

## DISCIPLINE DECISION

REVIEWING PANEL:      Paul Burroughs, Chair      Registrant  
                                 Debra Mattina                      Public Member  
                                 Wally Pietraszko                   Registrant

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-

MONACO MOTORSCARS INC. o/a MONACO MOTORS

- and –

RAHMATULLAH ABDUL KHALIQ

- and –

MUKHTAR ABDUL KHALIQ

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Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, a Reviewing Panel has 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:**      April 21, 2022

**Findings:**                      Breach of Sections 4, 6 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$3,000 no later than **June 25, 2022.**
2. Rahmatullah Abdul Khaliq is ordered to complete the MVDA Key Elements Course no later than **July 31, 2022.**

3. Mukhtar Abdul Khaliq is ordered to complete the MVDA Key Elements Course no later than **July 31, 2022.**
4. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **July 31, 2022.**
5. The Dealer, Rahmatullah Abdul Khaliq and Mukhtar Abdul Khaliq agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

## **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. Monaco Motorcars Inc o/a Monaco Motor (the "Dealer") was first registered as a motor vehicle dealer in around August 2011.
2. Rahmatullah Abdul Khaliq ("RAK") was first registered as a motor vehicle salesperson in around July 2013.
3. Mukhtar Abdul Khaliq ("MAK") was first registered as a motor vehicle salesperson in around August 2014.
4. At all material times, RAK was the Director, as well as a person in charge of the day to day activities of the Dealer.
5. At all material times, MAK was the General Manager, as well as a person in charge of the day to day activities of the Dealer.
6. On or about May 27, 2013, RAK successfully completed the Automotive Certification course (the "Course").
7. On or about May 29, 2014, MAK successfully completed the Course.
8. The Course syllabus includes the requirements for dealers to ensure the representations made in their vehicle advertisements are accurate and truthful.

### **Direct correspondence with Dealer:**

9. During an inspection of the Dealer on or about July 18, 2017, an OMVIC inspector reminded RAK of the Dealer's obligation to ensure the representations made in the Dealer's advertisements were true.
10. On or about January 22, 2020, an OMVIC representative reminded MAK of the importance of ensuring the Dealer's advertisements did not contain misleading information.
11. On or about February 3, 2020, an OMVIC representative reminded MAK of the importance of ensuring the Dealer's advertisements did not contain misleading information.
12. On or about February 11, 2020, an OMVIC representative reminded MAK of the importance of ensuring the Dealer's advertisements did not contain misleading information.

***Current non-compliance:***

13. On or about February 11, 2021, OMVIC received a consumer complaint regarding the Dealer's advertising.
14. Specifically, the Dealer had advertised a 2008 Maserati Gran Turismo (Stock #0038419). The advertisement indicated the vehicle's mileage was 89,000 kilometres. The vehicle originated in the United States. The true distance travelled was 89,000 miles.
15. The Dealer failed to ensure the advertisement truthfully described vehicle's true distance travelled. This is contrary to sections 4 and 9 of the Code of Ethics.

**Generally**

16. RAK and MAK failed to ensure that the Dealer conducted its business in compliance with the Code of Ethics, personally contravening sections 6 and 9 of the Code of Ethics.

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

*Disclosure and Marketing*

4(1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, and programs and prices connected with those vehicles.

4(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

*Professionalism*

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.

It is thereby agreed that RAK and MAK have breached the following sections of the Code of Ethics as set out in Regulation 332/08:

*Accountability*

6(1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

*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.

**Mitigating and Aggravating Factors**

17. In support of the joint submission on penalty, the parties agree that it is a mitigating factor that the Dealer, RAK and MAK have no prior discipline proceedings under the MVDA and Code of Ethics, Regulation 332/08.
18. The parties also agree that it is an aggravating factor that the Dealer, RAK and MAK did not respond promptly, adequately and/or in a diligent manner to the Registrar's notice of complaint.

**Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of \$3,000 no later than **June 25, 2022**.
2. RAK agrees to complete the MVDA Key Elements course no later than **July 31, 2022**.
3. MAK agrees to complete the MVDA Key Elements course no later than **July 31, 2022**.
4. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **July 31, 2022**.
5. The Dealer, RAK and MAK, agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

### **Decision of the Reviewing Panel**

Having reviewed and considered the Agreed Statement of Facts, the Reviewing Panel is satisfied that the facts as set out in the Agreed Statement of Facts support the allegations that the Dealer, RAK and MAK have each breached subsections 4, 6 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 Reviewing Panel also agrees with the Parties' Joint Submission on Penalty and determines that the settlement is in the public interest. Accordingly, the Reviewing Panel makes the following Order:

1. The Dealer is ordered to pay a fine in the amount of \$3,000 no later than **March 31, 2022.**
2. Rahmatullah Abdul Khaliq is ordered to complete the MVDA Key Elements Course no later than **July 31, 2022.**
3. Mukhtar Abdul Khaliq is ordered to complete the MVDA Key Elements Course no later than **July 31, 2022.**
4. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **July 31, 2022.**
5. The Dealer, Rahmatullah Abdul Khaliq and Mukhtar Abdul Khaliq 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



Dated: April 25, 2022

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*Paul Burroughs, Chair*

On behalf of

*Debra Mattina, Member*

*Wally Pietraszko, Member*