

DISCIPLINE DECISION

REVIEWING PANEL: Aviva Harari, Public Member
Joe Wade, Discipline Tribunal Chair, Registrant
Wally Pietraszko, 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)
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- and -)
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1548704 ONTARIO INC. o/a BOLTON HONDA)
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- and -)
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DANIEL HECKBERT)
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- and -)
)
ABHISHEK SHARMA)

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 all written materials submitted by the Parties, together with a waiver of the requirement for an oral hearing and hereby makes the following Order:

Date of Decision: September 18, 2024

Findings: **1548704 Ontario Inc. o/a BOLTON HONDA (“Bolton Honda” or the “Dealer”)** has breached the following:

- Section 4(2), 6(1), and 9(3) of the Code of Ethics, O. Reg. 332/08

Daniel HECKBERT (“Heckbert”) has breached the following:

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

Abhishek SHARMA (“Sharma”) has breached the following:

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

Order:

1. 1548704 Ontario Inc. o/a BOLTON HONDA shall pay a fine in the amount of **\$2,400.00** no later than ninety (90) calendar days from October 17, 2024.
2. Daniel HECKBERT shall pay a fine in the amount of **\$100.00** no later than ninety (90) calendar days from October 17, 2024.
3. Abhishek SHARMA shall pay a fine in the amount of **\$500.00** no later than ninety (90) calendar days from October 17, 2024.
4. SHARMA shall successfully complete the Automotive Certification Course no later than ninety (90) calendar days from October 17, 2024.
5. 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 October 17, 2024.
6. The Dealer, Heckbert and Sharma 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 an Agreed Statement of Facts, dated August 15, 2024, a Joint Submission on Penalty 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:

Background

1. Bolton Honda, Heckbert and Sharma are all registrants under the MVDA. Bolton Honda was first registered as a motor vehicle dealer in or around May 21, 2008 and was, at all relevant time, a registered motor vehicle dealer.
2. Heckbert was first registered as a motor vehicle salesperson in or around November 18, 2003 and was, at all relevant time, a registered motor vehicle salesperson. At all

relevant times, Heckbert was also the Person in Charge of the day-to-day activities at Bolton Honda.

3. Sharma was first registered as a motor vehicle salesperson in or around June 19, 2023, and has been registered as a salesperson to Bolton Honda since that date. At all relevant times, Sharma had signing authority for Bolton Honda.

Bolton Honda's Non-Compliance

4. Prior to May 1, 2024, Bolton Honda published an advertisement for a grey 2022 Honda Civic Sedan Touring, stock# XP5516-1, VIN# ***001585 (the "Advertised Vehicle"), advertised for sale for \$28,888.00 excluding applicable taxes and licensing fees.
5. On or about May 1, 2024, a staff member of the Ontario Motor Vehicle Industry Council ("OMVIC"), posing as a consumer, conducted an inquiry into the "all-in pricing" advertisements placed on Bolton Honda's website.
6. At approximately 2:10 pm, the OMVIC representative attended Bolton Honda located at 65 Pillsworth Road in the Town of Caledon, with an advertisement of a vehicle for sale printed from Bolton Honda's website. The advertisement related to the Advertised Vehicle.
7. The OMVIC representative entered Bolton Honda dealership after an unsuccessful attempt to locate the Advertised Vehicle on the lot. OMVIC staff met with Sharma to inquire about the Advertised Vehicle.
8. Sharma advised it was available and escorted the OMVIC representative to the Advertised Vehicle on the lot. After a short period of time, the two returned to the dealership to discuss pricing where Sharma provided a quote for the Advertised Vehicle.
9. The pricing for the Advertised Vehicle provided by Sharma included a fee of \$599 in addition to the advertised price. The fee was described as "Anti-Theft Coverage 5-Years." The OMVIC representative asked Sharma if the fee was mandatory. Sharma replied that it was mandatory on all deals.
10. As a result, Bolton Honda's advertised price was not "all-inclusive" and contravened section 36(7) of O. Reg. 333/08, and, therefore, violated section 4(2) and 9(3) of the *Code of Ethics*.

Heckbert's Non-Compliance

11. Heckbert, as the Person in Charge, failed to ensure that Bolton Honda conducted its business in compliance with the Act, its regulation and the Code of Ethics, and thus personally contravened sections 6(2) and 9(3) of the *Code of Ethics*.

Sharma's Non-Compliance

12. With respect to the Advertised Vehicle, Sharma engaged in the trade of a vehicle in a manner that is contrary to sections 4(2) and 9(3) of the *Code of Ethics* and caused the Dealer to contravene the Act, its regulations, and the *Code of Ethics* and thus personally contravened sections 6(2) and 9(3) of the *Code of Ethics*.

Code of Ethics

13. The *Motor Vehicle Dealers Act, 2002*, S.O. 2002 c. 30 ("MVDA") allows for the establishment, by regulation, of a *Code of Ethics* to govern the conduct of all registered motor vehicle dealers and salespersons. *Code of Ethics* set out in sections 3 to 9 of O. Reg. 332/08. It applies to all registrants and cannot be waived.
14. The following sections of the *Code of Ethics* are relevant to the current proceedings:
 - 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.
 - 6(1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.
 - 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.
 - 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.

All-in Pricing

15. O. Reg. 333/08 s. 36(7), also made under the authority of the MVDA, states:

If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,

- (a) the amount that a buyer would be required to pay for the vehicle; and
- (b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.

16. Since the MVDA was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding registrants of their all-in pricing obligations. Educational materials continue to be available on OMVIC's website.

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 admissions made in the materials are supported by the evidence and can be accepted accordingly.

The consent order sought by the Parties is also granted.

Reasons for Decision

The Registrants have admitted and accepted responsibility for their actions, and the materials do not suggest that there is a discipline history at issue.

The written materials received set out how the penalty agreed upon by the Parties will serve to remind the industry of the importance of compliance with regulations and acts as a deterrent to prevent future violations. The Reviewing Panel accordingly has no concerns that the proposed disposition may be contrary to the public interest and granted the requested order.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: October 17, 2024



Joe Wade, Discipline Tribunal Chair
On behalf of:

Aviva Harari, Public Member
Wally Pietraszko, Registrant

