

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

PANEL: Aviva Harari, Chair Public Member
 Christopher Pinelli Registrant Member
 Achilles Pelitis Registrant Member

DECISION AND REASONS

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:

**ONTARIO MOTOR VEHICLE
INDUSTRY COUNCIL**

Jane Samler, Counsel for OMVIC

- and -

**MAANIS PARAMOUNT AUTO
SALES LTD.**

and

Self-represented

IMRAN CHAUDHARY

Hearing Date: October 8, 2024

Date of Decision: 11/18/2024

Date of Order: 11/18/2024

Findings:

- Breaches of Sections 7(1) and 9(1) of OMVIC’s Code of Ethics, O. Reg. 332/08 by Maanis Paramount Auto Sales Ltd.

¹ Independent legal counsel to the Panel is Mr. Edward Marrocco.

- Breaches of Sections 6(2) and 9(1) of OMVIC's Code of Ethics, O. Reg. 332/08 by Imran Chaudhary

Order:

1. Imran Chaudhary shall pay a fine in the amount of \$500 and it will be paid within one (1) year of the date of this decision.
2. The Dealer shall pay a fine in the amount of \$6,000 and it will be paid within one (1) year of the date of this decision.
3. Imran Chaudry shall complete the certification course within 180 days from the date of this decision.
4. The Dealer shall offer all current (Panel understands that Imran Chaudhary is currently the only salesperson at the dealership) and future sales staff the opportunity to complete the Automotive Certification Course (the "Course"). Future sales staff will be offered the Course within 90 days of being retained in this capacity.

Overview

1. This matter proceeded by videoconference on October 8, 2024, before a panel of the Discipline Tribunal (the "Panel") of the Ontario Motor Vehicle Industry Council ("OMVIC"). The allegations against the respondents are contained in a Notice of Complaint issued on October 19, 2023 (Exhibit 1). The individual registrant, Imran Chaudhary, represented both himself and Maanis Paramount Auto Sales Ltd. (the "Dealer").
2. This evidence in this matter was tendered by way of an Agreed Statement of Facts ("ASF", Exhibit 2). The ASF indicated that the allegations contained in paragraphs 8 a, c, f, g of the Notice of Complaint were not being pursued and the Panel hereby confirms that those allegations are withdrawn.
3. At the outset of the proceedings, the Panel arraigned the respondents. Mr. Chaudhary confirmed that both himself and the Dealer admitted all the allegations contained in the ASF. The Panel made inquiries of Mr. Chaudhary and was satisfied that all admissions contained in the ASF made on behalf of both him and the Dealer were voluntary, informed, and unequivocal.
4. The Panel was satisfied that the facts as set out in the ASF constituted breaches of the Code of Ethics as set out in Ontario Regulation 332/08 (the "Code"), made under the *Motor Vehicle Dealers Act, 2002* (the "Act").

Evidence

5. The evidence in the ASF is as follows:
 1. Maanis Paramount Auto Sales Ltd (the "Dealer") was first registered as a motor

vehicle dealer in or around March 2021. Imran Chaudhary (“Chaudhary”) was first registered as a motor vehicle salesperson in or around March 2021. At all material times, Chaudhary was the sole Director as well as the Person in Charge of the day-to-day activities of the Dealer. Chaudhary is also the sole salesperson registered to the Dealer.

