

DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member
Mike Ball, 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

BETWEEN:

ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

- and -

**COACHWORKS AUTO INC. o/a
MERCEDES BENZ BRAMPTON**

- and -

DAVID YEBOAH MENSAH

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: March 13, 2025

Findings: Coachworks Auto Inc. o/a Mercedes Benz Brampton (the “Dealer”) has breached the following:

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

David Yeboah Mensah has breached the following:

- Sections 4(2), 6(2), and 9(3) of the Code of Ethics, O. Reg. 332/08

Order:

1. Coachworks Auto Inc. o/a Mercedes Benz Brampton (the "Dealer") shall pay a fine in the amount of **\$3,000** no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
2. David Yeboah Mensah ("Mensah") 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, date December 4, 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 contained in paragraphs 4 and 5 of the Notice of Referral to Discipline ("NORD") dated October 25, 2024 are hereby withdrawn.

Background:

1. Coachworks Auto Inc. o/a Mercedes Benz Brampton (the "Dealer") was first registered as a motor vehicle dealer in and around October 2021.
2. David Yeboah Mensah ("Mensah") was first registered as a salesperson in and around August 2022.

Ontario Motor Vehicle Industry Council ("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.

Dealer's Non-Compliance:

4. On or before August 23, 2024, the Dealer published an advertisement for a blue 2019 Mercedes Benz C43, stock# A6466 (VIN# *917288) with an advertised price of \$54,970 plus taxes.
5. On or about the same date, an OMVIC Representative made inquiries about the vehicle, while posing as a member of the public (also known as a mystery shop).

6. Mensah, acting on behalf of the Dealer, provided the OMVIC Representative with a printed quote. The quote indicated the addition of a \$499 “MBB Secure” fee to the price of the vehicle.
7. Mensah explained that the “MBB Secure” fee was a fee to cover a key fob replacement as well as security if the vehicle was to be stolen.
8. The OMVIC Representative asked if the “MBB Secure” fee was optional, and Mensah advised that it was not.
9. As such, 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.

Mensah’s Non-Compliance:

10. In regards to the above-noted blue 2019 Mercedes Benz C43, Mensah failed to represent the additional fee in a legal manner and thereby violated sections 4(2) and 9(3) of the Code of Ethics. Mensah also 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.
11. As particularized above, the Dealer and Mensah have 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.

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.

12. As particularized above, Mensah 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; (2) Mensah has breached subsections 4(2), 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 and was left satisfied that the proposed resolution has no risk of being contrary to the public interest. The outcome is clearly connected to the admitted breaches of the Code of Ethics and consistent with other outcomes ordered in this Tribunal in similar cases. In such circumstances, disposition under Rule 1.07 is appropriate and ordered accordingly.

Dated: March 13, 2025

Ontario Motor Vehicle Industry Council
Discipline Tribunal

S. Darvish

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

Chris Pinelli, Registrant
Mike Ball, Registrant

