

THE DEALER STANDARD

OMVIC.on.ca

2017 | ISSUE #1

IN THIS ISSUE

- Repeat Offender Sentenced to 50 Days Behind Bars
- Stouffville Curbsider Fined \$15,000
- Supplying Curbsiders Is Illegal!
- OMVIC's Complaints and Inquiries Team: All in a Day's Work
- Helpful Resources for Registrants
- A Written Contract Is the Best Protection!
- 2017 Canadian International AutoShow – Yet Another Success!
- Have an Advertising Question? OMVIC Can Help!

OMVIC'S PRIORITIES

- CONSUMER PROTECTION
- DEALER PROFESSIONALISM
- CUSTOMER SERVICE

THE DEALER STANDARD

is published by the

Ontario Motor Vehicle Industry Council

65 Overlea Blvd., Ste. 300

Toronto, ON M4H 1P1

T: 416-226-4500

Toll Free: 1-800-943-6002

Chief Executive Officer: John Carmichael

Writers: Terry O'Keefe, Sarah Choudhury
and Farah Mohammed

Stubborn Ottawa-area Curbsider Fined \$40,000

A Stittsville man has been convicted of curbsiding (acting as a motor vehicle dealer without registration) under the *Motor Vehicle Dealers Act* (MVDA). OMVIC conducted an extensive investigation into the illegal vehicle sales of **Soidan Ismail**, also known as **Soidan Ismal** or **"Danny."** The investigation led to 29 MVDA curbsiding charges and an additional 30 charges under the *Consumer Protection Act* (CPA) for making false, misleading and deceptive representations regarding the history and condition of vehicles sold. Ismail was convicted on 19 of the charges and fined \$40,000.

Appeared to Be a Dealer

Ismail did not act alone. Collaborating with two other individuals – **Mark Richards** of Gloucester and **Thomas Murray** of Russell, Ismail advertised vehicles on Kijiji, indicating the vehicles were at **St. Laurent Auto Repair and Collision Centre**, which he owned.

In a number of cases, unsuspecting consumers were either told they were dealing with a licensed dealership or were under the impression that Ismail was a registered dealer, based on the fact that he issued bills of sale and handled the licensing and transfer of ownership.

Many victims indicated the bills of sale did not include the *actual* selling price of the vehicle. When questioned, purchasers stated that Richards told them the perpetrators "were just trying to save them some taxes."

Misrepresentation

One of the charges related to the sale of a vehicle with undisclosed accident repairs of more than \$15,000. The consumer was told the vehicle had "a minor repair to the rear bumper"; only later was it discovered that the frame of the vehicle had been cut and welded and the suspension replaced and welded illegally.

Another purchaser stated he never would have purchased his vehicle had he known about multiple accident claims that totalled over \$24,000.

Obstinacy

An OMVIC Investigator met with Ismail early in the investigation to warn him of his illegal practices, at which time Ismail acknowledged he knew he was selling vehicles illegally. A Ministry of Transportation report later revealed Ismail sold 28 vehicles in the one-month period following OMVIC's warning. Ismail even continued illegally selling vehicles after attending a judicial pretrial on his first set of charges.

Continued on page 2

Stubborn Ottawa-area Curbsider cont.

"The individual's conduct is troubling," stated Tom Girling, OMVIC Director of Investigations. "Mr. Ismail demonstrated little respect for the law and continued to illegally sell vehicles to the detriment of unsuspecting consumers even after being warned by the regulator."

Supporting Cast

Thomas Murray and Mark Richards were each charged with one count of curbsiding. Both pled guilty; Murray was fined \$5,000; Richards was fined \$7,500.

Repeat Offender Sentenced to 50 Days Behind Bars for Illegal Vehicle Sales

Andre N. Campbell has been sentenced to 50 days in jail for illegal vehicle sales. The Mississauga man was charged by OMVIC with curbsiding and selling five vehicles between 2012 and 2014. "Each vehicle was a rebuilt write-off," explained Tom Girling. "The purchasers, who found the vehicles advertised online, were unaware of their true history."

Curbsiders often pose as private sellers. And just as they commonly misrepresent themselves, they often misrepresent the vehicles they sell: many are previous write-offs or have undisclosed collision repairs. This has been Campbell's MO for years.

In 2013 Campbell was sentenced to 32 days in jail for the sale of 16 vehicles, many with undisclosed collision repairs, including one sold to a driving school instructor who told Campbell the vehicle was to be used by his students. Campbell was also convicted of curbsiding in 2004 and 2001.

In a letter submitted to the court, Campbell acknowledged his actions were "stubborn" and "immature." However, in handing down his sentence, Justice of the Peace Anthony Amenta found Campbell displayed a disregard for the law and showed little remorse for his repeated offences.

"This sentence, and the one handed out to Ismail, should send a strong message to curbsiders," stated Girling. "It demonstrates the seriousness of these offences and makes it clear that both the courts and OMVIC recognize the dangers these illegal vehicle sellers pose to Ontario consumers."

