

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 -

ETHAN MOTORS INCORPORATED

- AND -

CHANTALE LABRECQUE

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: July 22, 2020

Findings: Breach of Sections 6, 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$500 no later than **July 31, 2020.**
2. Labrecque is ordered to pay a fine in the amount of \$500 no later than **August 31, 2020.**
3. Labrecque is ordered to successfully complete the MVDA Key Elements course, no later than **August 31, 2020.** This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified timeframe.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **August 31, 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 Labrecque 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. Chantale Labrecque o/a Ethan Motors was registered as a motor vehicle dealer between in around July 2014 to in around August 2018. Chantale Labrecque ("Labrecque") was the sole proprietor.
2. Ethan Motors Incorporated (the "Dealer") was first registered as a motor vehicle dealer in around July 2018. Around this same time, Labrecque became registered as a motor vehicle salesperson under the Act. Labrecque is the sole director, as well as the person in charge of the day to day activities of the Dealer.
3. On or about October 23, 2013, Labrecque successfully completed the Automotive Certification course (the "Course"). Topics covered in the Course materials include the requirement for dealers to retain all records relating to trades in motor vehicles, in accordance with sections 52-60 of Regulation 333/08.
4. On or about July 15, 2018, Labrecque executed terms and conditions of registration on behalf of the Dealer.
5. As per condition 5, the Dealer agreed to comply with the Code of Ethics and Standards of Business Practice, as may be amended from time to time.
6. As per condition 15, the Dealer agreed to retain all records relating to motor vehicle trades, in accordance with sections 52-60 of Regulation 333/08.

Direct correspondence with Dealer:

7. During an inspection on or about October 3, 2018 a representative of the Registrar reviewed with Labrecque the Dealer's terms and conditions of registration.



Non-compliant trade:

8. On or about July 23, 2019, Labrecque, on behalf of the Dealer, purchased a 2007 Ford Escape (VIN 1FMYU94107KA32682) from a private individual. The seller failed to provide a bill of sale for this vehicle. Labrecque then falsified a bill of sale for this purchase. This is contrary to section 26 of the Act, as well as sections 7 and 9 of the Code of Ethics.
9. In failing to ensure the Dealer conducts its business in accordance with the Act and Regulations, Labrecque has personally breached sections 6 and 9 of the Code of Ethics.

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

Falsifying information

26 No registrant shall falsify, assist in falsifying or induce or counsel another person to falsify or assist in falsifying any information or document relating to a trade in motor vehicles.

It is thereby agreed that the Dealer has breached section 4(2) of the Code of Ethics, as set out in regulation 332/08:

Compliance

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.

It is thereby agreed that Labrecque has breached section 6(2) 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 Labrecque have breached section 9(1) 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 \$500 no later than **July 31, 2020**.
2. Labrecque agrees to pay a fine in the amount of \$500 no later than **August 31, 2020**.
3. Labrecque agrees to successfully complete the MVDA Key Elements course, no later than **August 31, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified timeframe.
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **August 31, 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 Labrecque 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 and Labrecque have breached subsections 6, 7 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 \$500 no later than **July 31, 2020**.
2. Labrecque is ordered to pay a fine in the amount of \$500 no later than **August 31, 2020**.
3. Labrecque is ordered to successfully complete the MVDA Key Elements course, no later than **August 31, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified timeframe.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **August 31, 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 Labrecque 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