2. On or about June 18, 2020, Chaudhary successfully completed the Automotive Certification course (the “Course”). The Course syllabus includes instruction regarding a dealer’s obligation to provide purchasers with written disclosure of a vehicle’s accident damage history, including but not limited to, the dollar value of the damage sustained, and whether or not it has been declared an insurance total loss.
3. On or about March 8, 2021, Chaudhary executed terms and conditions of registration on behalf of the Dealer.
4. Per condition 18 of the terms and conditions, the Dealer agreed to ensure that all motor vehicle trades are completed in accordance with section 30 of the Act and pursuant to section 39-43 of Ont. Reg. 333/08.
5. Per condition 19 of the terms of and conditions, the Dealer agreed that it was under a positive obligation to provide purchasers with written disclosure, on the bill of sale, of all material facts about the vehicles it sells. The Dealer further agreed to research the vehicle history of all vehicles it sells, and to disclose as much detail as possible to purchasers.
6. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars, and guidelines, reminding registrants of their disclosure obligations. The dates of said publications are attached hereto as Schedule “A”. Educational materials continue to be available on OMVIC’s website.
7. During an inspection of the Dealer on about April 29, 2021, an OMVIC representative reminded Chaudhary regarding the Dealer’s disclosure obligations, as per section 42 of O. Reg. 333/08.
8. During an inspection of the Dealer on or about October 24, 2022, the following non-compliant vehicle trades were found:
 - a) On or about January 4, 2022, the Dealer purchased a 2014 Volkswagen Jetta (VIN: 405510), declared as being an insurance loss with previous accident damage of \$5,985. On or about April 30, 2022, Chaudhary sold this vehicle on behalf of the Dealer, but failed to disclose on the bill of sale, in writing, this information concerning the vehicle’s history. This is contrary to sections 42(19), 42(21), and 42(25) of Ont. Reg. 333/08, as well as sections 7(1) and 9(1) of the Code of Ethics.
 - b) On or about March 22, 2022, the Dealer purchased a 2009 BMW X6 (VIN *223707), declared as being an insurance loss with previous accident damage of \$20,479.31. On or about May 18, 2022, Chaudhary sold this vehicle on behalf of the Dealer, but failed to disclose on the bill of sale, in writing, this

information concerning the vehicle's history. This is contrary to sections 42(19), 42(21), and 42(25) of Ont. Reg. 333/08, as well as sections 7(1) and 9(1) of the Code of Ethics.

- c) On or about April 27, 2022, the Dealer purchased a 2008 BMW X5 (VIN *020726) with the following declarations:
- i. insurance loss
 - ii. previous accident damage of \$8,827
 - iii. total distance vehicle has driven is unknown, but as of 2022-04-08 it was believed to be 190,000km. The total distance driven is believed to be higher than the distance indicate[s]. Odometer is: unreadable.

On or about June 15, 2022, Chaudhary sold this vehicle on behalf of the Dealer, but failed to disclose on the bill of sale, in writing, any of the above referenced information concerning the vehicle's history. This is contrary to sections 42(4), 42(19), 42(21), and 42(25) of Ont. Reg. 333/08, as well as sections 7(1) and 9(1) of the Code of Ethics.

9. In regard to the three vehicles, the Dealer stated in writing on the bill of sale, that a vehicle history report was provided to the consumers at the time of purchase which included the above-mentioned disclosure items. This was also acknowledged with the consumers' initials for the 2014 Volkswagen and the 2009 BMW.
10. Chaudhary 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(1) of the *Code of Ethics*.
11. As particularized above, the **Dealer** has violated the following section of the *Code of Ethics*:

Compliance

s. 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.

12. As particularized above, the **Dealer and Chaudhary** have violated the following section of the *Code of Ethics*:

Professionalism

s. 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.

13. As particularized above, **Chaudhary** 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.

Penalty Phase

6. Having found breaches of the Code as admitted by the respondents and consistent with the evidence and admissions contained in the ASF, the Panel invited the parties to proceed to make submissions as to penalty. The penalty phase of this matter was contested as between the parties.

OMVIC's Position

7. OMVIC sought a fine of \$6,000 from the Dealer and \$500 from Mr. Chaudhary payable within 180 days.
8. In support of this position, counsel Ms. Samler, relied on the evidence in the ASF to highlight that Mr Chaudhary and the Dealer, knew or ought to have known what was required in terms of disclosure on a bill of sale. Specifically, Ms. Samler noted that Mr. Chaudhary had successfully completed the Automotive Certification Course somewhat recently in June 2020 and that the Dealer was registered a short time later, in March 2021. At the time of registration, it was also emphasized that all registrants must also sign Terms and Conditions which reiterate the obligation to comply with disclosure requirements.
9. The Panel was also advised of an inspection of the Dealer on April 29, 2021. Little detail was provided regarding the inspection. While there is evidence that the Dealer was “reminded” of obligations arising under section 42 of O. Reg 333/08, no further particulars were related. There was no evidence of any written follow up having been provided to the Dealer or even confirmation of whether the inspection was in person or over the phone. Given the lack of particulars, the Panel places little weight on this inspection.
10. Ms. Samler submitted that the Dealer is low volume, with minimal transactions, selling 1 – 2 cars per month. It was also pointed out that Mr. Chaudhary was the only salesperson at the relevant time. This information was undisputed by the respondents.
11. Ms. Samler acknowledged that the respondents had accepted responsibility for what had occurred and emphasized that the underlying consumers had received Carfax reports at the material time. This of course is not compliant with the legislation, but the Panel accepts this is a mitigating factor.
12. The Panel also acknowledges that these are inspection cases. They are not the result of consumer complaints. The Panel has no evidence of consumer dissatisfaction in this matter. Ms. Samler fairly pointed out that while the written disclosure was not made on the bills of sale in two of the three transactions (2014 Volkswagen and 2009 BMW), it was acknowledged on the bill of sale that at the time of purchase the consumer was provided with a vehicle history report.