Stouffville Curbsider Fined \$15,000

Pasquale Logambino of Stouffville was convicted of curbsiding and fined \$15,000. An OMVIC investigation found that between April 2014 and January 2015, Logambino purchased 21 vehicles from various dealerships – including eight vehicles from an auction that trades exclusively in vehicles that have been involved in collisions and/or are insurance write-offs – and illegally sold 15 of these vehicles.

Supplying Curbsiders Is Illegal!

OMVIC advises dealers to take the necessary precautions to ensure they are not supplying curbsiders with inventory. These precautions include the following:

- **Registering all vehicles in the buyer's name**
Curbsiders commonly won't register vehicles in their own names. They may offer to do the transfer themselves but will actually leave the vehicle in the selling dealer's name until it's sold to an unsuspecting buyer. Ensure all vehicles sold are registered in the name of the buyer before the vehicle is released.
- **If selling to another "dealer," verifying that the dealer is registered with OMVIC**
If a buyer claims to be from another dealer or wholesaler, verify their registration on OMVIC's website or ask to see their OMVIC licence. By law, they must present it to anyone asking to see it. If they can't produce one, or are not listed in OMVIC's database, don't conduct business with them and report them to OMVIC.
- **Regularly reviewing the Garage Register**
Conduct periodic checks of the Garage Register. Does the same name appear numerous times? Can it be explained? If not, the person may be a curbsider. Be vigilant.

Dealers who supply curbsiders with inventory are breaking the law and should expect to face charges or disciplinary action. In 2016, 32 individuals or businesses were convicted of curbsiding; 55 additional cases are still before the courts.

All curbsider convictions are made public and details can be found on OMVIC's [website](#).



OMVIC'S COMPLAINTS AND INQUIRIES TEAM: ALL IN A DAY'S WORK

It's 8:30 on a Monday morning, which means the start of another work week for OMVIC's Complaints and Inquiries Department. For this small but dedicated team of 11, dealing with issues that arise during or after the vehicle sales process is par for the course... and some holes are easier to play than others.

Dealers who have been involved in handling a serious consumer complaint know it can be time-consuming, complicated, stressful...even emotional. Sometimes a customer's demands are not reasonable; sometimes the complaint is legitimate but it hasn't been escalated or brought to the attention of the appropriate person at the dealership. OMVIC understands.

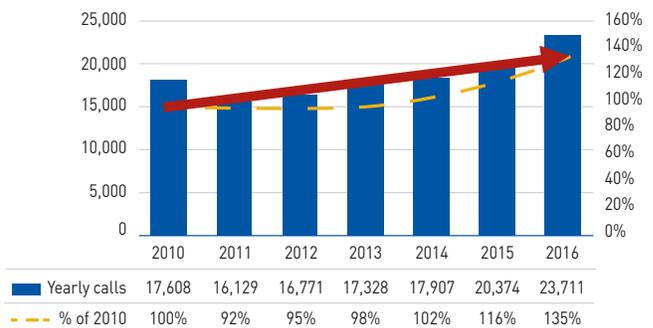
And while some inquiries may be easily resolved by opening a line of communication and re-establishing trust, other inquiries have to be escalated to a formal complaint, requiring additional scrutiny and effort to ensure OMVIC meets its mandate of maintaining a fair and informed marketplace by protecting the rights of consumers.

Since 2010, when the new *Motor Vehicle Dealers Act* (MVDA) came into force, the Complaints and Inquiries Team has seen a 35% increase in inquiries; but interestingly, the number of formal complaint files opened has remained relatively constant. This seems to indicate that helping establish lines of communication between a dealer and a customer with a problem is not only helpful, but effective.

"Although Complaint Handlers are here to assist both consumers and dealers, they are representatives of the regulator. So the answer a dealer gets might not always be the answer they were hoping to hear," explained Terry O'Keefe, OMVIC Director of Communications and Education. "The job of OMVIC's Complaint Handlers is to provide accurate information, and sometimes that includes pointing out potential breaches of the MVDA, CPA or Code of Ethics."

Trying to find fair and amicable solutions to complaints can be incredibly challenging, and, at times, thankless. So it is interesting to note the survey results from consumers *and* dealers who have been involved in formal complaint conciliations: results have consistently shown high levels of satisfaction...from dealers. Put simply, dealers are more satisfied with the complaint handling process than are consumers.

Complaints & Inquiries Team - Call Volume



CUSTOMER SERVICE SURVEY RESULTS

Number of responses

Complaints (Dealers)

Complaints (Consumers)

Courtesy*

Knowledge*

Efficiency*

133

325

4.2

4.1

4.0

3.9

4.1

3.3

* On a scale of 1 (lowest) to 5 (highest)

DID YOU KNOW

OMVIC's online services include an automated tool that notifies a dealership when OMVIC is about to contact them regarding a formal complaint. This helps ensure that a designated individual is fully aware of the issue and may provide insight to the dealer regarding the types of complaints being generated. To take advantage of this service or to ensure the appropriate person at a dealership is made aware of complaints, sign up for OMVIC's [online services](#).

Helpful Resources for Registrants



Inspection Guide & Checklist

"Thank you for your professional presentation of facts and truths underlined in the Motor Vehicle Dealers Act. You made the inspection process a positive and inspiring experience. I'm very proud to be in an industry in which our regulator sets the highest standards of compliance for dealerships in Ontario."

