

**DISCIPLINE TRIBUNAL OF THE
ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**

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| PANEL: | Greg Flude, Chair | Public Member |
| | Nelson Caetano | Registrant Member |
| | Joe Malfara | Registrant Member |

DECISION ON PENALTY

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 :

Appearances¹:

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| ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL |) | Jonathan Hou, Counsel for Ontario Motor Vehicle Industry Council |
| - and - |) | |
| 1502026 ONTARIO LIMITED O/A AGINCOURT HYUNDAI |) | Nicolous Koundouros on his own behalf and on behalf of the other Respondents |
| - and - |) | |
| NICOLAS KOUNDOUROS |) | |
| - and - |) | |
| GESAVAN SRITHARAN |) | |

Hearing Date: October 28, 2025

Date of Decision on Merits: July 9, 2025

¹ Independent legal counsel to the Panel is Mr. Dan Goudge

Findings: Breaches of Sections 4(1), 4(2), 6(2) and 9(3) of the Code of Ethics

INTRODUCTION

1. On July 9, 2025, this Hearing Panel of the Discipline Tribunal (“Hearing Panel”) issued its decision on the merits (“Merits Decision”) finding that the Respondents had breached the Code of Ethics, as follows:
2. With respect to breaches of the Code of Ethics:
 - a. Mr. Sritharan, breached s. 4(1), 4(2), 6(2) and 9(3),
 - b. 1502026 Ontario Limited o/a Agincourt Hyundai (“Dealer”) breached s. 4(2) and s. 9(3), and
 - c. Mr. Koundouros breached s. 6(2) and 9(3).
3. The penalty hearing in this matter proceeded by videoconference on October 28, 2025. The Hearing Panel gave its decision orally with reasons to follow. These are the Panel’s reasons.

PENALTY ORDERED

4. On October 28, 2025, after considering the submissions and materials of the parties, the Hearing Panel ordered as follows:
 - a. The Dealer shall pay a fine in the amount of \$5,000 no later than ninety (90) days from the date of the order (October 28, 2025).
 - b. Gesavan Sritharan shall pay a fine of \$2,500 no later than ninety (90) days from the date of the Tribunal’s order.
 - c. Nicolas Koundouros shall pay a fine of \$1,000 no later than ninety (90) days from the date of the Tribunal’s order.
 - d. Both Gesvan Sritharan and Mr. Koundouros shall complete the MVDA Key Elements Course no later than ninety (90) days from the date of the Tribunal’s order.

- e. The Dealer shall offer all current and future salespersons, employed by the Dealer, to fund their completion of the Automotive Certification Course, no later than ninety (90) days from the date of the Tribunal's order.

OMVIC'S POSITION

5. In its submissions, the Ontario Motor Vehicle Industry Council ("OMVIC") initially submitted that a fine of \$5,000 for the Dealer and \$500 for each of the individual Respondents met the general and specific deterrence goals of sentencing. The requirement for further education met the rehabilitation goal. On further questioning by the Hearing Panel about Mr. Sritharan's recent knowledge of the all-in pricing regulations, OMVIC varied its position and argued that a \$1,000 fine for Mr. Sritharan may be more appropriate. OMVIC did not explain how the negative credibility findings against Mr. Sritharan factored into its revised position, if at all.
6. In OMVIC's submission an appropriate penalty should maintain public confidence in the profession and enforce the high ethical standards that registrants are required to meet in carrying on their business. (see *Ontario (College of Pharmacists) v. Kula*, 2020 ONCPDC 5 (CanLII)). In this regard, both specific and general deterrence are important factors. OMVIC's submission was that penalties for breaches of the Code of Ethics should not be akin to a licensing fee, or a cost of doing business. (see *R. v. Cotton Felts Ltd.*, 1982 CanLII 3695 (ON CA)).
7. In support of its deterrence argument, OMVIC reviewed the evidence of the motor vehicle industry's compliance with the all-in advertising regulations. Exhibit 5 provides industry-wide results of the mystery shop program from 2022 through 2024. In 2022 OMVIC investigators conducting mystery shops found that, out of 183 dealers visited, 64% of dealers complied with the regulations. In 2023 that number had risen to a 67% first time compliance rate. In 2024, 185 mystery shops were conducted with a compliance rate of 72%. Reversing these numbers, they disclose that 36%, 33%, and 28% respectively of dealers did not comply with the all-in pricing regulations. Interestingly, when the non-compliant dealerships were rechecked several months later the non-compliance rate was 29% for 2022 and 2023 and 25% for 2024.
8. In OMVIC's submission, it is not only the public who are hurt by non-compliant dealers. Dealers who follow the rules are, in OMVIC's submission, essentially penalized by the bait

