
IN THE MATTER OF the *Insurance Act*, R.S.O. 1990, c. 1.8, as amended (the "Act"), in particular sections 441, 441.1, 441.3, and 439;

AND IN THE MATTER OF 1843538 Ontario Inc. C.O.B. as McLaren Collision, Fady Rony Warda, and Rony Amanuel Warda.

MINUTES OF SETTLEMENT AND UNDERTAKING

PART I-INTRODUCTION

1. At the relevant times, 1843538 Ontario Inc. was carrying on business as McLaren Collision ("McLaren"), an autobody repair shop. Fady Rony Warda ("Fady Warda") worked for McLaren.
2. On March 20, 2020, the Chief Executive Officer ("CEO") of the Financial Services Regulatory Authority of Ontario ("FSRA"), issued a Notice of Proposal (the "NOP") in respect of McLaren, Fady Warda and Rony Warda.
3. McLaren, Fady Warda and Rony Warda disputed the allegations and, on or about September 29, 2020, requested hearings before the Financial Services Tribunal (the "Tribunal") in respect of the NOP.
4. The Director of Litigation and Enforcement (the "Director"), by delegated authority from the CEO, McLaren and Fady Warda (collectively the "Parties") wish to resolve this matter on consent and without a hearing before the Tribunal.

PART II- AGREED FACTS

5. Aviva Canada ("Aviva") is an insurance company that operates in Ontario and provides auto insurance to consumers. In 2017, Aviva investigated possible fraudulent activity in the auto repair industry.
6. Aviva arranged to have two motor vehicles, a 2010 Ford Fusion and a 2016 Chrysler 200 damaged in a way that simulated a collision. The damage to each vehicle was appraised by Wally Clark ("Clark"), President and Owner of Niagara Appraisal Services, a third-party appraiser, for the purpose of Aviva's investigation.
7. The vehicles were equipped with hidden video cameras (the "cameras") that captured video only (no audio). The vehicles were driven by private investigators retained by

Aviva to pre-arranged locations to stage collisions on *May 8, 2017*, and *September 21, 2017*, respectively.

8. After each of these two simulated collisions, the Ford Fusion and the Chrysler 200 were towed to McLaren for repairs.
9. Appraisals of both vehicles were conducted on site at McLaren by Michael Wetzel ("Wetzel"). Wetzel was an Aviva staff appraiser. Wetzel was not aware of the Aviva investigation.

The Ford Fusion

10. The camera in the Ford Fusion recorded FadyWarda repeatedly striking the area of the right front fender with an object. The camera also recorded Fady Warda twice striking the right side of the vehicle's raised hood with a large object.
11. Wetzel appraised the damage to the Ford Fusion at \$4,880.32.
12. McLaren invoiced Aviva for \$4,208.02. This was in addition to a \$1,000 deductible paid directly by the driver of the Ford Fusion. McLaren's total charge for repairs, excluding the tow, was \$4,880.32. Aviva paid the full invoice.
13. Clark re-examined the Ford Fusion after it was returned from McLaren and found that the actual work completed at McLaren was valued at \$2,387.97.
14. Clark found that McLaren had:
 - (a) invoiced Aviva for repairs for items that were not damaged when he conducted his original appraisal before the Ford Fusion was taken to McLaren;
 - (b) invoiced Aviva for replacement parts that were not replaced; and
 - (c) invoiced Aviva for repairs that were not completed.
15. A report from De Berardis Associates Inc., (De Berardis), an engineering firm retained by Aviva to also inspect the vehicles, confirmed the findings by Clark.

The Chrysler 200

16. Wetzel appraised the damage to the Chrysler 200 as \$9,862.75.
17. McLaren invoiced Aviva for \$9,862.75. Aviva paid the full invoice.
18. Clark re-examined the Chrysler 200 after it was returned from McLaren and found that the actual work completed was valued at \$2,337.24.
19. Clark found that McLaren had:
 - (a) invoiced Aviva for repairs for items that were not damaged when he conducted his original appraisal before the Chrysler 200 was taken to McLaren;
 - (b) invoiced Aviva for replacement parts that were not replaced; and
 - (c) invoiced Aviva for repairs that were not conducted.
20. A report from De Berardis confirmed the findings by Clark.

PART III - NON-COMPLIANCE WITH THE ACT

21. By engaging in the conduct described above in Part II, McLaren admits and acknowledges that it contravened the Act by engaging in unfair or deceptive sets or practices on two occasions - once in regard to the Ford Fusion and once in regard to the Chrysler 200.
22. McLaren admits and acknowledges that it did so by charging an amount in consideration for the provision of goods or services to or for the benefit of a person who claimed payment under a contract of insurance, where the goods or services were not provided. In doing so McLaren admits and acknowledges that contravened of paragraph 1 of subsection 3(2) of O. Reg. 7/00.
23. In particular, McLaren charged Aviva, and was paid by Aviva, for certain repairs not done to either the Ford Fusion or the Chrysler 200 and for damages done to both of the vehicles while they were at McLaren.
24. Fady Warda admits and acknowledges that he caused additional damage to the Ford Fusion, thus facilitating McLaren's over charging for services. In doing so he engaged in unfair deceptive acts or practices and contravened section 439 of the Act and paragraph 1 of subsection 3(2) of O. Reg. 7/00.
25. McLaren and Fady Warda further admit and acknowledge that by committing one or more unfair or deceptive acts or practices (by contravening paragraph 1 of subsection 3(2) of O.Reg. 7/00 as set out above) they each also contravened section 439 of the Act.

