

## DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member  
Nelson Caetano, Registrant  
Jon Lemaire, 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 - )  
2823739 ONTARIO INC. )  
- and - )  
SHAQIL DAMJI )  
)

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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:** December 23, 2024

**Findings:** **2823739 Ontario Inc. (the “Dealer”) has breached the following:**

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

**Shaqil Damji (“Damji”) has breached the following:**

- Sections 6(2), 9(1) and 9(3) of the Code of Ethics, O. Reg. 332/08

### **Order:**

1. 2823739 Ontario Inc. (the “Dealer”) shall pay a fine in the amount of **\$4,250** no later than one hundred twenty (120) calendar days from December 23, 2024.
2. Shaqil Damji (“Damji”) shall pay a fine in the amount of **\$500** no later than one hundred twenty (120) calendar days from December 23, 2024.
3. Damji shall successfully complete the MVDA Key Elements Course no later than one hundred twenty (120) calendar days from December 23, 2024.
4. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the MVDA Key Elements Course, no later than one hundred twenty (120) calendar days from December 23, 2024.
5. The Dealer and Damji 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 November 6, 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:

1. The allegations contained in paragraphs 8, 12, 15-18, 20 and 23 of the Notice of Referral to Discipline (“NORD”) dated June 6, 2024, are hereby withdrawn.

### **Background:**

2. On or about December 2, 2022, 2823739 Ontario Inc. (the “Dealer”) was first registered as a motor vehicle dealer under the Act and it is currently registered. The Dealer is registered within the wholesaler class of registration, pursuant to section 21 of O. Reg. 333/08.
3. On or about May 26, 2010, Shaqil Damji (“Damji”) was first registered as a motor vehicle salesperson under the Act and he is currently registered. Since in or around November 2022, Damji has been registered to the Dealer and is the sole Director, General Manager, signing authority and salesperson for the Dealer.
4. On or about December 2, 2022, Damji entered into Terms and Conditions of Registration on behalf of the Dealer. The Dealer agreed to, among other things, the following terms:

Term 1: to comply with the Act, its Regulations and the Code of Ethics, as it applies to the wholesaler class of registration;

Term 8: to not trade in any motor vehicles other than with registered dealers and wholesale auctions;

Term 11: to not trade in motor vehicles with Nazim Damji or Freney Damji, without first confirming that they are registered as a salesperson and authorized to act on behalf of a registered dealer.

5. Nazim Damji and Freney Damji have never been registered as a motor vehicle salesperson or dealer, under the Act.

#### **Direct Correspondence with Dealer**

6. On or about January 5, 2023, a Representative of the Registrar spoke with Damji and reminded him of the Dealer's obligations to trade within its wholesale class. The Representative emphasized that the Dealer cannot purchase or sell vehicles on a retail basis – including with family or friends – and that the Dealer is restricted to trading with other registered motor vehicle dealers.

#### **Dealer's Non-Compliance:**

7. On or about October 26, 2023, a representative of the Registrar (the "Inspector") attended the Dealer's premises to conduct a books and records inspection. The Inspector met with Damji. The following contraventions were discovered as a result of the inspection, as particularized and explained below.

#### **2023 Volkswagen Golf 7AG**

8. On or about June 14, 2023, the Dealer purchased a 2023 Volkswagen Golf 7AG (VIN: \*169441) for \$44,803. During the inspection, the Inspector discovered an invoice which indicated that the Dealer had purchased the vehicle from a company; however, this was false. The Dealer had purchased the vehicle from Nazim Damji.
9. The Dealer traded outside of its class, contrary to s. 21 of the Act, and Terms 1 and 8 of its Terms and Conditions of Registration. It thereby breached ss. 9(1) and 9(3) of the Code of Ethics.
10. The Dealer purchased a vehicle from Nazim Damji, which was also a violation of Term 11 of its Terms and Conditions of Registration. It thereby breached ss. 9(1) and 9(3) of the Code of Ethics.

#### **2023 Volkswagen Golf ABA**

11. On or about June 30, 2023, the Dealer purchased a 2023 Volkswagen Golf ABA (VIN: \*189821) for \$45,200. During the inspection, the Inspector discovered an invoice which indicated that the Dealer had purchased the vehicle from a company; however, this was false. The Dealer had purchased the vehicle from Freney Damji.
12. The Dealer traded outside of its class, contrary to s. 21 of the Act, and Terms 1 and 8 of its Terms and Conditions of Registration. It thereby breached ss. 9(1) and 9(3) of the Code of Ethics.

13. The Dealer purchased a vehicle from Freney Damji, which was also a violation of Term 11 of its Terms and Conditions of Registration. It thereby breached ss. 9(1) and 9(3) of the Code of Ethics.

2017 Chevrolet TRAX 1LT (VIN: \*8544)

14. On or about July 10, 2023, the Dealer purchased a 2017 Chevrolet TRAX 1LT (VIN: \*8544) for \$12,430. During the inspection, the Inspector discovered an invoice which indicated that the Dealer had purchased the vehicle from a company; however, this was false. The Dealer had purchased the vehicle from an individual.
15. The Dealer traded outside of its class, contrary to s. 21 of the Act, and Terms 1 and 8 of its Terms and Conditions of Registration. It thereby breached ss. 9(1) and 9(3) of the Code of Ethics.

**Damji's Non-Compliance:**

16. Damji failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, the Dealer's Terms and Conditions of Registration, and the Code of Ethics and thus Damji personally contravened ss. 6(2), 9(1) and 9(3) of the Code of Ethics.
17. As particularized above, the Dealer and Damji have violated the followings sections 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.

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.

18. As particularized above, Damji 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 9(1) and 9(3) of the OMVIC Code of Ethics; (2) Damji has breached subsections 6(2), 9(1), 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: December 23, 2024

Ontario Motor Vehicle Industry Council  
Discipline Tribunal

*S. Darvish*

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

Nelson Caetano, Registrant  
Jon Lemaire, Registrant

