

## 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

BETWEEN:

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

-AND-

TOPLINE AUTO INC

- and -

HOSNA NEAZI

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Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, I, the Chair of the Discipline Committee, have reviewed and considered the written Agreed Statement of Facts and Joint Submission on Penalty, further written submission from OMVIC together with both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

**Date of Decision:** July 12, 2021

**Findings:** Breach of Sections 6, 7 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$7,000. \$3,000 will be paid no later than **October 31, 2021**, and the remaining balance (\$4,000) will be paid no later than **December 31, 2021**.
2. Hosna is ordered to pay a fine in the amount of \$2,000 no later than **October 31, 2021**.
3. Hosna is ordered to successfully complete the MVDA Key Elements course no later than **December 31, 2021**.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **December 31, 2021**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. The Dealer will incur all

costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the Course or who are otherwise required to do so pursuant to the Act.

5. The Dealer and Hosna agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Written Reasons:

## **Reasons for Decision**

### **Introduction**

This matter proceeded on the basis of an Agreed Statement of Facts, Joint Submission on Penalty, additional written submissions from OMVIC and the Parties' Waiver of Hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee.

### **Agreed Statement of Facts**

The parties to this proceeding agree that:

1. Topline Auto Inc (the "Dealer") was first registered as a motor vehicle dealer in or around June 2018. Hosna Neazi ("Hosna") was first registered as a motor vehicle salesperson in or around October 2014. At all material times, Neazi was the officer, as well the person in charge of the day to day activities of the Dealer.
2. Jawad Neazi ("Jawad") was previously registered as a motor vehicle salesperson from around June 2007 until around December 2007.
3. Jawad became registered again on or about December 29, 2020. As of that date, Jawad's role at the Dealer was Sales Manager.
4. Jawad is Hosna's husband.
5. On or about May 21, 2014, Hosna successfully completed the Georgian College Automotive certification course (the "Course"). The following subjects are included in the Course materials:
  - a. The requirement for dealers to ensure all transactions involving the trade of motor vehicles are processed through the dealer's registered bank account
  - b. Retail vehicle disclosure requirements, including but not limited to, a vehicle's accident damage history ("disclosure obligations").
6. On or about June 25, 2018, Hosna executed terms and conditions of registration on behalf of the Dealer.
7. Per condition 8, the Dealer agreed that it would not permit Jawad to be directly or indirectly involved in the operation of the Dealer without the prior written consent of the Registrar. This included, but was not limited to, Jawad being involved in administrative, supervisory, management, financing, or customer service roles. In addition, Jawad was not permitted to be involved in the service or repair of vehicles on behalf of the Dealer

8. Per condition 9, the Dealer agreed that it would not permit Jawad to be involved in any of the above-mentioned roles without the prior written consent from the Registrar.
9. Per condition 22, the Dealer agreed it was under a positive obligation to disclose, in writing on the bill of sale, all material facts about the vehicles it sells, including but not limited to, a vehicle's accident damage history.
10. Per condition 27, the Dealer agreed to maintain bank accounts that are compliant with section 59 of Ontario Regulation 333/08.

**OMVIC publications re: material fact disclosure:**

11. Since the Dealer has become registered, OMVIC has issued the following Dealer Standard publications reminding dealers of their disclosure obligations:
  - a. 2018: Issue 3
  - b. 2019: Issue 1
  - c. 2019: Issue 2
  - d. 2020: Issue 4

The contents of these publications continue to be available on OMVIC's website.

**Dealer non-compliance:**

12. During an inspection of the Dealer on or about December 3, 2020, the following areas of non-compliance were found:

***Material fact non-disclosure:***

13. On or about March 10, 2019, Hosna purchased a 2006 Acura (VIN JH4CL968X6C800199) on behalf of the Dealer. This vehicle had sustained \$5,445 in damage from a previous accident or incident. On or about May 7, 2020, Hosna sold this vehicle on behalf of the Dealer but failed to disclose the vehicle's previous damage history. This is contrary to sections 42(19), and 42(25) of Ontario Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer's attempts to reach out to the purchaser of this vehicle and advise them of their vehicle's history were unsuccessful.
14. On or about February 5, 2020, Hosna purchased a 2007 BMW 3 Series (VIN WBAVH13587KC97657) on behalf of the Dealer. When it was sold to Hosna, the vehicle was declared as having two separate accident repair histories in the amounts of \$17,112 and \$7,774. Additionally, it was also disclosed that the vehicle was a theft recovery. On or about February 27, 2020, Hosna sold this vehicle on behalf of the Dealer, but failed to disclose the vehicle's previous damage and theft recovery history. This is contrary to sections 42(19), 42(24), and 42(25) of Ontario Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided confirmation from the purchaser of this vehicle they are aware of their vehicle's history.
15. On or about October 16, 2020, Hosna purchased a 2008 Nissan Sentra (VIN 3N1AB61E58L743038). This vehicle had previously sustained \$5,360 in accident

damage. On or about October 19, 2020, Hosna sold this vehicle but failed to disclose the vehicle's previous damage history. This is contrary to sections 42(19), and 42(25) of Ontario Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. Moreover, Hosna failed to include the vehicle's trim level or model year on the bill of sale. This is contrary to sections 42(16) and 42(17) of Ontario Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer's attempts to reach out to the purchaser of this vehicle and advise them of their vehicle's history were unsuccessful.