PART IV - TERMS OF SETTLEMENT

26. McLaren and Fady Warda agree to pay administrative penalties in accordance with the attached Order or any other payment agreement entered into with FSRA.
27. McLaren and Fady Warda agree to cease and desist from engaging in the business of insurance. In addition, they each agree to:
 - (i) cease and desist charging for any work performed if it is reasonable to expect that all or a portion of such charges will be directly or indirectly paid for by an insurer;
 - (ii) cease and desist from accepting any fees, funds, or anything of value for any work performed if it is reasonable to expect that all or a portion of such fees, funds, or thing of value will be directly or indirectly paid for by an insurer;
 - (iii) cease and desist from holding itself out to consumers as being authorized to perform any work that will be directly or indirectly paid for by an insurer; and
 - (iv) cease and desist from advertising, soliciting, or offering any services related to any work that that will be directly or indirectly paid for by an insurer.
27. McLaren shall permanently cease and desist the above noted activities. Fady Warda shall cease and desist the above noted activities for a period of 3 months commencing from the date the Order is issued.

(a) Admissions and Acknowledgements

28. McLaren and Fady Warda admit the facts contained in Part II of these Minutes.
29. McLaren and Fady Warda acknowledge and agree that they have been given the opportunity to seek independent legal advice and they have done so and are entering into these Minutes of Settlement and Undertaking ("Minutes") voluntarily, understanding the consequences of doing so.
30. McLaren and Fady Warda acknowledge that these Minutes are an undertaking within the meaning of the Act, and that failure to comply may result in immediate regulatory action including, but not limited to, the issuance of a Notice of Proposal to revoke the licence, a Notice of Proposal to impose an administrative penalty, or a prosecution under the *Provincial Offences Act*.
31. Dyana Warda acknowledges that she has the authority to bind McLaren to the terms of this settlement.

(b) Issuance of Order

32. McLaren and Fady Warda acknowledge that, upon execution of these Minutes by the Parties, the order attached as Schedule "A" to these Minutes (the "Order") will be issued.

(c) Process for Execution of Settlement

33. McLaren and Fady Warda acknowledge that these Minutes are not binding on the Director until signed by the Director.
34. These Minutes may be executed in counterparts, and may be executed and delivered by facsimile or e-mail, and all such counterparts and facsimiles or e-mails, as applicable, shall together constitute one and the same agreement.
35. Upon receiving an executed copy of these Minutes from FSRA, McLaren and Fady Warda will withdraw their Request for Hearing (Form 1) in respect of the NOP before the Tribunal by completing a Withdrawal/Discontinuance (Form 5) and filing it with the Registrar at the Tribunal immediately.

36. Upon confirmation from the Tribunal that the Request for Hearing has been withdrawn and the hearing has been cancelled, the Parties agree that the Director will issue an Order in the form attached as Schedule "A" to these Minutes.
37. The Parties accept and understand that these Minutes and any rights within the Minutes shall enure to the Parties and to any successors or assigns of the Parties.

(d) Disclosure of Minutes and Order

38. The Parties will keep the terms of these Minutes and the Order confidential until the Order is issued, except that:
 - (i) The Director shall be permitted to disclose the Minutes and the Order within FSRA; and
 - (ii) The Parties shall be permitted to inform the Financial Services Tribunal.
39. If either of the Parties do not sign these Minutes or the Director does not issue the Order:
 - (i) These Minutes, the Order, and all related discussions and negotiations will be without prejudice to FSRA, McLaren, and Fady Warda; and
 - (ii) FSRA and McLaren, and Fady Warda will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the NOP. Any proceedings, remedies and challenges will not be affected by these Minutes, the Order, or any related discussions or negotiations.
40. Upon issuance of the Order:
 - (i) McLaren and Fady Warda agree that these Minutes and the Order form part of their administrative record for the purposes of any future licensing decision or as an aggravating factor in respect of a future administrative penalty or prosecution against them or any affiliated entities;
 - (ii) McLaren and Fady Warda acknowledge that these Minutes and the Order are public and will be published by FSRA on its public website (or that of its successor) along with a press release that summarizes these Minutes and the Order; and
 - (iii) The Parties agree not to make representations to any member of the public or media or in a public forum that are inconsistent with these Minutes or the Order.

(e) Further Proceedings

41. Whether or not the Order is issued, McLaren, and Fady Warda will not use, in any proceeding, these Minutes or the negotiation or process of approval of these Minutes as the basis for any attack on FSRA's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may be available.

