

DISCIPLINE DECISION

REVIEWING PANEL: Aviva Harari, Public Member
Joe Wade, Registrant
Achillis Pelitis, 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 :

REGISTRAR, MOTOR VEHICLE)
DEALERS ACT, 2002)
- and -)
A&L AUTO REDYCLERS INC.)
- and -)
JEFFREY LANOUE)
)
)
)

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 both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

Date of Decision: June 13, 2023

Findings:

The Dealer has contravened the following:

Sections 4(2) and 9(3) of the Code of Ethics, Ontario Regulation 332/08

Jeffrey Lanoue has contravened the following:

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

Order:

1. A&L Auto Recyclers Inc. (the "Dealer") shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
2. Jeffrey Lanoue ("Lanoue") shall successfully complete the MVDA 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 MVDA Key Elements Course, no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
4. The Dealer and Lanoue 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 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 Tribunal and the Appeals Tribunal.

Background:

1. The allegations contained in paragraphs 5-11 and 13-15 of the Notice of Complaint dated April 18, 2024 were withdrawn.

Background:

2. A&L Auto Recyclers Inc. (the "Dealer") was first registered as a motor vehicle dealer in or around September 1991.
3. Jeffrey Lanoue ("Lanoue") was first registered as a salesperson in or about January 1989. At all material times, Lanoue was registered as a salesperson with the Dealer. He served as the General Manager and the Person in Charge of the day-to-day activities of the Dealer. As the Person in Charge, Lanoue was assigned primary responsibility for, and agreed to be accountable for compliance with the Act and Regulations thereunder.

Prior OMVIC Communications:

4. During an inspection in February 2021, a representative of the Registrar found instances of non-disclosure of material facts. As a result of these violations, the Registrar issued a warning letter to the Dealer in May 2021, advising the Dealer to adhere to the disclosure requirements outlined in Section 42 of Ontario Regulation 333/08.

Dealer's Non-Compliance:

5. In February 2024, an Inspector attended the Dealer's premises to conduct an inspection of its books and records. The following instances of non-compliance were discovered as part of the inspection, as particularized below.

Failure to provide material written disclosure:

6. On or about September 21, 2023, the Dealer sold a 2016 Hyundai Accent (VIN ***995114) to a purchaser who was not a registered motor vehicle dealer. This vehicle had previously incurred accident damage for which repairs were valued at \$14,023.00. The Dealer failed to provide the purchaser with written disclosure of the vehicle's accident repair history on the bill of sale. This is contrary to section 42(19) of Ontario Regulation 333/08, as well as sections 4(2), and 9(3) of the Code of Ethics.

Lanoue's Non-compliance:

7. Lanoue caused the Dealer to contravene the Act, its regulations, and the Code of Ethics and thus violated section 6(2) of the Code of Ethics.

DISPOSITIONS

8. 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.

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.

9. As particularized above, Lanoue has 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 of the Reviewing Panel

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

The Dealer and Lanoue knew or ought to have been aware of the requirement of providing the purchaser with written disclosure of the vehicle's repair history on the Bill of Sale and failed to comply.

Lanoue caused the Dealer to contravene sections 6(2) of the Code of Ethics, section 4(2) Disclosure of marketing, and section 9(3) Professionalism.

The Reviewing Panel considered that both the Dealer and Lanoue have taken responsibility for their actions and admitted to same in these proceedings.

The Reviewing Panel accepts the Parties' Joint Submission on Penalty and has determined that the penalty is in the public interest and serves as a general and specific deterrence. Accordingly, the Reviewing Panel makes the following Order:

1. A&L Auto Recyclers Inc. (the "Dealer") shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
2. Jeffrey Lanoue ("Lanoue") shall successfully complete the MVDA 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 MVDA Key Elements Course, no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
4. The Dealer and Lanoue 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.

Ontario Motor Vehicle Industry Council

Discipline Committee

Dated: July 18, 2024



Joe Wade, *Discipline Tribunal Chair*
On behalf of
Aviva Harari, *Public Member*,
Achillies Pelitis, *Member*

