

DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member
Nelson Caetano, Registrant
Joe Malfara, 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 VEHICLE)
INDUSTRY COUNCIL)

- and -)

SETAY MOTORS INC o/a)
QUEENSTON CHEVROLET BUICK GMC)

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: April 4, 2025

Findings: SETAY MOTORS INC o/a QUEENSTON CHEVROLET BUICK GMC (the "Dealer") has breached the following:

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

Order:

1. SETAY MOTORS INC o/a QUEENSTON CHEVROLET BUICK GMC (the “Dealer”) shall pay a fine in the amount of **\$2,000** 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 MVDA Key Elements Course, no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.

Overview

This matter proceeded on the basis of an Agreed Statement of Facts, dated March 20, 2025, 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:

Withdrawals:

The allegations contained in paragraphs 2, 3, 10 and 11 of the Notice of Referral to Discipline (“NORD”) dated July 22, 2024, are hereby withdrawn. Paragraphs 5 and 8 of the NORD are amended, as set out below.

Background:

1. Setay Motors Inc o/a Queenston Chevrolet Buick GMC (the “Dealer”) was first registered as a motor vehicle dealer under the Act on or about August 26, 2009.

OMVIC Publications

2. 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.

Direct Correspondence with Dealer

3. On or about April 6, 2023, a caution letter was sent to the Dealer reminding it to comply with its all-in-price advertising requirements, pursuant to section 36 of O. Reg. 333/08. In particular, the caution letter indicated that an ‘admin fee’ and OMVIC fee had been added above the advertised price.

Dealer’s Non-Compliance:

4. On or before April 18, 2024, the Dealer published an advertisement for a 2023 GMC Yukon XL XLE, stock# RR182713A (VIN# *119717) with an advertised price of \$68,950 plus taxes and licensing.

5. On or about April 18, 2024, a representative of OMVIC (the “Representative”) made inquiries about the vehicle, while posing as a member of the public (also known as a ‘mystery shop’).
6. A salesperson, acting on behalf of the Dealer, provided the Representative with a worksheet for the sale of the vehicle. The worksheet indicated that the \$12.50 OMVIC fee was added above the vehicle’s advertised price.
7. As a result, 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.
8. In response to this Notice of Referral to Discipline (“NORD”) as issued in July 2024, the Dealer has since explained to OMVIC that the addition of the OMVIC fee was due to a manual adjustment that was overlooked; however, the Dealer has since implemented a new process to avoid future contraventions.
9. 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.

10. 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: (1) 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.

Dated: April 4, 2025

Ontario Motor Vehicle Industry Council
Discipline Tribunal

S. Darvish

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

Nelson Caetano, Registrant
Joe Malfara, Registrant

