

## DISCIPLINE DECISION

REVIEWING PANEL: Caroline Brett, Public Member  
Joe Wade, Discipline Tribunal Chair, Registrant  
Stuart Sherman, 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</b>	)
<b>INDUSTRY COUCIL</b>	)
- and -	)
<b>MYERS HY KANATA INC.</b>	)
<b>O/A MYERS KANATA HYUNDAI</b>	)
- and -	)
<b>ROBERT MEWS</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:** July 10, 2024

**Findings:**

**Myers Hy Kanata Inc. o/a Myers Kanata Hyundai (the “Dealer”) has breached the following:**

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

**Robert Mews has breached the following:**

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

**Order:**

1. Myers Hy Kanata Inc. o/a Myers Kanata Hyundai (the “Dealer”) shall pay a fine in the amount of **\$5,000** no later than ninety (90) calendar days from August 29, 2024.
2. Robert Mews (“Mews”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from August 29, 2024.
3. 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 August 29, 2024.
4. The Dealer and Mews 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 June 13, 2024, a Joint Submission on Penalty and a waiver of 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. Myers Hy Kanata Inc. o/a Myers Kanata Hyundai (the “Dealer”) was first registered as a motor vehicle dealer in and around April 2010.
2. Robert Mews (“Mews”) was first registered as a salesperson in or around June 1993. Since in or around April of 2010, Mews has been a General Manager, Officer and Person in Charge of the day-to-day activities of the Dealer.

**OMVIC Publications:**

3. 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:**

4. On or about December 10, 2018, the Registrar received a consumer complaint regarding the Dealer’s breach of its all-in pricing obligation. As a result, the Registrar issued a warning letter to the Dealer on April 25, 2019, reminding the Dealer to comply with its all-in pricing obligations under the Act and related Regulations.

**Dealer's Non-Compliance:**

5. During an inspection on or about November 3, 2023, a representative of the Registrar (the "Inspector") found the following instances of all-in pricing violations:

**Trade File A**

6. On or before March 14, 2023, the Dealer published an advertisement for a 2024 Hyundai Palisade, stock #24-0021(VIN \*\*\* 659460) with an advertised price of \$62,497 plus taxes and licensing fees.
7. On or about March 14, 2023, the Dealer sold the vehicle for \$72,843.41 plus taxes and licensing. The vehicle purchase agreement indicated a pricing breakdown, which included but was not limited to the following additional fees:

a. Base selling price	\$59,435
b. Freight	\$1,975
c. Federal AC Levy	\$100
d. OMVIC fee	\$10
e. Doc/Admin fee	\$599
f. Tire Stewardship Fee	\$23.50
g. Security Etch/Tire Reg	\$498
h. Wheel Locks	\$139.95
8. The Inspector was advised that the Dealer had certain "hard add-ons" such as the administrative fees, security etch/tire registration, wheel locks fee and tire stewardship fee, that were included in the advertised price. Moreover, there are other fees which would have been required, such as the freight, federal levy and OMVIC fee.
9. However, the combined cost of these mandatory fees and the base price amount to \$62,780.45, which is \$283.45 more than the advertised price.
10. As a result, the Dealer failed to comply with its all-in pricing obligations and thereby breached section 36(7) of O. Reg. 333/08, and therefore, the Dealer violated sections 4(2) and 9(3) of the Code of Ethics.

**Trade File B**

11. On or before October 4, 2023, the Dealer published an advertisement for a 2024 Hyundai Santa Cruz, stock #24-0026 (VIN \*\*\*089370) with an advertised price of \$47,747 plus taxes and licensing fees.
12. On or about October 4, 2023, the Dealer sold the vehicle for \$61,104.95 plus taxes and licensing. The vehicle purchase agreement indicated a pricing breakdown, which included but was not limited to the following additional fees:

a. Base selling price	\$45,350
b. Freight	\$1,925
c. Federal AC Levy	\$100
d. OMVIC fee	\$10
e. Doc/Admin fee	\$599

f. Tire Stewardship Fee	\$21
g. Security Etch/Tire Reg	\$498
h. Wheel Locks	\$139.95

13. The Inspector was advised that the Dealer had certain “hard add-ons” such as the administrative fees, security etch/tire registration, wheel locks fee and tire stewardship fee, that were included in the advertised price. Moreover, there are other fees which would have been required, such as the freight, federal levy and OMVIC fee.
14. However, the combined cost of these mandatory fees and the base price amount to \$48,642.95, which is \$895.95 more than the advertised price.
15. As a result, the Dealer failed to comply with its all-in pricing obligations and thereby breached section 36(7) of O. Reg. 333/08, and therefore, the Dealer violated sections 4(2) and 9(3) of the Code of Ethics.
16. Following the inspection, the Dealer reimbursed the consumers for the additional fees.

**Mews Non-Compliance:**

17. Mews failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.
18. 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.

19. As particularized above, the Dealer and Mews have 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.

20. As particularized above, Mews 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 written submissions provided by the Parties, the Reviewing Panel is satisfied that the facts as set out in the Agreed Statement of Facts substantiate the allegations that the Dealer has breached subsections 4(2) and 9(3) of the OMVIC Code of Ethics, and that Mews has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel also accepts the Joint Submission on Penalty for the reasons that follow.

### **Reasons for Decision**

The Reviewing Panel identified no grounds to suggest that the order proposed in the Joint Submission could be contrary to the public interest. The proposed penalty is consistent with previous decisions of this Tribunal that dealt with similar conduct. The proposed order addresses all requisite objectives of penalty including deterrence and the potential for rehabilitation.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

Dated: August 29, 2024

A handwritten signature in black ink, appearing to read 'Joe Wade', written over a horizontal line.

*Joe Wade, Discipline Tribunal Chair*

Caroline Brett, Public Member  
Stuart Sherman, Registrant Member

