

## DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member  
Nelson Caetano, Registrant  
Chris Pinelli, 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 :

<b>ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL</b>	)
	)
- and -	)
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<b>GABRIEL MICHAEL FAYAD o/a GABRIEL'S AUTO SALES</b>	)
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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:** January 14, 2025

**Findings:** **Gabrial Michael Fayad o/a Gabrial Auto Sales (the "Dealer") has breached the following:**

- Section 9(1) of the Code of Ethics, O. Reg. 332/08

**Order:**

1. Gabriel Michael Fayad o/a Gabriel's Auto Sales (the "Dealer") shall pay a fine in the amount of **\$3,500**. **\$1,750** will be paid no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order, and the remaining balance (**\$1,750**) will be paid no later than one hundred eighty (180) calendar days from the date of the Discipline Tribunal's Order.

2. The Dealer shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
3. 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 ninety (90) calendar days from the date of the Discipline Tribunal's Order.

### **Overview**

This matter proceeded on the basis of an Agreed Statement of Facts, dated November 26, 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:

The allegations against Gabriel Michael Fayad contained in paragraph 16 of the Notice of Complaint ("NOC") dated February 29, 2024 are hereby withdrawn.

### **Amendment:**

1. The NOC is amended to reflect that the Ontario Motor Vehicle Industry Council ("OMVIC") replaces the Registrar, *Motor Vehicle Dealers Act, 2002* as a party to this proceeding.

### **Background:**

2. Gabriel Michael Fayad o/a Gabriel's Auto Sales (the "Dealer") was first registered as a motor vehicle dealer in and around July 2011, after agreeing to terms and conditions.
3. The terms and conditions stipulated, *inter alia*, the following regarding an individual named George A Fayad ("George Fayad"):
  - a. The Dealer will not knowingly involve George Fayad in the operation of the dealership without the prior written consent of the Registrar.
  - b. George Fayad will not be financing the dealership, either directly or indirectly.
  - c. The Dealer will not knowingly purchase or lease vehicles from, or sell or lease vehicles to, George Fayad without confirming with the Registrar that he is registered as a salesperson under the *Motor Vehicle Dealers Act, 2002* (the "Act") and acting on behalf of a dealer who is registered under the Act.
4. George Fayad was first registered as a salesperson in and around March 1995 and is the owner of 1618431 Ontario Inc. o/a Preston Street Garage, located at 241 Preston St., Ottawa, ON, K1R 7R3, right beside the location of the Dealer. George Fayad's application for re-registration was refused in and around January 2010.

### **Prior OMVIC Inspections:**

5. In and around August 2011, a representative of the Registrar conducted an inspection of the Dealer's premises. The Dealer and George Fayad were both present during the

inspection. The Registrar's representative reminded the Dealer that George Fayad could not be involved in motor vehicle sales.

6. On or about October 19, 2016, a representative of the Registrar conducted an inspection of the Dealer's premises. The Dealer and George Fayad were both present during the inspection. The Registrar's representative advised George Fayad that he could not be involved in motor vehicle sales.

**Dealer's Non-Compliance:**

7. On or about April 12, 2021, OMVIC received a consumer complaint regarding the purchase of a 2008 Dodge Caravan from the Dealer. Over the course of the complaint, the complainant indicated that an individual named "George" acted on behalf of the Dealer.
8. On or about May 9, 2022, a representative of the Registrar contacted the Dealer by phone. An individual who identified himself as "George" answered the phone and asked if the Registrar's representative was calling about the 2008 Dodge Caravan mentioned above. The individual indicated that he had been involved with that transaction and could answer any questions. The Registrar's representative advised that the individual should not have been involved with the transaction. The Registrar's representative then requested to speak to the Dealer.
9. On or about April 11, 2023, an OMVIC Representative attended the premises of the Dealer while posing as a member of the public.
10. An individual, later identified as George Fayad, approached the OMVIC Representative. The OMVIC Representative made inquiries about a blue 2015 Volkswagen Golf (VIN# \*084090), and George Fayad provided the OMVIC Representative with the keys for the vehicle.
11. After the OMVIC Representative returned the keys to George Fayad, they engaged in a discussion of the vehicle. George Fayad indicated that it was purchased from the Ottawa Police and that he was selling the vehicle for \$13,000. George Fayad also noted that he had a Volkswagen Jetta for sale as well.
12. George Fayad provided the OMVIC Representative with a business card with the name "Gabriel Fayad" on it. The OMVIC Representative asked if George Fayad's name was "George," and George Fayad answered in the affirmative.
13. George Fayad was not a registered salesperson when he presented himself to the OMVIC Representative on or about April 11, 2023 and engaged in a trade of a motor vehicle on behalf of the Dealer.
14. As such, the Dealer retained the services of an unregistered salesperson. This is contrary to section 4(3) of the Act, as well as section 9(1) of the Code of Ethics.
15. In addition, the Dealer breached a condition of its registration. This is contrary to section 9(1) of the Code of Ethics.

16. As particularized above, the Dealer has 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.

**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 the Dealer has breached subsection 9(1) 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 all the circumstances, the panel will accept this jointly proposed position.

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

Issued Date: February 11, 2025

*S. Darvish*

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

Nelson Caetano, Registrant  
Chris Pinelli, Registrant

