

DISCIPLINE DECISION

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 :

Registrar, *Motor Vehicle Dealers Act, 2002*

- AND -

Mohamad Sakka

Date of Hearing: December 16, 2022

Date of Decision: January 16, 2023

Findings: Breach of Section 8 and 9 of the Code of Ethics, Regulation 332/08

Order:

1. Sakka is ordered to pay a fine in the amount of \$2,400, along the following schedule:
 - a. \$1000 will be paid no later than **June 30, 2023**.
 - b. The remaining balance of \$1,400 will be paid no later than **March 1, 2024**.
2. Sakka is ordered to provide the Registrar with a certificate of completion for the following the course, no later than **March 31, 2023**:

*Creating Diversity, Sensitivity, And Inclusion In Your Workplace: A
Roadmap For Real Change.*

Sakka will incur the cost of this course.

3. Sakka agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Introduction

This hearing was held virtually via video conference. The Respondent was represented by counsel, Mr. Nadir Fakih. Ms. Andrea Korth was present on behalf of the OMVIC Registrar and joined by OMVIC's counsel, Mr. Zach Kowalsky. Independent Legal Counsel (ILC) to the Panel was Ms. Karen Bernofsky.

This matter proceeded by way of an Agreed Statement of Facts (ASF), and Joint Submission on Penalty (JSOP).

The Amended Notice of Complaint (NOC) was marked as Exhibit 1. The Amended Agreed Statement of Facts (ASF) was marked as Exhibit 2. The signed Joint Submission on Penalty (JSOP) was marked as Exhibit 3.

Amended Notice of Complaint

The Amended Notice of Complaint, marked as Exhibit 1, provided as follows:

Section 17 of the Act establishes a Discipline Committee and empowers the Discipline Committee to deal with breaches of the Code of Ethics. The Code of Ethics applies to all Registrants registered under the Motor Vehicle Dealers Act, 2002. Any Registrants that disregard or violate the Code of Ethics are subject to having their conduct reviewed by the Discipline Committee. The Code of Ethics requires that all Registrants conduct business with Integrity, Accountability, Compliance, Respect and Professionalism as well as ensuring that minimum requirements are met when it comes to Disclosure in Marketing and the Disclosure of Information in Contracts of Sale and Lease.

MOHAMAD SAKKA has violated one or more of the principles of the Code of Ethics and should therefore have his conduct reviewed by the Discipline Committee.

PARTICULARS

The reasons for this notice are:

Background:

1. Mohamad Sakka ("Sakka") was first registered as a motor vehicle salesperson from in or around August 2004. He is currently employed as the Finance Manager for 417 Nissan/417 Infiniti (the "Dealer").

Conduct:

2. On or about November 10, 2022, Sakka telephoned a lending institution to inquire why one of the Dealer's customers had their application for a vehicle loan or lease denied by said institution.

3. During the course of this phone call Sakka used profane and abusive language directed towards the representative of the lending institution.

4. The representative of the lending institution terminated the call because of Sakka's abusive conduct.

5. Shortly after the call was terminated, Sakka telephoned the lending institution back and the same representative answered Sakka's call. Sakka continued to use profane and insulting language towards the representative which also included racially insensitive remarks about the representative's ethnic heritage.
6. The representative of the lending institution brought Sakka's conduct to her manager's attention, who then contacted the General Manager of the Dealer. Sakka subsequently provided the lending institution's representative with a letter in which he acknowledged making the abusive remarks and apologized for his conduct.
7. Sakka's conduct was both unprofessional and insulting to human dignity, contrary to sections 8 and 9 of the Code of Ethics.

Agreed Statement of Facts

The Amended Agreed Statement of Facts, marked as Exhibit 2, provided as follows:

Background:

1. Mohamad Sakka ("Sakka") was first registered as a motor vehicle salesperson from in or around August 2004. He is currently employed as the Finance Manager for 417 Nissan/417 Infiniti (the "Dealer").

Conduct:

2. On or about November 10, 2021, Sakka telephoned a lending institution to inquire why one of the Dealer's customers had their application for a vehicle loan or lease denied by said institution.
3. During the course of this phone call Sakka used profane and abusive language directed towards the representative of the lending institution.
4. The representative of the lending institution terminated the call because of Sakka's abusive conduct.
5. Shortly after the call was terminated, Sakka telephoned the lending institution back and the same representative answered Sakka's call. Sakka continued to use profane and insulting language towards the representative which also included racially insensitive remarks about the representative's ethnic heritage. Sakka then terminated the call.
6. The representative of the lending institution brought Sakka's conduct to her manager's attention, who then contacted the General Manager of the Dealer. Sakka subsequently provided the lending institution's representative with a letter in which he acknowledged making the abusive remarks and apologized for his conduct.
7. Sakka's conduct was both unprofessional and insulting to human dignity, contrary to sections 8 and 9 of the Code of Ethics.