and switch tactics of those who do not. Using bait and switch tactics, non-compliant dealers may attract consumers with the false promise of lower prices to the detriment of compliant dealers. As such, both consumers and registrants are harmed by non-compliant behaviour.

9. OMVIC pointed to the Respondents' remorse, their acceptance of responsibility, and the fact that this is the first time they have been found to be in breach of the all-in pricing regulations. In OMVIC's submission these are mitigating factors. OMVIC argued that the evidence disclosed systemic issues at the Dealer (i.e., internal sales processes and procedures that were deficient) which in OMVIC's submission would ordinarily serve as an aggravating factor, but then went on to agree that the Dealer has learned from the experience and taken steps to correct those issues.
10. OMVIC presented several cases in support of the quantum of the proposed fines. Fines in the range of \$5,000 for offending dealerships and up to \$2,500 for the salesmen involved, although salesperson fines in the higher end of the range involved further aggravating factors.

RESPONDENTS' POSITION

11. The respondents submitted that they have learned their lesson and that the Dealer and each individual respondent should pay a fine of \$1,000. The Dealer informed the Panel that it had introduced further training for all its staff and overhauled the quotation system such that it is impossible for a consumer to get a quote in excess of the advertised price. The submission lacked details of exactly what steps had been taken but was not the subject of any objection by OMVIC. Similarly, no training particulars or completion data was submitted into evidence on penalty, for example.
12. Mr. Sritharan relied only on the Dealer's broad submissions. He made no specific submissions on the steps he has taken to ensure that he complies with his professional obligations going forward. He did not express any remorse or appreciation of his conduct beyond the general statements about remorse made by Mr. Koundouros on his own behalf and on behalf of the Dealer.

REASONS FOR DECISION

13. As above, the Panel accepted OMVIC's submission with respect to the appropriate fine for the Dealer and accepted the Respondent's submission that a fine of \$1000 was appropriate

for Mr. Koundouros. The Panel did not agree with either party when it came to the quantum of fine for Mr. Sritharan. We now explain our reasoning for doing so.

14. The facts are fully set out in the Merits Decision. However, due to areas of concern which directly impact our decision on penalty, we summarize certain relevant facts below.
15. On or about October 31, 2023, the Dealer advertised a 2020 Hyundai Tucson Urban Edition (the "Vehicle") for sale for \$34,991. Jodi Hughes, an OMVIC investigator, visited the Dealer's premises posing as a consumer to enquire about the Vehicle. She dealt with the Respondent, Mr. Sritharan. In the course of the discussions and after reviewing the advertisement with Ms. Hughes, Mr. Sritharan quoted a price for the Vehicle that was \$1,036 more than advertised price. The excess was made up of two components, (1) an administration fee of \$641 which Mr. Sritharan later advised was not negotiable, and (2) a "F & I" fee of \$395 which Mr. Sritharan later advised may be negotiable.
16. At the time of the transaction, Mr. Sritharan had recently completed and passed the OMVIC certification course. That course addresses the all-inclusive advertising regulations. The Panel accordingly did not accept any suggestion that Mr. Sritharan was not familiar with those regulations.
17. The Panel heard that Mr. Sritharan initially admitted to a vague recollection of the transaction with Ms. Hughes when interviewed by his superiors at the Dealer. The Dealer cooperated with the OMVIC investigation into this transaction but took the position that Mr. Sritharan had not given a "quote" for the Vehicle. The evidence at the Merits Hearing was that Ms. Hughes had taken a photograph of a computer screen which included the added fees without permission and that OMVIC's reliance on this photograph as a "quote" was misplaced. This issue of the photograph taken by Ms. Hughes and whether it did or did not constitute a "quote" for the purposes of her dealings with Mr. Sritharan was the focus of the respondents' defence at the Merits Hearing up until the point where Mr. Sritharan himself testified.
18. Mr. Sritharan remarkably denied the whole transaction. He testified that he had never met Ms. Hughes. He argued that his dealing with respect to the Vehicle had in fact been conducted only with a "brown man." The Merits Decision held that:

Mr. Sritharan's evidence shaded towards the fantastical...Overall, his evidence was at odds with earlier statements he made, at odds with the documentation, and at odds with the investigator's evidence which was supported by documentation. His version of events was also not put to the investigator while she was testifying so she could address his denial of the entire transaction.

19. Mr. Sritharan's lack of candour in the Merits Hearing was highly detrimental to his credibility. When added to his recent familiarity with the all-in pricing regulations and his lack of any remorse or introspection at the penalty hearing, the Panel concluded neither party had adequately considered the need for specific deterrence in respect of Mr. Sritharan.

20. Mr. Sritharan's evidence at the Merits Hearing was not credible at all. The Panel has no doubt that he met with Ms. Hughes, and we rejected his narrative about all dealings in respect of the Vehicle being with an unknown man. In the face of that finding, Mr. Sritharan showed no appreciation whatsoever for both the seriousness of what he was found to have done and the broader importance of compliance with the all-in pricing regulations and the Code of Ethics.

21. In considering the appropriate penalty, the Panel is guided by the factors set out in *Law Society of Upper Canada v. Ricardo Max Aguirre* 2007 ONLSHP 0046 ("Aguirre") where at paragraph [12] the Law Society Hearing Panel set out 8 factors to be considered when applying a penalty:

The following factors – and no doubt others – inform the appropriate penalty to be fixed:

- (a) the existence or absence of a prior disciplinary record;
- (b) the existence or absence of remorse, acceptance of responsibility or an understanding of the effect of the misconduct on others;
- (c) whether the member has since complied with his/her obligations by responding to or otherwise co-operating with the Society;
- (d) the extent and duration of the misconduct;

- (e) the potential impact of the member's misconduct upon others. In this regard, consideration may be given not to the merits of the complaints that prompted the Society's intervention (unless proven at the hearing), but to how the member's unresponsiveness did or might reasonably be expected to affect the client's interests;
- (f) whether the member has admitted misconduct, and obviated the necessity of its proof;
- (g) whether there are extenuating circumstances (medical, family-related or others) that might explain, in whole or in part, the misconduct;
- (h) whether the misconduct is out-of-character or, conversely, likely to recur.

22. We note that the list is not exhaustive, other factors may play a role. We consider the factors delineated to be a guide with each factor being assigned more or less weight depending on the context. Applying *Aguirre* to the current facts, we find the troubling aspects of Mr. Sritharan's evidence cause concern, particularly his changing story in the face of overwhelming evidence to the contrary and only vague statements of remorse through a third party. This behaviour calls into question whether his involvement in this case is out of character or whether Mr. Sritharan will always choose expediency over integrity. In the Hearing Panel's view, only a substantial penalty will bring home to Mr. Sritharan that truth and integrity are not options if he wants to continue his career in the automotive industry. We find an administrative penalty of \$2,500 more appropriately achieves the objective of specific deterrence in these circumstances. We note Mr. Sritharan's evidence from the Merits Hearing that he had sold approximately 100 to 120 cars during his employment at the Dealer. He was at the time of the events a junior salesperson with less than two years experience at the time of the Merits Hearing, but we can conclude from this evidence that this the Dealer is not low volume. On numbers like this, a \$5,000 fine edged towards being a "licensing fee" or "the cost doing business" as noted by the Ontario Court of Appeal in *R. v. Cotton Felts*. Notwithstanding that concern, we are aware that Mr. Sritharan was a junior salesperson at the time. We are accordingly find that a \$5,000 fine is sufficient to serve the specific deterrence objective insofar as Mr. Sritharan is concerned. We also expect that this

