

DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member
Jon Lemaire, Registrant
Paul Eros, 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 -)
)
STREETSIDE MOTORS INC. o/a STREETSIDE MOTORS)
)
- and -)
)
MOHAMMAD ATIEH)
)
)

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: February 13, 2025

Findings: **Streetside Motors Inc. o/a Streetside Motors has breached the following:**

- Section 6(1) of the Code of Ethics, Regulation 332/08
- Section 7(1) of the Code of Ethics, Regulation 332/08
- Section 9(1) of the Code of Ethics, Regulation 332/08

- Section 9(3) of the Code of Ethics, Regulation 332/08

Mohammad Atieh has breached the following:

- Section 6(2) of the Code of Ethics, Regulation 332/08
- Section 9(3) of the Code of Ethics, Regulation 332/08

Order:

1. Streetside Motors Inc. o/a Streetside Motors (“Streetside Motors”) shall pay a fine in the amount of **\$4,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal’s order.
2. Mohammed Atieh shall pay a fine in the amount of **\$1,000** no later than ninety (90) calendar days from the date of the Discipline Tribunal’s order.
3. Mohammed Atieh shall successfully complete the MVDA Key Elements course (the “Course”), no later than ninety (90) calendar days from the date of the Discipline Tribunal’s order.
4. Streetside Motors shall offer to all current and future salespersons, employed by the Dealer, to fund their completion of the Course, no later than ninety (90) calendar days from the date of the Discipline Tribunal’s order.
5. Streetside Motors and Mohammed Atieh 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 December 12, 2024, a jointly proposed disposition and a waiver of oral 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:

Withdrawals:

1. The s.4 of the Code of Ethics allegations against Streetside Motors Inc. o/a Streetside Motors (“Streetside Motors”) contained in paragraph 7 of the Notice of Complaint dated March 13, 2024, are hereby withdrawn.

2. The allegations against Streetside Motors and/or Mohammed Atieh contained in paragraphs 22-41 of the Notice of Complaint dated March 13, 2024, are hereby withdrawn.

BACKGROUND

3. Streetside Motors Inc. ("Streetside Motors") has been registered as a motor vehicle dealer under the Act since on or about June 24, 2019.
4. Mohammad Atieh ("Atieh") was first registered as a salesperson under the Act on or about February 9, 2018. Since on or about May 3, 2019, Atieh has been registered as a general manager, director, and person-in-charge of Streetside Motors.

TERMS & CONDITIONS:

5. On or about June 24, 2019, Atieh signed terms and conditions of registration on behalf of Streetside Motors.
6. Paragraph 18 and 19 of the signed terms and conditions of registration require that Streetside Motors disclose all material facts on the bill of sale, in writing and that all trades comply with s.42 of the O. Reg 333/08.

CURRENT NON-COMPLIANCE

2016 Mazda CX-3

7. On or about November 26, 2021, Consumer A purchased a 2016 Mazda CX-3 (VIN: ***101094) from Streetside Motors. The vehicle had previous accident damage totalling \$7,552. Streetside Motors did not disclose the previous accident damage on the bill of sale as required by s.42(19) of O. Reg 333/08, as well as s.7(1) and s.9(3) of the Code of Ethics.
8. The bill of sale included a warranty for the price of \$1,500. However, Streetside Motors failed to provide Consumer A with a warranty contract and the details of the warranty as required by s.47(4) and s.47(5) of O. Reg 333/08, as well as s.7(1), 9(1) and s.9(3) of the Code of Ethics.

9. Additionally, Streetside Motors failed to remit payment for the warranty to the warranty provider contravening s.47(7) of O. Reg 333/08, as well as s.9(1) and 9(3) of the Code of Ethics.
10. On or about November 1, 2022, Consumer A began experiencing issues with the vehicle and realized she had not been provided a warranty number.
11. In or around November 2022 until in or around February 2023, Consumer A requested Streetside Motors provide her with a copy of the warranty. Streetside Motors did not inform Consumer A of Streetside Motors' failure to remit payment to the warranty provider. Streetside Motors' conduct contravened s.6(2), 9(1) and s.9(3) of the Code of Ethics.
12. On or about February 17, 2023, Consumer A filed a complaint with the Registrar.
13. On or about February 23, 2023, Streetside Motors stated to a representative of the Registrar that the warranty was mistakenly not given to Consumer A and that a reimbursement would be provided.
14. On or about February 24, 2023, Streetside Motors reimbursed Consumer A \$2,430.91, to cover the cost of warranty, taxes, and interest.

2016 BMW 435i

15. On or about May 7, 2022, Consumer B discussed purchasing a 2016 BMW 435i (VIN: ***344558) from Streetside Motors. As part of the purchase, Consumer B discussed trading in a 2017 Audi A3 (VIN: ***051410).
16. On or about May 7, 2022, Streetside Motors drafted a bill of sale, however Consumer B never signed any bill of sale.
17. Consumer B provided a \$1,000 deposit to Streetside Motors towards the purchase of the 2016 BMW 435i.
18. After reviewing the Carfax for the 2017 Audi A3, Streetside Motors determined it did not want to proceed with the transaction as initially discussed. Consumer B rejected Streetside Motors' proposed changes and sought a refund of the \$1,000 deposit.

19. Streetside Motors refused to refund the deposit, despite Consumer B never signing a bill of sale. Streetside Motors contravened s.38 of O. Reg 333/08, as well as s.9(1) and s.9(3) of the Code of Ethics.
20. On or about July 5, 2022, Consumer B filed a complaint with the Registrar.
21. On or about July 20, 2022, a representative of the Registrar informed Streetside Motors of the complaint and that s.38 of O. Reg. 333/08 required Streetside Motors to provide a full refund.
22. From on or about July 20, 2022, until on or about April 2023, the Registrar repeatedly requested that Streetside Motors issue a full refund to Consumer B.
23. On or about April 24, 2023, Streetside Motors returned the full \$1,000 deposit to Consumer B.

MOHAMMAD ATIEH'S NON-COMPLIANCE

24. As the director and person-in-charge of Streetside Motors, Atieh failed to ensure that Streetside Motors conducted its business in compliance with the Regulations and the Code of Ethics, and therefore personally contravened s.6(2), s.9(1) and s.9(3) of the Code of Ethics.

As particularized above, the Dealer has violated the following sections of the Code of Ethics:

Accountability:

6. (1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

Compliance

7. (1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

Professionalism:

9. (1) In carrying on 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 of a registrant.

(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.

As particularized above, Mohammad Atieh has violated the following sections of the Code of Ethics:

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.

Professionalism:

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.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts and 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: (1) the Dealer has breached subsections 6(1), 7(1), 9(1) and 9(3) of the OMVIC Code of Ethics; (2) Atieh has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the parties' proposed resolution for the reasons below.

Reasons for Decision

The Reviewing Panel received and considered comprehensive written materials from the parties. Although the panel had an initial concern about a potential pattern of behavior on the part of the respondents, the issue was addressed in the parties' written materials and the proposed resolution does not appear to be contrary to the public interest. The resolution does include a deterrence component. In view of the circumstances, the panel will accept this jointly proposed position.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: February 13, 2025

S. Darvish

Sherry Darvish, Discipline Tribunal Chair,
Public member
On behalf of:

Jon Lemaire, Registrant

Paul Eros, Registrant

