

## 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 -

NAIFA SULTANA JAFOR o/a J & N QUALITY CARS

- AND -

MOHAMMED JAFOR UDDIN

---

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 together with both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

**Date of Decision:** July 22, 2020

**Findings:** Breach of Sections 3, 6, 7 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$2,500 no later than **November 2, 2020.**
2. The Dealer (Jafor) is ordered to successfully complete the MVDA Key Elements course no later than **November 2, 2020.** This date is subject to any future pandemic disruptions Georgian College may encounter, in delivering this course within the specified time frame.



3. Uddin is ordered to successfully complete the MVDA Key Elements course no later than **November 2, 2020**. This date is subject to any future pandemic disruptions Georgian College may encounter, in delivering this course within the specified time frame.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the course no later than **November 2, 2020**. 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 Uddin 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 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. Naifa Sultana Jafor o/a J & N Quality Cars (the "Dealer") was first registered as a motor vehicle dealer in around January 2017. Naifa Jafor ("Jafor") is the sole proprietor.
2. Mohammed Jafor Uddin ("Uddin") was first registered as a motor vehicle salesperson in around February 2017. Uddin is the person in charge of the day to day activities of the Dealer.
3. On or about January 18, 2016, both Jafor and Uddin successfully completed the Automotive Certification course (the "Course"). The following topics are included in the Course materials:
  - a. The requirement for dealers to provide purchasers with written disclosure of all material facts concerning a vehicle's history and condition, including the requirement to disclose the dollar amount of a vehicle's accident damage history.
  - b. The requirement for dealers to ensure all payments to and from the dealer relating to the trade in a motor vehicle are processed through the dealer's bank account.
4. On or about January 30, 2017, the Dealer executed terms and conditions of registration.



5. As per condition 1, the Dealer agreed to comply with the Code of Ethics and Standards of Business Practice, as may be amended from time to time.
6. As per condition 18, the Dealer agreed to provide purchasers with written disclosure, on the bill of sale, of all material facts concerning the vehicles it sells.
7. As per condition 24, the Dealer agreed to maintain its bank account in compliance with section 59 of Regulation 333/08.

***OMVIC publications:***

8. Since the Dealer has become registered, OMVIC issued the following Dealer Standard publications reminding dealers of their obligation to disclose all material facts about the vehicles they sell ("disclosure requirements"):
  - a. 2017: Issue 3
  - b. 2018: Issue 3
  - c. 2019: Issue 1

***Direct correspondence with Dealer:***

9. During an inspection on or about February 21, 2017 a representative of the Registrar reviewed with the Dealer the Dealer's terms and conditions of registration, as well as its disclosure requirements, pursuant to section 42 of Regulation 333/08.

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

10. During an inspection on or about September 26, 2019, the following non-compliant vehicle trade was discovered:
  - a. On or about September 5, 2019, the Dealer purchased a 2005 Honda Odyssey (VIN 5FNRL38645B504570) declared as having sustained \$9,181 and \$12,070 in accident damage from two separate accidents. On or about September 18, 2019, Uddin sold this vehicle on behalf of the Dealer without providing the purchaser with written disclosure of either of these previous damage amounts. This is contrary to sections 42(19) and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle's history.
11. In addition to the aforementioned non-compliant vehicle trade, this inspection also revealed the Dealer was failing to ensure all amounts the Dealer paid or received in connection with a trade in a motor vehicle were being processed through the Dealer's bank account. This is contrary to section 59(3) of Regulation 333/08, as well as sections 3 and 9 of the Code of Ethics.



**Generally:**

12. Uddin has failed to ensure the Dealer conducts its business in compliance with the Act and Code of Ethics and as such has personally contravened sections 6 and 9 of the Code of Ethics.

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:**

*(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.*

*(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.*

**59. Bank accounts:**

*(1) A registered motor vehicle dealer who is not an outside Ontario dealer, lease finance dealer or fleet lessor shall maintain one or more non-trust 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 section of the Code of Ethics, as set out in Regulation 332/08:

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

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 Uddin has breached the following section of the Code of Ethics, as set out in Regulation 332/08:



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 Uddin have breached the following section of the Code of Ethics, as set out in Regulation 332/08:

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**

1. The Dealer agrees to pay a fine in the amount of \$2,500 no later than **November 2, 2020.**
2. The Dealer (Jafor) agrees to successfully complete the MVDA Key Elements course no later than **November 2, 2020.** This date is subject to any future pandemic disruptions Georgian College may encounter, in delivering this course within the specified time frame.
3. Uddin agrees to successfully complete the MVDA Key Elements course no later than **November 2, 2020.** This date is subject to any future pandemic disruptions Georgian College may encounter, in delivering this course within the specified time frame.
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the course no later than **November 2, 2020.** 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 Uddin 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, the Chair of the Discipline Committee hereby concludes that the Dealer, Jafor and Uddin breached subsections 3, 4, 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 \$2,500 no later than **November 2, 2020**.
2. The Dealer (Jafor) is ordered to successfully complete the MVDA Key Elements course no later than **November 2, 2020**. This date is subject to any future pandemic disruptions Georgian College may encounter, in delivering this course within the specified time frame.
3. Uddin is ordered to successfully complete the MVDA Key Elements course no later than **November 2, 2020**. This date is subject to any future pandemic disruptions Georgian College may encounter, in delivering this course within the specified time frame.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the course no later than **November 2, 2020**. 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 Uddin 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



---

*Paul Burroughs, Chair*