**Dealer bank account:**

16. Between on or about May 1, 2020 and on or about October 30, 2020, the Dealer failed to ensure all funds received or issued in connection with the trade of motor vehicles were processed through the Dealer's registered bank account. This is contrary to section 59(3) of Ontario Regulation 333/08, as well as section 3 and 9 of the Code of Ethics.

**Jawad's involvement:**

17. Prior to the December 29, 2020 reinstatement of his sales license, and while he was not registered to trade in motor vehicles or be involved in the operations of the Dealer, Jawad did the following:
- a. Assisted Hosna selecting vehicles to purchase.
  - b. Picked up vehicles from the auction on behalf of the Dealer.
  - c. Arranged service and repairs for vehicles on behalf of the Dealer.
  - d. Picked up consumers on behalf of the Dealer.

This is contrary to section 4 of the Act, paragraph 8 and 9 of the Dealers conditions of registration, and section 9 of the Code of Ethics.

18. Hosna has failed to ensure that the Dealer conducts its business in compliance with the Regulations and Code of Ethics, and therefore she has personally contravened sections 6 and 9 of the Code of Ethics.

By failing to comply with the following section of the *Motor Vehicle Dealers Act, 2002*:

Prohibition:

Unregistered salesperson

(3) A motor vehicle dealer shall not retain the services of a salesperson unless the salesperson is registered in that capacity. 2002, c. 30, Sched. B, s. 4 (3).

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:

**Regulation 333/08:**

**42. Additional information in contracts of sale and leases:**

16. *The trim level of the motor vehicle*

17. *The make, model and model year of the motor vehicle*

19. *If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.*

24. *If the motor vehicle had been recovered after being reported stolen, a statement to that effect*

25. *Any other fact about the motor vehicle that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle on the terms of the purchase or lease.*

**Bank accounts:**

*(3) A registered motor vehicle dealer described in subsection (1) shall ensure that,*

*(a) all amounts that the dealer receives in connection with a trade in a motor vehicle are deposited in a non-trust account mentioned in subsection (2) unless the dealer is required to deposit the amounts into the trust account required under section 25 of the Act; and*

*(b) all amounts that the dealer pays in connection with a trade in a motor vehicle are paid from a non-trust account mentioned in subsection (2) or the trust account required under section 25 of the Act.*

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

**Integrity**

3. (1) A registrant shall be financially responsible in carrying on

**business. Compliance**

7. (1) A registrant shall ensure that all documents used by the registrant in the course of a trade in a motor vehicle are current and comply with the law.

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

## Accountability

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.

It is thereby agreed that the Dealer and Neazi have breached the following section of the Code of Ethics, as set out in Regulation 332/08:

## 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.

## **Additional Written Submission from OMVIC**

OMVIC provided the following additional information in a written Submission:

1. The Dealer has not had any other remedial actions taken, nor has it been to discipline previously.
2. The Dealer endeavours to ensure written disclosure will be made moving forward.
3. The Dealer's retail sales volume is very low.

## **Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$7,000. \$3,000 will be paid no later than **October 31, 2021**, and the remaining balance (\$4,000) will be paid no later than **December 31, 2021**.
2. Hosna agrees to pay a fine in the amount of \$2,000 no later than **October 31, 2021**.
3. Hosna agrees to successfully complete the MVDA Key Elements course no later than **December 31, 2021**.
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **December 31, 2021**. Future sales staff will be offered the Course within 90 days of being retained in this capacity. The Dealer will incur all costs associated with this. It is understood between the parties this clause does not apply to sales staff who have completed the Course or who are otherwise required to do so pursuant to the Act.
5. The Dealer and Hosna agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

### **Decision of the Chair**

Having reviewed and considered the Agreed Statement of Facts and the additional written submissions from OMVIC, the Chair of the Discipline Committee hereby concludes that the Dealer and Hosna have breached subsections 6, 7 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the Discipline Committee also agrees with the Parties' Joint Submission on Penalty and, accordingly, makes the following Order:

1. The Dealer is ordered to pay a fine in the amount of \$7,000. \$3,000 will be paid no later than **October 31, 2021**, and the remaining balance (\$4,000) will be paid no later than **December 31, 2021**.
2. Hosna is ordered to pay a fine in the amount of \$2,000 no later than **October 31, 2021**.
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5. The Dealer and Hosna agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



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*Paul Burroughs, Chair*