

THE DEALER STANDARD

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OMVIC'S PRIORITIES

- CONSUMER PROTECTION
- DEALER PROFESSIONALISM
- CUSTOMER SERVICE

THE DEALER STANDARD

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Help for Dealers Video Series and the New MVDA Key Elements Course

In response to an OMVIC survey, more than 3,300 dealers and salespeople said they wanted to learn more about: all-in price advertising, handling contract cancellations, disclosing collision repairs, disclosing vehicle condition and needed repairs and disclosing negative equity on bills of sale.

And respondents said they wanted the information via video and interactive tools. OMVIC listened.

Help for Dealers Video Series

Hosted by Vic, these short videos and the accompanying toolkit will assist dealers and salespeople better understand the [Motor Vehicle Dealers Act](#) (MVDA).

Toolkit Resources

The toolkit includes:

- Fact sheets
- All-in price calculator
- Negative Equity calculator
- Advertising templates
- Educational posters
- Inspection checklist
- MVDA quizzes



New MVDA Key Elements Course

In addition, OMVIC recently launched the MVDA Key Elements Course (KEC). It was developed by OMVIC and The Automotive Business School of Canada (Georgian College), with the assistance of the Used Car Dealers Association (UCDA).

The KEC is designed for grandfathered OMVIC registrants (those who haven't taken the Certification Course) and current registrants who completed the course prior to 2010. The main topics include: advertising, retail contract requirements, the [Consumer Protection Act](#), and the [Code of Ethics](#).

For more information, contact Senior Education Officer, Scott Long at scott.long@omvic.on.ca

*"Fairness and Professionalism are good for the consumer,
the industry and your business"*

Investigators Find Significant Non-compliance of All-in-Price Advertising in Northern Ontario



OMVIC's recent mystery shopping venture in Sault Ste. Marie and Sudbury was disappointing as more than 50 per cent of the dealerships that staff visited, failed to comply with the all-in-price advertising provisions mandated in the MVDA.

In June, OMVIC's Investigations Team visited Sault Ste. Marie and Sudbury.

Posing as car buyers, their mission was simple: to determine if dealers/salespeople are complying with the all-in-price advertising regulations.

The results were disappointing: 14 of 28 dealerships attempted to add fees to their advertised prices in violation of the MVDA and Code of Ethics. That's 50 per cent non-compliance.

"We never go into a dealership hoping they fail," noted Steven Byrd, OMVIC's Director of Investigations. "In fact, we're rooting for the dealers to 'pass the test' because when our visit is uneventful, we know our messaging is

having positive effects. So, to find 50 per cent of the dealers our mystery shoppers visited trying to add hidden fees to their advertised prices is concerning."

The mystery shoppers also found improper disclosures related to the past use/history or condition of vehicles as well as unregistered sales people.

Many of those who breached the MVDA or OMVIC's Code of Ethics will face charges or administrative action, Byrd said.

Examples of the fees added included administration fees and security products, some as high as \$738. The mystery shoppers were also troubled by the ease at which some salespeople tried to explain away hidden fees. When questioned, one salesperson simply referred to the fees as "the cost of doing business."

Reminder: Dealers must include all fees and charges the dealer intends to collect except for HST and licensing.

Note: Licensing refers to the actual cost for registration and plates.

For more information about all-in-price advertising, please visit [OMVIC.ca](http://omvic.ca). Use the newly created "Help for Dealers/Salesperson" educational resources at <http://bit.ly/2tIFdGo>.



Tire Handling Fees

The Resource Productivity and Recovery Authority (RPRRA) has asked OMVIC to share the following information with dealers.

The Ontario Tire Stewardship (OTS) Program ended December 31, 2018: dealers should no longer be charging an OTS fee.

If a dealer markets tires, or new vehicles with new tires, and chooses to identify a separate tire resource recovery charge in a vehicle purchase contract/lease agreement or invoice, RPRRA's Tire Regulations (O.Reg. 225/18) require:

- The charge accurately reflects the costs incurred in relation to resource recovery; and
- A report and audit conducted by an independent auditor who is licensed or holds a certificate of authorization under the Public Accounting Act, 2004, be submitted each year (to RPRRA) relating to how the charge has

been used to increase collection, reuse, recycling and recovery of tires and verifying that the charge imposed accurately reflects the costs incurred.

Additionally, the dealer must implement a promotion and education program outlining:

- The person responsible for imposing the charge, and
- How the charge will be used to collect, reduce, reuse, recycle and recover tires.

If dealers do not itemize a separate tire resource recovery charge on the bill of sale, the requirements above do not apply.

For more information visit RPRRA's website at <https://rpra.ca/programs/tires/>, email their Compliance and Registry Team at registry@rpra.ca or call **833-600-5030** (toll free).

