

DISCIPLINE DECISION

REVIEWING PANEL: Deb Mattina, Public Member
Joe Wade, Discipline Tribunal Chair, Registrant
Chris Pinelli, 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 -)
LAKEVIEW AUTO SALES & SERVICE)
(COBOURG) LTD O/A COBOURG HONDA)
- and -)
NICHOLAS ANDREW PALALAS)
- and -)
CHRISTOPHER GADON)
)
)

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 24, 2024

Findings: Lakeview Auto Sales & Service (Cobourg) Ltd o/a Cobourg Honda (the “Dealer”) has breached the following:

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

Nicholas Andrew Palalas has breached the following:

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

Christopher Gadon has breached the following:

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

The allegations against James Proskos are withdrawn.

Order:

1. Lakeview Auto Sales & Service (Cobourg) Ltd o/a Cobourg Honda (the “Dealer”) shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from August 29, 2024.
2. Nicholas Andrew Palalas (“Palalas”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from August 29, 2024.
3. Christopher Gadon (“Gadon”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from August 29, 2024.
4. 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.
5. The Dealer, Palalas and Gadon 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, a Joint Submission on Penalty and the Parties’ Waiver of Hearing filed with this Reviewing Panel. This matter accordingly proceeded in writing by way of 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. Lakeview Auto Sales & Service (Cobourg) Ltd o/a Cobourg Honda (the “Dealer”) was first registered as a motor vehicle dealer under the Act in and around February 1983.
2. Nicholas Andrew Palalas (“Palalas”) was first registered as a salesperson under the Act in and around July 1988. At all material times, Palalas has been the General Manager, an officer and Person in Charge of the day-to-day activities of the Dealer.

3. Christopher Gadon ("Gadon") was first registered as a salesperson under the Act in and around January 2009. At all material times, Gadon has been a salesperson of the Dealer.

OMVIC Publications

4. 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

5. During an inspection on or about November 14, 2014, a representative of the Registrar discovered that the advertised price in one deal did not include the OMVIC fee. As a result, the Dealer was reminded of its obligation to advertise all-inclusive prices pursuant to Section 36(7) of O. Reg. 333/08.
6. During an inspection on or about March 12, 2019, a representative of the Registrar discovered that the advertised prices in two deals did not include the OMVIC fee. As a result, the Dealer was reminded of its obligation to advertise all-inclusive prices pursuant to Section 36(7) of O. Reg. 333/08.
7. On or about April 20, 2023, a representative of OMVIC attended the Dealer's premises to make inquiries about the purchase of a vehicle, while posing as a member of the public (also known as a 'mystery shop'). Gadon, acting on behalf of the Dealer, provided a worksheet that indicated a \$10 OMVIC fee was added above the advertised price.
8. As a result, the Registrar issued a caution letter to the Dealer on or about April 26, 2023, advising the Dealer and its staff to adhere to the all-in-price advertising requirements outlined in Section 36 of Regulation 333/08.

Dealer's Non-Compliance:

9. On or before April 4, 2024, the Dealer published an advertisement for a 2022 Honda Civic Sport 4Dr Sedan, stock# 24161A (VIN# ***119717) with an advertised price of \$29,998 plus taxes and licensing.
10. On or about April 4, 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').
11. Gadon provided the Representative with a worksheet for the sale of the vehicle. The worksheet indicated that the \$10 OMVIC fee was added above the vehicle's advertised price.
12. 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.

Palalas' Non-Compliance:

13. Palalas, as a Person in Charge, 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.

Gadon's Non-Compliance:

14. In regard to the above-noted vehicle, Gadon 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 also 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.

15. As particularized above, the Dealer and Gadon have 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.

16. As particularized above, the Dealer, Palalas and Gadon 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.

17. As particularized above, Palalas and Gadon 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 support the allegations that: (1) the Dealer has breached subsections 4(2) and 9(3) of the OMVIC Code of Ethics; (2) Palalas has breached subsections 6(2) and 9(3), of the OMVIC Code of Ethics; and (3) Gadon has breached subsections 4(2), 6(2) and 9(3) of the OMVIC Code of Ethics.

The Joint Submission is also accepted for the reasons that follow.

Reasons for Decision

This is an “all in pricing” case. The individual respondents are longstanding registrants and not new to the industry.

On or about April 4, 2024, an OMVIC representative made inquiries about a vehicle while posing as a member of the public. This is known as a “mystery shopper”. Gadon provided the representative with a worksheet for the sale of the relevant vehicle which indicated that the \$10 OMVIC fee would be added to the advertised price. The Dealer’s advertised price was accordingly not all-inclusive. This may sound like a minor issue, but it is not. The fact that no sale ever took place does not lessen the seriousness of all inclusive pricing breaches.

The public protection mandate of this Tribunal is not something to be taken lightly. This conduct, however small by monetary value, placed the Dealer, the salesperson and the General Manager in breach of the Code of Ethics.

The Joint Submission confirms that this \$10 add-on will result in a \$2500 fine.

The Reviewing Panel is fully supportive of this resolution. This outcome maintains high industry standards, protects the public, deters breaches of the Code of Ethics, offers avenues for better registrant education, and is undoubtedly consistent with the public interest.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: August 29, 2024



Deb Mattina, Public Member
On behalf of:

Joe Wade, Discipline Tribunal Chair
Chris Pinelli, Registrant Member

