

## DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member  
Jon Lemaire, Registrant  
Paul Eros, 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 :

<b>ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL</b>	)
	)
- and -	)
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<b>JOHN BEAR BUICK CHEVROLET GMC CADILLAC LTD</b>	)
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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:** February 13, 2025

**Findings:** John Bear Buick Chevrolet GMC Cadillac Ltd. has breached the following:

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

**Order:**

1. John Bear Buick Chevrolet GMC Cadillac Ltd. (the "Dealer") shall pay a fine in the amount of **\$3,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.

2. 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.
3. The Dealer 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 on the basis of an Agreed Statement of Facts, dated October 16, 2024, a jointly proposed disposition 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:

The allegations against John Charles Bear contained in paragraphs 2 and 13 of the Notice of Complaint ("NOC") dated January 23, 2024, are hereby withdrawn.

### **Amendment:**

1. The NOC is amended to reflect that the Ontario Motor Vehicle Industry Council ("OMVIC") replaces the Registrar, *Motor Vehicle Dealers Act, 2002* as a party to this proceeding.

### **Background:**

2. John Bear Buick Chevrolet GMC Cadillac Ltd. (the "Dealer") was first registered as a motor vehicle dealer in and around February 1983.

### **OMVIC Publications:**

3. Since the *Motor Vehicle Dealers Act, 2002* 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.

### **Prior Notice of Complaint:**

4. On or about July 16, 2013, the Registrar issued a Notice of Complaint to the Dealer and the General Manager of the Dealer at that time, alleging, *inter alia*, a failure to comply with all-in pricing obligations pursuant to section 36 of O. Reg. 333/08, as well as contraventions of the Code of Ethics.
5. On or about March 5, 2014, the Discipline Committee accepted the Registrar and the Dealer's Joint Submission on Penalty and ordered the Dealer to pay a fine in the amount of \$8,000, to participate in the OMVIC disclosure and advertising seminar, to offer all current and future sales staff the opportunity to successfully complete the Automotive Certification course, and to comply with the Act and Standards of Business Practice.

6. On or about September 24, 2014, the Dealer sent in a form signed by its salespeople confirming that they have been offered an opportunity to retake the Automotive Certification course at the Dealer's expense and have declined to retake the course.

**Dealer's Non-Compliance:**

7. On or before March 8, 2023, the Dealer published an advertisement for a black 2021 GMC Sierra 1500 Elevations, stock# B13841 (VIN# \*313587) with an advertised cash price of \$54,998 plus taxes and licensing.
8. On or about the same date, a representative of the Registrar made inquiries about the vehicle, while posing as a member of the public.
9. A salesperson, acting on behalf of the Dealer, provided the Registrar's representative with a worksheet for the vehicle. The worksheet indicated a sale price of \$54,998, but also a "cash purchase" total of \$62,800. The salesperson explained that the total cash purchase price included licensing (\$59), gas (\$70), and HST. The salesperson also confirmed that there were no other fees. The \$59 licensing fee and the \$70 fee for gas were written on the worksheet.
10. Accounting for the \$59 licensing fee, the \$70 fee for gas, and \$7,149.74 for HST (calculated based on the advertised price), there remained an additional cost of \$523.26 that was unexplained and unmentioned by the salesperson.
11. Therefore, there are two fees added over the advertised price:
  - a. Fee for gas of \$70
  - b. Hidden fee of \$523.26
12. As such, the Dealer's advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.
13. 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.

14. As particularized above, the Dealer has 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.

**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 the Dealer has breached subsections 4(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the parties' proposed resolution for the reasons below.

**Reasons for Decision**

The Reviewing Panel received and considered comprehensive written materials from the parties and was left satisfied that the proposed resolution has no risk of being contrary to the public interest. The outcome is clearly connected to the admitted breaches of the Code of Ethics and consistent with other outcomes ordered in this Tribunal in similar cases. In such circumstances, disposition under Rule 1.07 is appropriate and ordered accordingly.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

Dated: February 13, 2025

*S. Darvish*

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Sherry Darvish, Discipline Tribunal Chair,  
Public member  
On behalf of:

Jon Lemaire, Registrant  
Paul Eros, Registrant

