

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 -

INTEL AUTO TRADE INC o/a KIBRIYA ENTERPRISE

- and -

TALAT MATLOOB

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: November 13, 2020

Findings: Breach of Sections 6 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$5,000. \$2,500 will be paid no later than **February 26, 2021**, and the remaining balance (\$2,500) will be paid no later no later than **April 30, 2021**.
2. Matloob is ordered to successfully complete the MVDA Key Elements course, no later than **February 26, 2021**. This date is subject to any current or future pandemic closures Georgian College may institute.
3. 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 **February 26, 2021**. Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Matloob 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. Intel Auto Trade Inc. o/a Kibriya Enterprise (the "Dealer") was first registered as a motor vehicle dealer on or about August 25, 2017.
2. Talat Matloob ("Matloob") was first registered as a motor vehicle salesperson on or about August 25, 2017.
3. On or about September 12, 2017, Matloob successfully completed the Automotive Certification course (the "Course"). Included in the Course materials are the requirements to always provide purchasers with a properly executed bill of sale, as well as the importance of not trading in motor vehicles with unregistered dealers ("curbsiders").
4. At all material times, Matloob was the sole corporate director and the person in charge of the day to day activities of the Dealer.

OMVIC publications re conduct:

5. Since the Dealer has been registered, OMVIC has issued the following publications reminding dealers of the importance of providing purchasers with a properly executed bill of sale; as well as the requirement to ensure the ownership of a motor vehicle is transferred to the purchaser.

	Providing Bills of Sale	Transferring Ownerships
Dealer Standard		
Issue #1 2018		pg 3
Issue #2 2019	pg 4	
Issue #3 2019	pg 4	pg 3
Issue #4 2019	pg 4	

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

Direct correspondence with Dealer:

7. During an inspection on or about September 27, 2017, the Dealer was advised of a number of regulatory obligations, including the Dealer's requirement to provide all purchasers with an executed bill of sale, as per section 40 of Regulation 332/08.

Dealer non-compliance:

- 8. During an inspection of the Dealer on about January 17, 2020, a representative of the Registrar identified the following non-compliant issues:
- 9. Between on or about August 21, 2019 and on or about September 30, 2019, the Dealer purchased a number of vehicles from 2 separate curbsiders, contrary to section 9 of the Code of Ethics.
- 10. Moreover, between on or about August 22, 2019 and October 30, 2019, the Dealer exported the above referenced vehicles, but failed to prepare a bill of sale for these vehicle trades. This is contrary to section 40 of Regulation 333/08, as well as section 9 of the Code of Ethics. The Dealer did prepare and retain the export documents for these trades.
- 11. The Dealer has ceased conducting business with the above referenced curbsiders and has taken steps to ensure this will not occur moving forward.

Individual non-compliance:

12. Matloob failed to ensure the Dealer conducts its business in compliance with the Regulations and Code of Ethics, and thus has personally contravened sections 6 and 9 of the Code of Ethics.

By failing to comply with the following section of the Act:

Regulation 333/08 Contracts for sales of used motor vehicles

40 (2) A registered motor vehicle dealer shall ensure that any contract that the dealer enters into to sell a used motor vehicle to a purchaser who is not another registered motor vehicle dealer includes, in a clear, comprehensible and prominent manner, the following:

1. The matters required under paragraphs 1 to 3, 5 to 10, 14 to 19 and 21 to 27 of subsection 39 (2).

1.1 If the contract is made through a motor vehicle dealer registered as a general dealer, the registered name and registration number of that dealer, together with the legal name of that dealer if it is different from the registered name.

2. A statement that the dealer has complied with subsection (1), if that subsection applies to the dealer with respect to the contract.

3. An itemized list of all repairs, if any, that, under the contract, the dealer has made to the vehicle or will make to the vehicle and the cost of any such repairs that are to be paid by the purchaser.

4. If a current safety standards certificate under the Highway Traffic Act has been issued for the vehicle, that certificate and a statement in accordance with subsection (5) in 12 point bold font, except for the heading which shall be in 14 point bold font.

5. If the dealer is selling the vehicle on an as-is basis, a statement in accordance with subsection (6) in 12 point bold font, except for the heading which shall be in 14 point bold font, where the purchaser initials the statement.

(3) No registered motor vehicle dealer shall sell a used motor vehicle on an as-is basis to a purchaser who is not a registered motor vehicle dealer if a current safety standards certificate under the Highway Traffic Act has been issued for the vehicle.

(4) Despite paragraph 1 of subsection (2), the statement mentioned in paragraph 26 of subsection 39 (2) is required only if the model year of the motor vehicle is the current model year or one of the four preceding model years and the vehicle has been driven for less than 160,000 kilometres.

(5) The statement mentioned in paragraph 4 of subsection (2) is as follows:

Safety Standards Certificate

A safety standards certificate is only an indication that the motor vehicle met certain basic standards of vehicle safety on the date of inspection.

(6) The statement mentioned in paragraph 5 of subsection (2) is as follows:

Vehicle sold "as-is"

The motor vehicle sold under this contract is being sold "as-is" and is not represented as being in road worthy condition, mechanically sound or maintained at any guaranteed level of quality. The vehicle may not be fit for use as a means of transportation and may require substantial repairs at the purchaser's expense. It may not be possible to register the vehicle to be driven in its current condition.

(7) The registered motor vehicle dealer shall ensure that there is a separate contract under subsection (2) for each motor vehicle that the dealer sells.

(8) The registered motor vehicle dealer shall ensure that each contract mentioned in subsection (2) into which the dealer enters includes, in a clear, comprehensible and prominent manner, all restrictions, limitations and conditions imposed on the purchaser under the contract.

(9) For each contract mentioned in subsection (2) into which the registered motor vehicle dealer enters, the dealer shall ensure that,

(a) the contract is signed by the parties;

(b) if a registered salesperson is acting on behalf of the dealer respecting the sale, the contract is signed by the salesperson; and

(c) the purchaser receives a copy of the contract immediately after signing it.

(10) If a contract under this section is made through a motor vehicle dealer registered as a general dealer, the general dealer shall not facilitate a contract that does not comply with this section.

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

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 Matloob 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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$5,000. \$2,500 will be paid no later than **February 26, 2021**, and the remaining balance (\$2,500) will be paid no later no later than **April 30, 2021**.
2. Matloob agrees to successfully complete the MVDA Key Elements course, no later than **February 26, 2021**. This date is subject to any current or future pandemic closures Georgian College may institute.
3. 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 **February 26, 2021**. Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Matloob 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 and Matloob breached subsections 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 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 \$5,000. \$2,500 will be paid no later than **February 26, 2021**, and the remaining balance (\$2,500) will be paid no later no later than **April 30, 2021**.
2. Matloob is ordered to successfully complete the MVDA Key Elements course, no later than **February 26, 2021**. This date is subject to any current or future pandemic closures Georgian College may institute.
3. 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 **February 26, 2021**. Future sales staff will be offered the Course within 90 days of being retained in this capacity by the Dealer. 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 after January 1, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Matloob 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