

**DISCIPLINE TRIBUNAL OF THE  
ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**

PANEL:	Greg Flude, Chair	Public Member
	Chris Pinelli	Registrant
	Paul Eros	Registrant

**DECISION AND REASONS**

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 :

Appearances<sup>1</sup>:

**ONTARIO MOTOR VEHICLE  
INDUSTRY COUNCIL**

)  
) Akosua Dufie Nyamekye, Counsel  
) for OMVIC  
)

- and -

**TERRACE FORD LINCOLN SALES INC.**

**and**

**ILEANA GUSA**

)  
) Self-Represented and as the  
) Agent for Terrace Ford Lincoln Sales Inc.  
)  
)

**Hearing Date:** January 28, 2025

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**Date of Decision:** March 21, 2025

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<sup>1</sup> Independent legal counsel to the Panel is Ms. Liz McLellan.

## **ORDER**

1. Terrace Ford Lincoln Inc. (“the Dealer”) shall pay a fine in the amount of **\$5,000 no later than ninety (90) calendar days** from the date of the Discipline Committee's order.
2. Ilena Gusa shall successfully complete the MVDA Key Elements course **no later than ninety (90) calendar days** from the date of the Discipline Committee’s order.
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 the date of the Discipline Tribunal's Order.
4. The Dealer and Ms. Gusa 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 hearing was held virtually via video conference. The individual Registrant, Ms. Ilena Gusa, appeared on behalf of herself and as the agent for the Dealer. Akosua Dufie Nyamekye appeared as OMVIC's counsel. Independent Legal Counsel to the Panel was Liz McLellan.

This matter proceeded by way of an Agreed Statement of Facts (ASF), and a Joint Submission on Penalty (JSOP).

The OMVIC Book of Documents dated January 13, 2025, which contained the Notice of Complaint (the “NOC”) [Tab 1], the ASF [Tab 4] and the JSOP [Tab 5] was marked as Exhibit 1 on the hearing. The “Pass Letter” provided by the Respondents (described below) was marked Exhibit 2.

Speaking on behalf of the respondents, Ms. Gusa responded to a plea inquiry from the Panel and confirmed that both the Dealer and she admitted to all allegations in Exhibit 1, Tab 1.

After hearing the submissions of the parties, reviewing the materials and deliberating privately, the Panel was satisfied that the facts as set out in the ASF constituted breaches of the Code of Ethics as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Panel was satisfied on

the basis of the plea inquiry that the admissions from the Ms. Gusa made on behalf of all the respondents were voluntary, informed, and unequivocal.

### **Agreed Statement of Facts**

The material evidentiary provisions of the ASF entered in Exhibit 1, Tab 4 are as follows:

By failing to disclose the all-in pricing of a grey 2022 Ford Bronco during a mystery shop in January of 2024, the Dealer has breached the following:

Section 4(2) of the Code of Ethics, Regulation 332/08

Section 9(3) of the Code of Ethics, Regulation 332/08

By failing to disclose the all-in pricing of a grey 2022 Ford Bronco during a mystery shop in January of 2024, Ms. Gusa has breached the following:

Section 6(2) of the Code of Ethics, Regulation 332/08

Section 9(3) of the Code of Ethics, Regulation 332/08

### **Background:**

1. Terrace Ford Lincoln Sales Inc. (the “Dealer”) was first registered as a motor vehicle dealer in and around July 1983.
2. Ileana Gusa (“Gusa”) was first registered as a salesperson in and around November 2023. Since in or around September 2023, Gusa has been a General Manager and 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 all-in pricing obligations. Educational materials continue to be available on OMVIC’s website.

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

4. On or about April 23, 2018, representatives of the Registrar attended the Dealer’s premises to make inquiries about the purchase of a vehicle, while posing as members of the public (also known as a ‘mystery shop’). The representatives were advised that there was a \$10 OMVIC fee, and a \$75 fuel fee added to the advertised price.
5. As a result, the Registrar issued a caution letter to the Dealer on or about June 6, 2018, advising the Dealer to adhere to the all-in-price advertising requirements outlined in Section 36(7) of Regulation 333/08.

6. On or about February 7, 2022, an email was sent to the Dealer, reminding the Dealer of its obligation to advertise all-inclusive prices under Section 36 of O. Reg. 333/08.
7. During an inspection on or about July 26, 2022, a representative of the Registrar discovered certain all-in pricing violations.
8. As a result, the Registrar issued a warning letter to the Dealer on or about January 25, 2023. The letter instructed the Dealer and its staff to comply with the all-in price advertising requirements specified in Section 36(7) of Regulation 333/08.