OMVIC received this note from a dealer after an inspection earlier this year. The majority of dealers recognize OMVIC's Inspection program as vital to ensuring compliance with the *Motor Vehicle Dealers Act* (MVDA) and its regulations. But just as importantly, inspections serve as an educational opportunity and provide an excellent chance to have questions answered.

So to help dealers prepare for an inspection and gain the most benefit, OMVIC's Inspections Team have developed the *Inspection Guide & Checklist*. This online resource

- suggests steps to take **prior to an inspection**
- makes dealers aware of what to expect during an inspection
- makes dealers aware of the appropriate steps to take on receipt of an Inspection Findings Notice (post-inspection)

Dealers can download the *Inspection Guide & Checklist* [here](#).

Financial Management Best Practices

OMVIC recently made available a **best practices toolkit** to provide dealers and salespeople with guidelines in three key areas: retail consignments, leasing and financial management.

The [Financial Management Best Practices](#) guide will help registrants conduct business with financial integrity – a requirement of the MVDA – and offers tips designed to help dealers implement sound financial management strategies, including

- monitoring and measuring the performance of their dealership
- reviewing financial reports
- ensuring internal audit controls are in place

Note: These best practices should not be construed as a legal opinion or financial advice. Registrants are encouraged to review the relevant sections of the [MVDA](#) and [Regulation 333/08](#) and to consult with an independent lawyer if they have any additional concerns or questions.



Click here to review the [Financial Management Best Practices](#).

Reminder to Dealers – A Written Contract Is the Best Protection!

The outcome of a recent dispute between a car buyer and a St. Catharines dealership serves as a reminder to dealers of the requirement to provide a written contract for all vehicle transactions.

In this case, the dealer sued the consumer for breach of contract, alleging she had stopped payments on two post-dated cheques totalling \$2,317. The consumer countered that she was not given a copy of the contract and that the one the dealer later presented was forged. The Court dismissed the dealer's claims, determining no copy of the bill of sale was provided to the consumer at the time of purchase.

On the basis that the dealer engaged in an unfair practice, contrary to the *Consumer Protection Act*,

the consumer commenced a Defendant's Claim and was granted judgment in the amount of \$7,964 and rescission of the vehicle purchase. Although the dealer launched an appeal, the Divisional Court upheld the decision and the appeal was dismissed.

Remember, a Written Contract Is the Best Protection!

The *Motor Vehicle Dealers Act* requires dealers to complete a bill of sale (including details of the financing arrangement, if applicable) for every vehicle transaction and to immediately provide a signed copy to the consumer. Not only does this ensure the transaction is legal and binding, it provides protection to both sides should a dispute arise.

2017 Canadian International AutoShow – Yet Another Success!

Canada's largest consumer show, the 2017 Canadian International AutoShow, once again exceeded expectations with more than 339,000 automotive enthusiasts in attendance!

Consumers and dealers alike who visited the AutoShow explored a wide array of new cars and trucks, muscle cars, concept vehicles and luxury cars, and many learned about their car-buying rights at OMVIC's booth.



Consumers spoke with OMVIC staff, who promoted the protections available to car buyers when buying from an OMVIC-Registered Dealer. Staff also provided tips on how to detect and avoid curbsiders. "The AutoShow allows us to connect one-on-one with consumers as well as dealers and salespeople," explained Terry O'Keefe. "We believe this type of awareness and education helps protect consumers and prevents problems from arising, but just as importantly, it builds trust in the industry; it's win-win."

"We believe this type of awareness and education helps protect consumers and prevents problems from arising, but just as importantly, it builds trust in the industry; it's win-win."

*– Terry O'Keefe,
OMVIC Director of
Communications and Education*



Have an Advertising Question? OMVIC Can Help!

Advertising Review Service

Dealers who have questions about the advertising rules and regulations or who want to have an advertisement reviewed before publishing can contact OMVIC's Business Standards Team at 416-226-4500 ext. 3180 or marketing_standards@omvic.on.ca.

This is a free service! Please allow 24 to 48 hours for a review.

Advertising Education for Dealers

OMVIC provides free educational seminars and webinars on the advertising regulations. To request a dealer seminar or webinar, contact OMVIC's Education Officer at 416-226-4500 ext. 3174 or farah.mohammed@omvic.on.ca. To learn more, view a previous OMVIC/UCDA Advertising Webinar [here](#).

Report Advertising Non-compliance

Dealers who breach the advertising regulations not only fail to provide transparency to consumers, they seek an advantage over compliant dealers. This is not only illegal, it's unfair. Dealers who want to report a competitor's non-compliant advertisement can contact OMVIC's Business Standards Team **anonymously** at 416-226-4500 ext. 3180 or marketing_standards@omvic.on.ca.

FOR SALE
2012 Supramobile

\$12,599 + HST + Licensing

SHTOCS Fine Cars
1-800-943-6002

- **FREE ADVERTISING REVIEW SERVICE**
 - **FREE EDUCATIONAL SEMINARS AND WEBINARS**
 - **REPORTING ADVERTISING NON-COMPLIANCE**
-