

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 :

ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL)
)
- and -)
)
MYERS KEMPTVILLE CHEVROLET BUICK GMC INC.)
)
- and -)
)
ROBERT MCVEIGH)
)
- and -)
)
HENRY MEWS)

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: **Myers Kemptville Chevrolet Buick GMC Inc. has breached the following:**

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

Robert Mcveigh has breached the following:

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

Henry Mews has breached the following:

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

Order:

1. Myers Kemptville Chevrolet Buick GMC Inc. ("Myers Kemptville") shall pay a fine in the amount of **\$7,500** no later than ninety (90) calendar days from October 17, 2024.
2. Robert Mcveigh shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from October 17, 2024.
3. Henry Mews shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from October 17, 2024.
4. Robert Mcveigh shall successfully complete the MVDA Key Elements course (the "Course"), no later than ninety (90) calendar days from October 17, 2024.
5. Henry Mews shall successfully complete the Course, no later than ninety (90) calendar days from October 17, 2024.
6. Myers Kemptville 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. Myers Kemptville, Robert Mcveigh and Henry Mews 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 by way of an Agreed Statement of Facts, dated August 22, 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. The allegations against Myers Kemptville Chevrolet Buick GMC inc. (“Myers Kemptville” or the “Dealer”) and/or Robert McVeigh and/or Henry Mews contained in paragraph 8 of the Notice of Complaint dated January 8, 2024, are hereby withdrawn.

BACKGROUND

2. Myers Kemptville Chevrolet Buick GMC Inc. (“Myers Kemptville” or the “Dealer”) has been registered as a motor vehicle dealer under the Act since on or about May 16, 2012.
3. Robert Mcveigh (“Mcveigh”) was first registered as a salesperson under the Act on or about December 16, 2016. He has been registered as a salesperson for Myers Kemptville since on or about November 29, 2016, and, at all material times, has been its person-in-charge.
4. Henry Mews (“Mews”) was first registered as a salesperson under the Act on or about February 2, 1993. He has been registered as a salesperson for Myers Kemptville since on or about May 16, 2012, and, at all material times, has been a director.

OMVIC PUBLICATIONS:

5. Since the Act was proclaimed, OMVIC has issued numerous publications, webinars and guidelines reminding dealers of their obligation to comply with all-in advertising. Many of these publications continue to be available on OMVIC’s website.

MYERS KEMPTVILLE’S NON-COMPLIANCE

6. On or about April 25, 2023, an OMVIC Inspector conducted an inspection of Myers Kemptville’s books and records.
7. The OMVIC Inspector reviewed a series of trades involving vehicles that had been previously advertised for sale by the Dealer. The inspection revealed that 5 vehicles were sold above the advertised price, as particularized below.
8. On or about March 28, 2023, Myers Kemptville advertised a 2018 Hyundai Santa Fe Sport (VIN: *****068851) for \$22,995. On or about March 28, 2023, Myers Kemptville sold the vehicle to Consumer A for \$24,995. The Dealer charged additional

fees over the vehicle's advertised price and acted 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. On or about March 28, 2023, Myers Kemptville advertised a 2023 Chevrolet Malibu (VIN: *****143667) for \$32,786. On or about March 20, 2023, Myers Kemptville sold the vehicle to Consumer C for \$32,913.75. The Dealer charged additional fees over the vehicle's advertised price and acted contrary to section 36(7) of O. Reg 333/08 as well as sections 4(2) and 9(3) of the Code of Ethics.
10. On or about March 28, 2023, Myers Kemptville advertised a 2023 GMC Terrain (VIN: *****195937) for \$39,196. On or about March 27, 2023, Myers Kemptville sold the vehicle to Consumer D for \$39,323.75. The Dealer charged additional fees over the vehicle's advertised price and acted contrary to section 36(7) of O.Reg 333/08 as well as sections 4(2) and 9(3) of the Code of Ethics.
11. On or about March 28, 2023, Myers Kemptville advertised a 2023 Buick Encore (VIN: *****058581) for \$39,446. On or about March 28, 2023, Myers Kemptville sold the vehicle to Consumer E for \$39,573.75. The Dealer charged additional fees over the vehicle's advertised price and acted contrary to section 36(7) of O.Reg 333/08 as well as sections 4(2) and 9(3) of the Code of Ethics.
12. On or about March 28, 2023, Myers Kemptville advertised a 2023 GMC Acadia (VIN: *****173311) for \$46,396). On or about March 15, 2023. Myers Kemptville sold the vehicle to Consumer F for \$46,523.75. The Dealer charged additional fees over the vehicle's advertised price and acted contrary to section 36(7) of O.Reg 333/08 as well as sections 4(2) and 9(3) of the Code of Ethics.

MCVEIGH'S NON-COMPLIANCE

13. As the person-in-charge of Myers Kemptville, Mcveigh failed to ensure that Myers Kemptville conducted its business in compliance with the Regulations and the Code of Ethics, and therefore personally contravened sections 6(2) and 9(3) of the Code of Ethics.

MEWS' NON-COMPLIANCE

14. As a director of Myers Kemptville, Mews failed to ensure that Myers Kemptville conducted its business in compliance with the Regulations and the Code of Ethics, and therefore personally contravened sections 6(2) and 9(3) of the Code of Ethics.

As particularized above, the Dealer has violated the following sections 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.

As particularized above, Robert McVeigh has violated the following sections of the Code of Ethics:

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.

As particularized above, Henry Mews has violated the following sections of the Code of Ethics:

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) and 9(3) of the Code of Ethics; (2) Mcveigh has breached subsections

6(2) and 9(3) of the Code of Ethics; and (3) Mews has breached subsections 6(2) and 9(3) of the Code of Ethics.

Reasons for Decision

The Reviewing Panel identified no grounds to suggest that the consent disposition proposed by the Parties could be contrary to the public interest. The written materials set out how the proposed penalty is in line with previous decisions of the Tribunal which deal with similar conduct and contemplates the principles which this Tribunal would consider when addressing breaches of the Code of Ethics by registrants.

Dated: October 17, 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
On behalf of:

Aviva Harari, Public Member
Wally Pietraszko, Registrant