**Prior Discipline Committee Orders:**

9. On or about October 8, 2015, the Registrar issued a Notice of Complaint against the Dealer for failing to advertise all-inclusive prices, contrary to section 36(7) of Ontario Regulation 333/08 as well as sections 4 and 9 of the Code of Ethics, Ontario Regulation 332/08.
10. On or about December 22, 2015, the Discipline Committee issued an Order, ordering, among other things, that the Dealer pay a fine of \$1,500.

**Dealer's Non-Compliance:**

11. On or before January 24, 2024, the Dealer published an advertisement for a grey 2022 Ford Bronco, stock # PA8152A (VIN # \*\*\*24605) with an advertised price of \$51,498 plus taxes.
12. On or about January 24, 2024, a representative of the Registrar (the "Representative") attended the Dealer's premises to make inquiries about the vehicle, while posing as a member of the public (also known as a 'mystery shop').
13. The Representative was advised that there was a \$999 anti-theft fee added to the advertised price. The Representative was also advised that this fee was mandatory since it was for an etching that was already on the car.
14. 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, and therefore a violation of sections 4(2), and 9(3) of the Code of Ethics.

**Gusa's Non-Compliance:**

15. Gusa 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.

**Decision of the Hearing Panel on Liability**

Having reviewed and considered the Agreed Statement of Facts, as well as the additional submissions provided by the Parties, the Hearing 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, and Gusa has breached subsections 6(2) and 9(3), as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*.

### **Penalty Hearing**

Upon returning its decision on the merits, the parties requested to proceed immediately with the penalty phase of the matter and presented the Panel with a Joint Submission on Penalty which provided as follows:

1. Terrace Ford Lincoln Sales Inc. (the “Dealer”) shall pay a fine in the amount of **\$5,000 no later than ninety (90) calendar days** from the date of the Discipline Tribunal’s Order.
2. Gusa shall successfully complete the MDVA Key Elements Course **no later than ninety (90) calendar days** from the date of the Discipline Tribunal’s Order.
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 the date of the Discipline Tribunal’s Order.
4. The Dealer and Gusa 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.

### **Decision of the Hearing Panel on Penalty**

The penalty applicable in a proceeding such as this must satisfy three criteria: it must specifically deter the respondents from such behaviour in the future; it must act as a general deterrent to others in the motor vehicle industry from committing similar offences; and it must provide the respondents with the opportunity to remediate themselves and remain in compliance in the future. Where there is joint submission on penalty, there is an added dimension. In general, pre-hearing resolutions are to be encouraged. They assist in the timely resolution of disputes and provide for more efficient and less expensive use of adjudicative resources. When dealing with joint submissions, the role of the Hearing Panel is to satisfy itself that, while meeting the three sentencing criteria, the proposed penalty is in the public interest and does not bring the administration of justice into disrepute [see: *R. v. Anthony-Cook*, 2016 SCC 43 (CanLII), [2016] 2 SCR 204, *Bradley v. Ontario College of Teachers*, 2021 ONSC 2303 (CanLII)]. In the current case the Hearing Panel is satisfied that the proposed penalty addresses the three criteria and does not bring the administration of justice into disrepute and is in the public interest. The monetary penalty provides both general and specific deterrence, and the education element provides the opportunity for remediation.

Applying the above analysis, the Hearing Panel accepted the JSOP, and issued the following Order before the conclusion of the hearing day:

#### **Order:**

1. Terrace Ford Lincoln Sales Inc. (the “Dealer”) shall pay a fine in the amount of **\$5,000 no later than ninety (90) calendar days** from the date of the Discipline Tribunal’s Order.
2. Gusa shall successfully complete the MDVA Key Elements Course **no later than ninety (90) calendar days** from the date of the Discipline Tribunal’s Order.

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 the date of the Discipline Tribunal's Order.
4. The Dealer and Gusa 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.

**Dated:** March 21, 2025

I, Greg Flude, sign this decision and reasons on behalf of the members of the Discipline Panel as set out below.

*Greg Flude*

*March 21, 2025*

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Greg Flude

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Date: March 21, 2025

**Panel Members:**

Greg Flude, Chair  
Chris Pinelli, Vice Chair  
Paul Eros, Vice Chair