

DISCIPLINE DECISION

REVIEWING PANEL: Greg Flude, Public Member
Joe Wade, Discipline Tribunal Chair, 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 :

ONTARIO MOTOR VEHILCE)
INDUSTRY COUCIL)
- and -)
BUDDS' MOTORS INC.)
o/a BUDDS' MAZDA OAKVILLE)
- and -)
Sarah Budd)
- and -)
Jason Rabelo)
)
)
)

Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal, a Reviewing Panel has reviewed and considered the written Agreed Statement of Facts and Joint Submission on Penalty together with the Parties' waiver of an oral hearing and makes the following Order:

Date of Decision: August 21, 2024

Findings:

Budds' Motors Inc. o/a Budds' Mazda Oakville (the "Dealer") has breached the following:

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

Sarah Budd and Jason Rebelo have breached the following:

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

Order:

1. Budds' Motors Inc. o/a Budds' Mazda Oakville (the "Dealer") shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from October 11, 2024.
2. Sarah Budd and Jason Rebelo shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from October 11, 2024.
3. The Dealer shall offer to all current and future salespersons, employed by the Dealer, to fund their completion of the MVDA Key Elements Course, no later than ninety (90) calendar days from October 11, 2024.
4. The Dealer, Sarah Budd and Jason Rebelo 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.

Reasons for Decision

Introduction

This matter proceeded on 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 Tribunal and the Appeals Tribunal.

Background:

1. Budds' Motors Inc. o/a Budds' Mazda Oakville (the "Dealer") was first registered as a motor vehicle dealer in or around December 2011.
2. Sarah Budd ("Budd") was first registered as a salesperson in or around August 2010. At all relevant times, Budd was a General Manager and served as the Person in Charge of

the Dealer. As the Person in Charge, Budd was assigned primary responsibility for, and agreed to be accountable for compliance with the Act and Regulations thereunder.

3. Jason Rebelo (“Rebelo”) was first registered as a motor vehicle salesperson in or about March 2015, and since then Rebelo has so been registered with the Dealer.

OMVIC Registrant Education re: All-in Pricing:

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.

Dealer’s Non-Compliance:

5. On or before February 4, 2024, the Dealer published an advertisement for a red 2022 Mazda 3, stock# 18199A (VIN# JM1BPAB72N1505513), with an advertised price of \$22,000 plus sales taxes and licensing.
6. On February 6, 2024, an OMVIC representative made inquiries about the vehicle, while posing as a member of the public.
7. Rebelo, acting on behalf of the Dealer, provided the OMVIC representative with a worksheet for the vehicle. The following additional charge was added at that time:
 - a. ‘Ride Green Certified Used 2 yrs’ fee of \$399
8. As a result, the Dealer’s advertised vehicle price was not all-inclusive. In doing so, the Dealer contravened section 36(7) of Ontario Regulation 333/08 and, therefore, violated section 4(2) and 9(3) of the Code of Ethics.

Budd and Rebelo’s Non-Compliance:

9. Rebelo caused the Dealer, and Budd omitted to ensure that the Dealer conducted its business in compliance with the Act and its Regulations, and, therefore, they contravened sections 6(2) and 9(3) of the Code of Ethics.
10. As particularized above, the Dealer 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.

11. As particularized above, the Dealer, Budd and Rebelo 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.

12. As particularized above, Budd and Rebelo have 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 and Reasons of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts, as well as the written submissions provided by the Parties, the Reviewing Panel is satisfied that the evidence and admissions contained in the Agreed Statement of Facts substantiate the allegations that the Dealer has breached subsections 4(2) and 9(3) of the Code of Ethics, and that Sarah Budd and Jason Rabelo have each breached subsections 6(2) and 9(3) of the Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*.

The Reviewing Panel has no concerns that the proposed resolution may be contrary to the public interest.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: October 10, 2024

A handwritten signature in black ink, appearing to read 'Joe Wade', written over a horizontal line.

Joe Wade, *Discipline Tribunal Chair*

Greg Flude, Public Member
Jon Lemaire, Registrant Member

