

## DISCIPLINE DECISION

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 :

REGISTRAR, MOTOR VEHICLE DEALERS ACT, 2002

- AND -

1468658 ONTARIO INC. o/a PALLADINO MAZDA

- and -

VINCENT PALLADINO

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Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, I, the Chair of the Discipline Committee, have reviewed and considered the written Agreed Statement of Facts and Joint Submission on Penalty together with both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

**Date of Decision:** February 10, 2020

**Findings:** Breach of Sections 4, 6 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$2,000 no later than March 27, 2020.
2. Palladino is ordered to successfully complete the Automotive Certification course (the Course") no later than May 1, 2020.
3. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than March 27, 2020.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the Course no later than March 27, 2020. Future sales staff will be offered the Course within 90 days of being retained in this capacity. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the



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du commerce des  
véhicules automobiles

Course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

5. The Dealer and Palladino agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Written Reasons:

### **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 Committee and the Appeals Committee.

#### **Agreed Statement of Facts**

The parties to this proceeding agree that:

1. 1468658 Ontario Inc o/a Palladino Mazda (the "Dealer") was first registered as a motor vehicle dealer in around July 2001. Vincent Palladino ("Palladino") was first registered as a motor vehicle sales person in around September 1992. At all material times, Palladino has been the Director of the Dealer.

#### ***OMVIC registrant education re: all-in pricing***

2. Since the Act was proclaimed, OMVIC has issued the following publication and webinars reminding dealers of their all-in pricing obligations, all of which continue to be available on OMVIC's website:

	Dealer Standard		Bulletin		Webinar
A	Winter 2008	U	January 2010	BB	April 2015
B	Spring 2010	V	April 2010	CC	April 2017
C	Spring 2011	W	February 2012		
D	Winter 2013	X	August 2012		
E	Spring 2013	Y	April 2014		
F	Summer 2013	Z	June 2014		
G	2014: Issue 1	AA	April 2015		
H	2014: Issue 2				
I	2014: Issue 3				
J	2014: Issue 2				
K	2015: Issue 3				
L	2015: Issue 4				
M	2016: Issue 1				
N	2016: Issue 2				
O	2016: Issue 3				
P	2016: Issue 4				



Q	2017: Issue 2			
R	2017: Issue 3			
S	2018: Issue 2			
T	2019: Issue 2			

**Direct correspondence with Dealer:**

3. During an inspection on or about May 18, 2016, a representative of the Registrar reminded the Dealer of its all-in pricing obligations.

**Dealer's current non-compliance:**

**All-in pricing:**

4. On or before June 25, 2019, the Dealer advertised a 2019 Mazda 3 GX (VIN JM1BPA71K1102196) with an advertised price of \$23, 295.
5. On or about June 25, 2019, representatives of the Registrar made inquiries about the above referenced vehicle, while posing as members of the public. A representative of the Dealer advised the Registrar's representatives that the advertised price of the vehicle did not include an additional \$599 Nitro/Etching fee, the \$10 OMVIC fee as well as a \$130 Tire and air conditioning tax. As such, the Dealer's advertisement did not promote an all-inclusive price, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
6. As a person in charge of the Dealer, Palladino has failed to ensure that the Dealer conducts its business in compliance with the Act and Code of Ethics. As such, Palladino has personally contravened sections 6 and 9 of the Code of Ethics.
7. The Dealer has since taken steps to ensure staff in charge of marketing for the Dealer are aware of their advertising obligations, including but not limited to, having said staff participate in an OMVIC advertising guidelines webinar.

By failing to comply with the following section of the Act:

Regulation 333/08:

**36. Advertising:**

*(7) If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,*

- (a) the amount that a buyer would be required to pay for the vehicle; and*
- (b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.*



*(12) An advertisement that advertises a motor vehicle for sale shall not indicate the price of the vehicle unless the vehicle is available from the registered motor vehicle dealer at that price during the time to which the advertisement applies.*

It is thereby agreed that the Dealer has breached section 4 of the Code of Ethics, as set out in regulation 332/08:

*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.*

It is thereby agreed that Palladino has breached section 6 of the Code of Ethics, as set out in Regulation 332/08:

*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.*

It is thereby agreed that the Dealer and Palladino have breached section 9 of the Code of Ethics, as set out in Regulation 332/08:

*Professionalism*

*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.*

### **Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$2,000 no later than **March 27, 2020**.
2. Palladino agrees to successfully complete the Automotive Certification course (the Course") no later than **May 1, 2020**.
3. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **March 27, 2020**.
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the Course no later than **March 27, 2020**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the Course after January 1, 2009, or who are otherwise required to do so pursuant to the Act.



5. The Dealer and Palladino agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

#### Decision of the Chair

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 4, 6 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the Discipline Committee also agrees with the Parties' Joint Submission on Penalty and, accordingly, makes the following Order:

1. The Dealer is ordered to pay a fine in the amount of \$2,000 no later than March 27, 2020.
2. Palladino is ordered to successfully complete the Automotive Certification course (the Course") no later than May 1, 2020.
3. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than March 27, 2020.
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5. The Dealer and Palladino agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



Paul Burroughs, Chair

