023, the consumer informed the Dealer of his/her intention to rescind the agreement pursuant to section 50 of O. Reg. 333/08, for non-disclosure of the accurate total distance travelled.
10. On or about December 21, 2023, the Dealer paid out the balance of the consumer's loan in the amount of \$17,704.
11. However, the consumer was not re-imbursed for the bi-weekly vehicle payments he/she made between September and December, pursuant to the loan agreement, totalling approximately \$1,600.
12. The Dealer's failure to refund the total amount paid for the vehicle is contrary to section 50 of O. Reg. 333/08 as well as sections 9(1) and 9(3) of the Code of Ethics.

**Kaliada's Non-Compliance:**

13. Kaliada, while handling the complaints with OMVIC and acting as the Person in Charge, 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), 9(1) and 9(3) of the Code of Ethics.

14. As particularized above, the Dealer has violated the following section of the Code of Ethics:

*Compliance*

s. 7(1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

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

*Professionalism*

s. 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.

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, Kaliada has 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 7(1), 9(1) and 9(3) of the OMVIC Code of Ethics; (2) Kaliada has breached subsections 6(2), 9(1) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the jointly proposed disposition for the reasons below.

**Reasons for Decision**

Having reviewed the written materials provided by the parties, the Panel was left with no concerns that the jointly proposed resolution may be inconsistent with the public interest. The proposed disposition is clearly connected to the admitted breaches of the Code of Ethics and not inconsistent with other decisions from this Tribunal. In the circumstances, this matter is appropriate for resolution under Rule 1.07 and is ordered accordingly.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

Dated: December 10, 2024

*S. Darvish*

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Sherry Darvish, Public member  
On behalf of:

Joe Wade, Discipline Tribunal Chair  
Jon Lemaire, Registrant