13. Lastly, counsel took the Panel through other decisions from the Tribunal dealing with various instances of non-compliant trades and used the jurisprudence to help the Panel appreciate the range of fines which have been ordered in other matters. The fines ranged in amount from \$14,000 on the high end to \$2,500 on the low end.

Respondents' Position

14. In his responding submissions, Mr. Chaudhary acknowledged his wrongdoing. He advised that he had recently lost his full-time job, after 13 years. A letter from his previous employer was provided in support and entered as Exhibit 3 with no objection. Mr. Chaudhary explained that he was the sole support for his family and that because of the recent job loss he was hoping to expand the Dealer to make it his full-time job. He stated that any fine would be a financial hardship but nonetheless proposed that the amount of \$500 for the Dealer and \$250 for himself would be appropriate.
15. There was no dispute that Mr. Chaudhary's submissions regarding his personal circumstances could be relied upon for the truth of their contents notwithstanding that Mr. Chaudhary was not affirmed at the time.

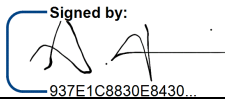
Decision and Reasons on Penalty

16. The Panel agrees with the fine amounts proposed by OMVIC.
17. The fine amounts proposed by the respondents were far too low even for a low volume dealer and would be entirely inconsistent with both the facts of this case and orders made by this Tribunal in other non-compliant transaction cases.
18. The short time between Mr. Chaudhary's successful completion of the Automotive Certification Course and the transactions at issue, is indeed an aggravating factor. As well, given the low volume of transactions, three instances of non-disclosure are significant in our view.
19. Motor vehicle dealers must comply with all applicable legislative requirements to ensure public confidence and consumer protection. It is vital that the public are assured that when dealing with a motor vehicle dealer, it is complying with its legal obligations.
20. The Panel is mindful of the need to ensure specific and general deterrence and to further potential rehabilitation of respondents where appropriate when making an order arising out of a breach of the Code. The Panel also acknowledges that its order in this matter should be, to the extent reasonably possible, not inconsistent with other decisions in similar cases.
21. Taking all of this into account, the fine amounts proposed by OMVIC are reasonable and appropriate. However, given the respondents' evidence of their financial circumstances, the Panel does accept that extra time to complete the fine payments is both proportionate and appropriate. In the end, the seriousness of the Code breaches in this case is not at the highest possible level, but it is not minimal either. A fine at the low end of the range established in the case law would be insufficient and a fine at the high end would also be inappropriate.

22. The Panel makes the following order:

1. Imran Chaudhary shall pay a fine in the amount of \$500 and it will be paid within one (1) year of the date of this order.
2. The Dealer shall pay a fine in the amount of \$6,000 and it will be paid within one (1) year of the date of this order.
3. Imran Chaudry shall re-complete the Automotive Certification Course within 180 days from the date of this decision.
4. The Dealer shall offer all current (other than Mr. Chaudhary) and future sales staff the opportunity to complete Automotive Certification Course. Future sales staff will be offered the course within 90 days of being hired.

I, Aviva Harari, sign this decision and reasons on behalf of the members of the Discipline Panel as set out below.

Signed by:

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AVIVA HARARI

11/18/2024

Date:

Panel Members:

Aviva Harari, Chair
Christopher Pinelli, Vice Chair
Achilles Pelitis, Vice Chair