WINDSOR AUTO REPAIR SHOP AND OWNER FINED \$50,000 FOR ILLEGAL VEHICLE SALES

A Windsor auto repair business and its owner have received significant fines for curbsiding.

2207113 Ontario Inc., o/a **Downtown Auto Center**, located at 663 Glengarry Ave., Windsor, and company owner, **Mohsen Farahat**, pleaded guilty to a total of 20 charges of curbsiding and received fines totalling \$50,000.

“Curbsiders usually pose as private sellers. However, in this case, it was a business that was curbsiding. As a result, some consumers may have mistakenly believed they were dealing with a legitimate registered dealer and were entitled to the protections that normally provides,” stated John Carmichael, OMVIC CEO and Interim Registrar. “This was definitely not a case where the accused was unaware, he was breaking the law.”

In 2012, Farahat, a licensed mechanic, applied for OMVIC Registration. His application was denied when it was determined he failed to provide accurate information in his application—specifically, a conviction under the *Highway Traffic Act* for issuing a Safety Standards Certificate to a vehicle that was not compliant with the

vehicle standards. Farahat unsuccessfully appealed the decision. In its final notice on the matter, OMVIC cautioned Farahat against trading in motor vehicles. However, at the recent guilty plea, the court heard evidence that Farahat and Downtown Auto Center had sold many vehicles, most purchased from an auction that disposes of insurance company write-offs.

Downtown Auto Center pleaded guilty to 15 counts of curbsiding and Farahat pleaded guilty to five. They were fined \$2,500 for each count plus the mandatory Victim Fine Surcharge.

Reminder

It’s illegal for a dealer to supply a curbsider. To avoid this, OMVIC recommends dealers:

- Register all vehicles in the buyer’s name
- Verify that the purchaser, identifying as a dealer, is registered with OMVIC
- Regularly review the dealership’s Garage Register for repeat names

Book a Free OMVIC Seminar or Webinar Today!



Looking to brush up on your knowledge and understanding of MVDA disclosure requirements? How about advertising requirements with a focus on all-in-price advertising?

Book a free education presentation today. OMVIC’s education staff will facilitate a presentation for any dealership on any topic: Advertising, Disclosure, Consumer Protection Laws, etc.

OMVIC is happy to present to your team at your next sales team meeting or, alternately, you can book a webinar if your business is at multiple locations.

To request a free seminar or webinar, contact OMVIC’s Senior Education Officer, Scott Long, at scott.long@omvic.on.ca

Dealers Fined for Failing to Disclose Collision Repairs

A Norwood area dealer was fined \$4,000 for breaching the Code of Ethics (CoE) after the dealer failed to disclose in writing details of accident repairs.

In an Agreed Statement of Facts, 1529039 Ontario Ltd., o/a **Indian River Auto Works**, and its sole officer, **Graham Armstrong** acknowledged, despite receiving several reminders of dealer disclosure requirements, he failed to disclose accident histories to three customers, the highest being \$17,324 in collision repairs on a vehicle.

In addition to the \$4,000 fine, Armstrong agreed to successfully complete the Automotive Certification Course and offer it to all current and future sales staff.

Similarly, a Thames Centre-area dealer and his dealership received a \$3,000 fine for not providing written disclosures of collision repairs.

1036773 Ontario Limited, o/a **J.B. Trucks N' Stuff**, and its person-in-charge, **John Brotzel**, entered into an

Agreed Statement of Facts. The dealer acknowledged he had failed to conduct thorough research in regard to vehicle histories in order to satisfy his due diligence requirements for disclosures, including one instance when he did not disclose a \$7,537 collision repair on a vehicle.

Brotzel also admitted he had received several prior warnings for failing to provide proper disclosures.

Note: In both cases the dealers were required to contact their purchasers and provide more complete disclosures as required in the MVDA.

Disclosure Reminder

The MVDA sets out specific information related to a vehicle's past use, history and condition that must be disclosed in writing, including accident and branding histories and required repairs to major components. For more information regarding disclosures visit <http://bit.ly/2lCx3P8>.

Three Easy Steps to a Licence Refusal

The MVDA states each individual who applies for registration is entitled to such unless he/she makes a false statement on the application or if there are reasonable grounds to believe the applicant will not conduct business with honesty and integrity and in accordance with law.

A recent appeal hearing at the Licence Appeal Tribunal (LAT) provided a textbook case on how these provisions are applied.

In early 2019, the Registrar issued a proposal to refuse **Michael Lehtonen** of Collingwood, Ont.'s application to become a registered salesperson, after it was discovered that he made several false and misleading statements in his application, including providing misleading information about a prior conviction and not disclosing pending criminal charges.

Lehtonen appealed. In rendering its July decision, LAT upheld the Registrar's proposal not to grant Lehtonen registration a salesperson.

