

DISCIPLINE DECISION

REVIEWING PANEL: Caroline Brett, Public Member
Joe Wade, Discipline Tribunal Chair, Registrant
Wally Pietraszko, 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 -)
9539557 CANADA INC o/a)
MMM AUTO SALES & LEASING)
- and -)
GIRGIS ISKANDER)
)

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: November 20, 2024

Findings: **9539557 Canda Inc. o/a MMM Auto Sales & Leasing (the “Dealer”) has breached the following:**

- Sections 4(2), 7(1) and 9(3) of the Code of Ethics, O. Reg. 332/08

Girgis Iskander (“Iskander”) has breached the following:

- Sections 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Order:

1. 9539557 Canda Inc. o/a MMM Auto Sales & Leasing (the “Dealer”) shall pay a fine in the amount of **\$4,000** no later than one hundred twenty (120) calendar days from November 20, 2024.
2. Girgis Iskander (“Iskander”) shall pay a fine in the amount of **\$500** no later than one hundred twenty (120) calendar days from November 20, 2024.
3. Iskander shall successfully complete the MVDA Key Elements Course no later than one hundred twenty (120) calendar days from November 20, 2024.
4. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the Automotive Certification Course, no later than one hundred twenty (120) calendar days from November 20, 2024.
5. The Dealer and Iskander 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 September 5, 2024, a Joint Submission on Penalty 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:

Amendments:

1. The Registrar is replaced by the Ontario Motor Vehicle Industry Council (“OMVIC”) as a party to this proceeding.

Withdrawals:

2. The allegations contained in paragraphs 10, 11 and 12 of the Notice of Complaint (“NoC”) dated February 2024, are hereby withdrawn. Furthermore, paragraphs 7, 8, 9, 13 and 14 of the NoC were amended and are as indicated in this jointly agreed upon Agreed Statement of Facts (“ASF”).

Background:

3. 9539557 Canda Inc. o/a MMM Auto Sales & Leasing (the “Dealer”) has been registered as a motor vehicle dealer under the Act since on or about September 13, 2017.
4. Girgis Iskander (“Iskander”) has been registered as a motor vehicle salesperson under the Act since on or about May 16, 2008 and is registered to the Dealer. At all material times, Iskander has been the Director and person in charge of the day-to-day activities of the Dealer.

OMVIC Registrant Education re: All-in Pricing

5. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars, and guidelines, to remind registrants of their all-in pricing obligations. The dates of said publications are attached hereto as Schedule "A". Educational materials continue to be available on OMVIC's website.

Previous Reminder

6. In December 2019, the Dealer was reminded by a representative of the Registrar to comply with its all-in-pricing obligations.

DEALER'S NON-COMPLIANCE

7. On or about June 6, 2023, an Inspector attended the Dealer's premises to conduct an inspection of its books and records. The Inspector met with Iskander. The following issues of non-compliance were discovered as part of the inspection, as particularized below.

Advertisements and All-in-pricing

8. On or about June 6, 2023, the Inspector obtained 2 advertisements from the Dealer's website for a 2014 Jeep Compass and 2014 Lexus IS 250; however, during the inspection there were bills of sale already completed for these vehicles. As such, the Dealer continued to publish advertisements for vehicles which were no longer available for sale contrary to section 36(12) of O. Reg. 333/08. The Dealer thereby violated sections 4(2) and 9(3) of the Code of Ethics.

2014 Jeep Compass:

9. On or before June 6, 2023, the Dealer published an advertisement for the 2014 Jeep Compass (Stock # 20222811, VIN # *805489) with an advertised price of \$11,495 plus taxes. The advertisement contained further fine print including the cost of safety certification for "six hundred ninety five dollars". The all-in advertised price for an 'unfit' vehicle was not clear, comprehensible and prominent, as required pursuant to section 36(7) of O. Reg. 333/08.
10. On or about May 5, 2023, Iskander on behalf of the Dealer, sold the 2014 Jeep Compass to a consumer with a "selling price" of \$14,219. This "selling price" is \$2,724 above the advertised price of \$11,495. However, the Dealer since provided confirmation to OMVIC that the additional cost of \$2,724 was due to additional repairs that the consumer requested and the cost was agreed to with the consumer. The Dealer thereby failed to itemize on the bill of sale the list of repairs and their costs, as required, pursuant to section 40(2) para 3 of O. Reg. 333/08.
11. As such, the Dealer failed to comply with its all-in advertising obligations and failed to ensure all documents respecting the trade of a motor vehicle are current and comply with the law. The Dealer thereby violated sections 4(2), 7(1) and 9(3) of the Code of Ethics.

Failure to disclose out-of-province

2015 Jeep Grand Cherokee:

12. On or about May 20, 2023, Iskander on behalf of the Dealer, sold a 2015 Jeep Grand Cherokee Limited (VIN *892464) to a consumer. The Dealer failed to ensure it disclosed in writing on the bill of sale, that the vehicle had been registered outside of Ontario, as required. The Dealer has since provided confirmation to OMVIC, that the consumer has been informed of the vehicle's out of province history.
13. As such, the Dealer failed to comply with its disclosure requirement per section 42(22) of O. Reg. 333/08 and it thereby violated sections 7(1) and 9(3) of the Code of Ethics.

ISKANDER'S NON-COMPLIANCE

14. Iskander failed to ensure the Dealer conducted its business in accordance with the Act, its Regulations, and the Code of Ethics, and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.
15. As particularized above, the Dealer has violated the following sections of the Code of Ethics:

Disclosure and marketing

s. 4(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

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.

16. As particularized above, the Dealer and Iskander have violated the following section of the Code of Ethics:

Professionalism

s. 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.

17. As particularized above, Iskander 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.

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 4(2), 7(1) and 9(3) of the OMVIC Code of Ethics; (2) Iskander has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the Joint Submission on Penalty for the reasons that follow.

Reasons for Decision

The evidence and submissions filed left the Reviewing Panel with no concerns that the disposition proposed by the Parties may be contrary to the public interest. The Reviewing Panel accordingly granted the order requested.

Dated: November 20, 2024

Ontario Motor Vehicle Industry Council
Discipline Tribunal

A handwritten signature in black ink, appearing to read 'Joe Wade', is written over a horizontal line.

Joe Wade, Discipline Tribunal Chair
On behalf of:

Caroline Brett, Public Member
Wally Pietraszko, Registrant Member

