

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 :

ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL)
)
- and -)
)
ROBINSON CHRYSLER DODGE JEEP RAM LTD)
)
- and -)
)
SAMMIIR HIRANI)
)
)

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:

Robinson Chrysler Dodge Jeep Ram Ltd has breached the following:

- Section 9(1) of the Code of Ethics, Ontario Regulation 332/08

Sammir Hirani has breached the following:

- Sections 6(2) and 9(1) of the Code of Ethics, Ontario Regulation 332/08

Order:

1. Robinson Chrysler Dodge Jeep Ram Ltd (the "Dealer") shall pay a fine in the amount of **\$7,000** no later than ninety (90) calendar days from August 29, 2024.
2. Sammir Hirani ("Hirani") 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 MVDA Key Elements Course, no later than ninety (90) calendar days from August 29, 2024.
4. The Dealer and Hirani 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 25, 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:

Amendment

1. The Notice of Complaint ("NoC") dated May 8, 2023 is amended to reflect that the Ontario Motor Vehicle Industry Council ("OMVIC") replaces the *Registrar, MVDA 2002* as a party to this proceeding.

Background

2. Robinson Chrysler Dodge Jeep Ram Ltd (the "Dealer") was first registered as a motor vehicle dealer in or around February 2017. Sammir Hirani ("Hirani") was first registered as a motor vehicle salesperson in or around September 1988. At all material times, Hirani was an Officer, as well as the Person in Charge of the day-to-day activities of the Dealer.

Dealer's Contravention of the Code of Ethics:

3. On or before September 28, 2022, Consumer A expressed an interest in purchasing a 2022 Dodge Charger (VIN 2C3CDXL98NH121581) being offered for sale. Consumer A provided the Dealer a \$5,000 deposit for this vehicle but did not execute a bill of sale for his purchase.
4. Consumer A later determined that he did not wish to follow through with the purchase of this vehicle and on or about October 14, 2022, emailed Hirani to advise the Dealer of his intentions and requested a refund of his deposit.
5. Hirani, on behalf of the Dealer, refused to return any of Consumer A's deposit, despite Consumer A having never executed a bill of sale for his purchase, and a representative

of OMVIC advising Hirani of the Dealer's obligation to return the deposit in full given the circumstances. This was contrary to section 38 of O. Reg. 333/08, as well as section 9(1) of the Code of Ethics.

6. Since the issuance of the Notice of Complaint, the Dealer has not refunded Consumer A's deposit in full.

Hirani's contravention of the Code of Ethics:

7. Hirani thereby failed to ensure that the Dealer conducted business in accordance with the Act and Code of Ethics, and thus personally contravened sections 6(2) and 9(1) of the Code of Ethics.

It is thereby agreed that Hirani has breached the following section of the Code of Ethics, O. Reg. 332/08:

Accountability

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.

It is thereby agreed that the Dealer and Hirani have breached the following section of the Code of Ethics, O. Reg. 332/08:

Professionalism

9. (1) In carrying on a business, a registrant shall not engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming or a registrant.

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 evidence contained in the Agreed Statement of Facts substantiates the allegations that the Dealer has breached subsection 9(1) of the OMVIC Code of Ethics, and that Hirani has breached subsections 6(2) and 9(1) of the OMVIC Code of Ethics.

The Reviewing Panel 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 in line with previous decisions of this Tribunal which dealt with similar conduct. The Reviewing Panel is satisfied that the order proposed in the Joint Submission addresses all relevant objectives of penalty including, but not limited to, specific and general deterrence and rehabilitation of the registrants.

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