"The appellant (Lehtonen) made false statements on his application and his conduct prior to and during the

registration process affords reasonable grounds for the belief that the appellant (Lehtonen) will not carry on business in accordance with the law and with integrity and honesty," wrote Harriet Lewis, presiding LAT member. LAT's decision was based on the following factors:

Step 1: Failure to fully and honestly comply with the requirements of registration and instead make false statements in the application

Step 2: Behaving in a rude and inappropriate manner toward the Registrar's staff

Step 3: Insufficient period of unsupervised positive conduct after the end of a probation period that was imposed as a result of a prior conviction.

Lehtonen also refused to provide pertinent details about his past conduct.

"I find that throughout the process, the Appellant's behaviour was such that it's reasonable to conclude that he's unlikely to abide by the voluntary self-reporting and disclosure requirements required of a salesperson and is ungovernable," Lewis wrote.

Electric Vehicle Incentive Program Rebate Denials

OMVIC has recently received complaints from numerous electric vehicle (EV) purchasers whose claims for a rebate under the Electric Vehicle Incentive Program (EVIP) have been denied.

Most of these consumers say their selling dealer assured them their vehicle qualified for an EVIP rebate of between \$5,000 and \$14,000. However, the consumers have learned that their vehicles did not qualify because the selling dealer did not register the vehicle on the Ministry of Transportation's (MTO) Approved Order List by the deadline (July 16, 2018) set by MTO.

Unfortunately, these consumers also tell OMVIC the selling dealers, whose representations they relied upon, have refused to assist them.

Responsibilities Under the CPA and MVDA

OMVIC is reminding dealers the *Motor Vehicle Dealers Act* (MVDA) requires dealers to disclose all material facts in writing on a bill of sale. Attainment of a significant rebate would likely be material to most consumers. Clearly, if a vehicle did not qualify for the EVIP (and the customer reasonably believed the vehicle did qualify), the fact the EVIP did not apply should have been clearly and prominently written on the bill of sale. This was explained in a 2018 Bulletin which can be found at <https://bit.ly/2mNif05>.

As well, OMVIC's Code of Ethics (CoE) requires dealers and salespeople to be clear and truthful in describing

the features, benefits and prices connected with the motor vehicle in which the registrant trades, and in explaining the products, services, programs and prices connected with those vehicles. The CoE also requires that all representations made are legal, decent, ethical and truthful.

Further, the *Consumer Protection Act* (CPA) prohibits making false, misleading or deceptive representations, and consumers who are victims of a false or misleading representation have one year from the date of purchase to rescind the contract. This could apply to a consumer who was told their vehicle qualified for an EVIP rebate and that representation was false.

A Message from the Registrar

OMVIC understands the timeline for dealers to register their EV inventory on the MTO Approved Order List was short. However, OMVIC fully expects dealers to take responsibility for all representations made to their customers and to ensure full compliance with the CPA, MVDA and CoE. Failure to do so may result in administrative action, including the issuance of a Notice of Discipline or a Proposal to Suspend Registration; it could also result in consumers filing claims with the Motor Vehicle Dealers Compensation Fund.

Dealers seeking more information should contact OMVIC's Complaints and Inquiries Team at **1-800-943-6002x3942**.



Do You Have a Social Media Policy for Sales Staff?



Social media posts advertising vehicle sales are considered advertisements and must comply with regulations. OMVIC recommends dealerships develop a social media policy for staff.

OMVIC recently received this question from a dealer: **“Are my sales staff allowed to advertise our dealership’s inventory on their personal social media channels?”**

OMVIC’s Response

Yes. But remember, ads placed by, or on behalf of, a dealer must comply with the MVDA, CPA and Code of Ethics and must include the dealer’s registered name and phone number. So, even if an advertisement is placed by a salesperson on his/her personal social media, the dealer is also responsible for any

representations and compliance with all applicable regulations.

If a dealer’s sales staff utilize their own personal social media channels to advertise a dealer’s inventory, OMVIC recommends that dealers:

- Develop a social media policy for staff, to ensure advertising meets the dealer’s standards and complies with applicable regulations
- Have all posts approved by a manager prior to publication

Meet OMVIC’s 2019–2020 Board of Directors

OMVIC’s Annual General Meeting was held on June 26. Kevin Bavelaar was re-elected President and Chair of the Board of Directors and Matt Rispin was elected Secretary-Treasurer.

The 2019–2020 Board welcomes three new members: Mohamed Bouchama and Rod Jackson, both ministerial appointees, and Sohail Ahmed, dealer representative, from Momo Cars Inc.



OMVIC’s 2019-2020 Board of Directors from L to R (Standing): John Carmichael, Paul Tinney, Cliff Pilon and Mohamed Bouchama. L to R (Seated): Nazreen Ali, Matt Rispin, Kevin Bavelaar, Rod Jackson and Meredith Morris.