

DISCIPLINE DECISION

REVIEWING PANEL: Joe Wade, Discipline Tribunal Chair, Registrant
 Caroline Brett, Public Member
 Chris Pinelli, Registrant Member

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 -)
)
805658 ONTARIO INC. o/a HALTON HONDA)
)
- and -)
)
SHAMAS AHMAD)
)
)

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 15, 2024

Findings: **805658 Ontario Inc. o/a Halton Honda (the “Dealer”) has breached the following:**

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

Shamas Ahmad (“Ahmad”) has breached the following:

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

Order:

1. 805658 Ontario Inc. o/a Halton Honda (the “Dealer”) shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from November 8, 2024.
2. Shamas Ahmad (“Ahmad”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from November 8, 2024
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 November 8, 2024
4. The Dealer and Ahmad 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:

Amendment:

The Notice of Complaint (“NoC”) dated April 23, 2024, is amended to reflect that the Ontario Motor Vehicle Industry Council (“OMVIC”) replaces the *Registrar, MVDA 2002* as a party to this proceeding.

Withdrawals:

The allegations against Andrew Buxton-Forman and Richard John Bellm, and contained in paragraphs 2, 3, 13 and 14 of the Notice of Complaint (“NoC”) dated April 23, 2024, are hereby withdrawn.

Background:

1. 805658 Ontario Inc. o/a Halton Honda (the “Dealer”) was first registered as a motor vehicle dealer on or about March 3, 1989.
2. Shamas Ahmad (“Ahmad”) was first registered as a salesperson on or around October 21, 2002. Ahmad is the General Manager and a Person in Charge of the day-to-day activities of the Dealer.

OMVIC Publications

3. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding 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.

Direct Correspondence with Dealer

4. During an inspection on or about June 20, 2018, a representative of the Registrar discovered certain all-in pricing violations. The Dealer was reminded of its obligation to advertise all-inclusive prices as required pursuant to section 36(7) of O. Reg. 333/08.

Dealer's Non-Compliance:

5. On or before January 24, 2024, the Dealer published an advertisement for a white 2022 Honda CR-V, stock #L28588 (VIN# ***206956) with an advertised price of \$36,999. The advertisement stated that there was an additional fee of \$1,500 for cash purchase.
6. On or about January 24, 2024, a representative of the Registrar (the "Representative") attended the Dealer's premises to make inquiries about the vehicle, while posing as a member of the public (also known as a 'mystery shop').
7. The Representative was provided with the vehicle's worksheet for a finance deal and a cash purchase.
8. The worksheet for a finance deal showed that the following fees had been added to the advertised price:
 - a. \$699.99 Protection fees; and
 - b. \$180.15 fees.
9. The worksheet for a cash purchase showed that the following fees had been added to the advertised price:
 - a. \$699.99 Protection fees
 - b. \$134 fees
10. The Representative was also advised that the \$699.99 protection fee was for theft protection and mandatory from Honda.
11. As a result, the Dealer's advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.

Ahmad's Non-compliance:

12. Ahmad 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(3) of the Code of Ethics.

13. As particularized above, the Dealer has violated the following section 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.

14. As particularized above, the Dealer and Ahmad 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.

15. As particularized above, Ahmad 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) and 9(3) of the OMVIC Code of Ethics; and (2) Ahmad has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

Reasons for Decision

The Reviewing Panel identified no issues or concerns with parties' submissions and materials. The order requested in the Joint Submission clearly contemplates specific and general deterrence and rehabilitation of the respondents. The Panel had no concerns that the proposed order could be inconsistent with the public interest and made the above order, which is consistent with the terms of the Joint Submission, accordingly.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: November 15, 2024

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

Joe Wade, Discipline Tribunal Chair
On behalf of:

Caroline Brett, Public Member
Chris Pinelli, Registrant Member