It is thereby agreed that Sakka has breached the following section of the Code of Ethics, as set out in Regulation 332/08

Respect:

8. (1) *In carrying on business, registrants shall not engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as insulting to human dignity or integrity and shall not use symbols that, having regard to all of the circumstances, would reasonably be regarded as offensive*

Professionalism

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*

Joint Submission on Penalty:

The Joint Submission on Penalty, marked as Exhibit 3, provided as follows:

1. Mr. Sakka agrees to pay a fine in the amount of \$2,400, along the following schedule:
 - a. \$1000 will be paid no later than **June 30, 2023**.
 - b. The remaining balance of \$1,400 will be paid no later than **March 1, 2024**.
2. Sakka agrees to provide the Registrar with a certificate of completion for the following the course, no later than **March 31, 2023**:

Creating Diversity, Sensitivity, And Inclusion In Your Workplace: A Roadmap For Real Change.

Sakka will incur the cost of this course.

3. Sakka agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Decision of the Panel

Having reviewed and considered the Agreed Statement of Facts, the Panel was satisfied that Mr. Sakka breached Sections 8(1) and 9(1) of the OMCV Code of Ethics, as alleged in the Amended Notice of Hearing.

The Panel also accepted the JSOP and made the following Order consistent with its terms before the conclusion of the hearing:

4. Sakka is ordered to pay a fine in the amount of \$2,400, along the following schedule:
 - a. \$1000 will be paid no later than **June 30, 2023**.
 - b. The remaining balance of \$1,400 will be paid no later than **March 1, 2024**.
5. Sakka is ordered to provide the Registrar with a certificate of completion for the following the course, no later than **March 31, 2023**:

Creating Diversity, Sensitivity, And Inclusion In Your Workplace: A Roadmap For Real Change.

Sakka will incur the cost of this course.

6. Sakka agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Reasons for Decision

The facts in this case were not disputed. As detailed in the ASF, on or about November 10, 2021, Mr. Sakka contacted a financial institution to express frustration that financing for a vehicle he had sold had been denied. Mr. Sakka became angry and verbally abusive with the customer service representative who took his calls. The verbal abuse was both profane and racially insensitive.

The Panel understands that Mr. Sakka promptly regretted what he had said and ultimately sent a letter to the customer representative apologizing for his behaviour.

The conduct in this matter and the language used by Mr. Sakka was totally inappropriate. It reflects negatively on the entire profession and is certainly contrary to the Code of Ethics. That said, the Panel accepts that Mr. Sakka took ownership for his actions, acknowledged the inappropriateness of what occurred, and demonstrated remorse. These sentiments were echoed by Mr. Sakka's counsel during oral submissions at the hearing.

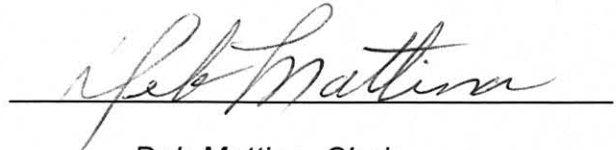
OMVIC submitted that the terms of the JSOP satisfy the objectives of penalty. The monetary fine achieves specific and general deterrence, the education course (Creating Diversity, Sensitivity, and Inclusion in Your Workplace: A Roadmap For Real Change) serves the remediation objective and the public interest.

Mr. Sakka's counsel submitted that Mr. Sakka had been under stress with the impacts of the pandemic, low inventory and the pressures to get deals done. It was his submission that this conduct was out of character for Mr. Sakka, who otherwise has an untarnished record in car sales for approximately 24 years. Mr. Fakhri also emphasized

that the financial penalty in this matter is significant. The Panel understands that Mr. Sakka has four children in various stages of higher education.

As noted earlier in this decision, the Panel accepted the JSOP. Although shocked by the language used, Mr. Sakka's otherwise unblemished discipline history is consistent with this being a momentary lapse in judgement not reflective of his overall character. The fact that Mr. Sakka took ownership of his behaviour, proactively apologized, and expressed his remorse to the customer service representative is significant. The Panel is also satisfied that the financial penalty ordered is sufficient to deter this type of conduct both by Mr. Sakka and the wider industry. Lastly, the Panel accepted the submissions of counsel that the course ordered in the JSOP is uniquely appropriate to the circumstances of this complaint and should adequately provide the registrant with the means to rehabilitate himself.

Ontario Motor Vehicle Industry Council
Discipline Committee

A handwritten signature in cursive script, reading "Deb Mattina", is written over a horizontal line.

Deb Mattina, Chair
Achilles Pelitis, Vice Chair
Wally Pietraszko, Vice Chair