42. Upon issuance of the Order:

- (i) McLaren and Fady Warda waive all rights to a hearing before the Tribunal regarding the NOP;
- (ii) McLaren and Fady Warda waive all rights to a judicial review or appeal of the Order;
- (iii) The Director agrees that FSRA will not take any further proceedings against McLaren or Fady Warda arising solely from the facts contained in Part II of these Minutes, unless facts not disclosed by McLaren or Fady Warda come to the attention of FSRA that are materially different from those contained in Part II of these Minutes or McLaren or Fady Warda fails to comply with any term in the Order; and
- (iv) McLaren and Fady Warda agree that should they fail to comply with any term in these Minutes or the Order, FSRA is entitled to bring any proceedings available to it.

Dated in Mississauga, Ontario September 24, 2023

Dyana Warda on behalf of McLaren

Dated in Mississauga, Ontario September 24, 2023

Name of Witness

Signature of Witness

Dated in Mississauga, Ontario September 4, 2023

Fady Rony Warda

Dated in Mississauga, Ontario September 4, 2023

Name of Witness

Signature of Witness

DATED at Toronto, Ontario, September 24, 2023

Elissa Sinha
Director of Litigation and Enforcement
Financial Services Regulatory Authority of Ontario

By delegated authority from the Chief Executive Officer

SCHEDULE A

IN THE MATTER OF the *Insurance Act*, R.S.O. 1990, c. 1.8, as amended (the "Act"), in particular sections 441, 441.1, 441.3, and 439;

AND IN THE MATTER OF 1843538 Ontario Inc. C.O.B. as McLaren Collision, Fady Rony Warda, and Rony Amanuel Warda.

COMPLIANCE ORDER AND ORDER IMPOSING ADMINISTRATIVE PENALTIES

1843538 Ontario Inc. ("McLaren") is an autobody shop that charged insurers for repairs that it made to vehicles. Fady Rony Warda ("Fady Warda") worked for McLaren.

On March 20, 2020, the Chief Executive Officer ("CEO") of the Financial Services Regulatory Authority of Ontario ("FSRA"), issued a Notice of Proposal (the "NOP") in respect of McLaren, Fady Warda and Rony Warda.

The NOP stated that McLaren, Fady Warda and Rony Warda had contravened section 439 of the Act by committing unfair or deceptive acts or practices. The NOP proposed to impose an order that McLaren, Fady Warda and Rony Warda cease engaging in the business of insurance, or any aspect of the business of insurance specified by the CEO, as well as administrative penalties on each.

McLaren, Fady Warda and Rony Warda disputed the allegations and, on or about September 29, 2020, requested hearings before the Financial Services Tribunal (the "Tribunal") in respect of the NOP in accordance with sections 441(5) and 441.3(5) of the Act.

On September 24, 2023 McLaren and Fady Warda withdrew their Requests for Hearing and on September 27, 2023, the Tribunal closed its file in respect of this matter.

These orders are made pursuant to a settlement entered into by McLaren and Fady Warda with the Director, Litigation and Enforcement, by delegated authority from the Chief Executive Officer.

ORDER

It is hereby ordered that 1843638 Ontario Inc. ("McLaren") and Fady Rony Warda, immediately cease and desist from engaging in the business of insurance. Further, McLaren and Fady Rony Warda are ordered to:

- a. Immediately cease and desist charging for any work performed if it is reasonable to expect that all or a portion of such charges will be directly or indirectly paid for by an insurer;
- b. Immediately cease and desist from accepting any fees, funds, or anything of value for any work performed if it is reasonable to expect that all or a portion of such fees, funds, or thing of value will be directly or indirectly paid for by an insurer;
- c. Immediately cease and desist from holding themselves out to consumers as being authorized to perform any work that will be directly or indirectly paid for by an insurer; and
- d. Immediately cease and desist from advertising, soliciting, or offering any services related to any work that that will be directly or indirectly paid for by an insurer.

It is hereby ordered that this order is permanent for McLaren. This order is for 3 months for Fady Rony Warda.

This order is imposed for the reasons set out in the Minutes of Settlement and Undertaking dated [TBD].

ORDER

An administrative penalty in the amount of \$75,000 is hereby imposed on 1843538 Ontario Inc. ("McLaren").

An administrative penalty in the amount of \$15,000 is hereby imposed on Fady Rony Warda.

These administrative penalties are imposed for the reasons set out in the Minutes of Settlement and Undertaking dated [TBD].

TAKE NOTICE THAT the Financial Services Regulatory Authority of Ontario will deliver invoices to McLaren and Fady Rony Warda with information as to where and how to pay the administrative penalties.

If McLaren or Fady Rony Warda fail to pay the administrative penalty in accordance with the terms of this Order and any further agreement or undertaking, the Chief Executive Officer may file the Order with the Superior Court of Justice and the Order may be enforced as if it were an order of the court. An administrative penalty that is not paid in accordance with the terms of an order imposing the penalty is a debt due to the Crown and is enforceable as such.

DATED at Toronto, Ontario,

Elissa Sinha
Director, Litigation and Enforcement

By delegated authority from the Chief Executive Officer

Si vous desirez recevoir cet avis en fran is, veuillez nous envoyer votre demande par courriel immediatement a: contactcentre@fsrao.ca.