fine will signal to the industry how serious breaches of the all-in pricing regulations are in transactions – whether with a true member of the public or an OMVIC investigator.

23. Applying the principles on penalty to the other Respondents, we accepted OMVIC's submission for a \$5,000 penalty for the Dealer. We accepted that the Dealer had taken steps to provide further training to its salesforce. Although those submissions were lacking in specificity, there was no challenge raised by OMVIC. Against this, we note that the Dealer had left Mr. Sritharan unsupervised in its used car area and had clearly not trained him on the process of ensuring all-in pricing in the context of the Dealer's computer quoting system. The Dealer's focus on whether Ms. Hughes had been given a "quote" shows a misunderstanding of its responsibilities. As stated in the Merits Decision, dealing with the purchase of a car is not a process where a salesperson has no interaction with a prospective purchaser. The focus of the regulations is not on quotes – it on representations.
24. We also note that the non-compliance numbers put forward by OMVIC are disturbing, especially those related to the follow-up compliance rates in mystery shop situations. These numbers indicate a need for substantial penalties when we consider the objective of general deterrence with respect to dealer compliance.
25. We accepted the submissions of Mr. Koundouros that a \$1000 fine was appropriate for him. In our view, the sum proposed by OMVIC would have represented nothing more than a minor annoyance. The Panel was not persuaded that OMVIC had adequately considered the circumstances of Mr. Koundouros in its submissions with respect to him. In this regard, we acknowledge Mr. Koundouros' candour in proposing a higher fine amount for himself and for his statements of remorse, reflection, and his promise to do better. It would have failed to serve the objectives of specific or general deterrence to order the amount sought by OMVIC. We accepted Mr. Koundouros's submissions and evidence that, as General Manager, he has worked hard to keep the Dealer in compliance with the regulations. Despite his efforts though, the evidence showed gaps in both his knowledge and the Dealer's procedures as described both above and in the Merits Decision. We also note that Mr. Koundouros had undergone a recent review of the all-in pricing regulations when another OMVIC inspector found the Dealer was improperly adding the OMVIC fee to the advertised price of vehicles. In our view a fine of \$1,000 is necessary to achieve the objectives of specific and general deterrence in relation to Mr. Koundouros.

26. There was no opposition from any parties with respect to the further education and compliance portions of the penalty. We ordered those penalty terms without reservation. Further education will, we hope, address the lacunae in Mr. Koundouros's understanding of his regulatory obligations and reinforce for Mr. Sritharan the unequivocal requirements for utmost honesty and integrity when working as a salesperson in the automotive industry.

ORDER

27. The Hearing Panel has ordered that:

- a. The Dealer shall pay a fine in the amount of \$5,000 no later than ninety (90) days from the date of its original order (October 28, 2025).
- b. Gesevan Sritharan shall pay a fine of \$2,500 no later than ninety (90) days from the date of this order.
- c. Nicolas Koundouros shall pay a fine of \$1,000 no later than ninety (90) days from the date of this order.
- d. Both Mr. Sritharan and Mr. Koundouros shall complete the MVDA Key Elements Course no later than ninety (90) days from the date of this order.
- e. The Dealer shall offer all current and future salespersons, employed by the Dealer, to fund their completion of the Automotive Certification Course, no later than ninety (90) days from the date of this order.



Mr. Greg Flude, Chair

Date: January 6, 2026

Panel Members:

Mr. Greg Flude
Mr. Nelson Caetano
Mr. Joe Malfara