

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 -

GTA RAPID CARS INC

- AND -

FIRAS AL-SABTI

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: October 7, 2019

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 \$4,500 no later than December 31, 2019.
2. Al-Sabti is ordered to successfully complete the MVDA Key Elements course, no later than December 31, 2019.
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 December 31, 2019. 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 Al-Sabti 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. GTA Rapid Cars Inc (the "Dealer") was first registered as a motor vehicle dealer in around December 2018. The Dealer's class of registration is wholesale, which restricts the Dealer to only trading in motor vehicles with other registered dealers.
2. Firas Al-Sabti ("Al-Sabti") was first registered as a motor vehicle salesperson in around December 2018. At all material times, Al-Sabti was the sole director, as well as the person in charge of the day to day activities of the Dealer.
3. On or about September 19, 2018, Al-Sabti successfully fulfilled the registration requirement of completing the Automotive Certification course (the "Course"). Included in the Course materials are the following:
 - a. The trading limitations of wholesale class dealers.
 - b. Best practices for avoiding trading in motor vehicles with unregistered dealers.
4. On or about December 7, 2018, Al-Sabti executed terms and conditions of registration on behalf of the Dealer.
 - a. As per condition 7, the Dealer agreed to not conduct business with any person acting as a motor vehicle dealer without first confirming that person is registered as a motor vehicle dealer in accordance with the Act.
 - b. As per condition 8, the Dealer agreed to not trade in motor vehicles other than with registered dealers and wholesale auctions.

Non-compliance issues:

5. During an inspection of the Dealer on about March 21, 2019, a representative of the Registrar found Al-Sabti had sold, on behalf of the Dealer, vehicles to an unregistered dealer, Republica Ma Motors Export Inc. This is contrary to section 4 of the Act, section 21 of Regulation 333/08, conditions 7 and 8 of the Dealer's terms and conditions of registration, as well as sections 6 and 9 of the Code of Ethics.

6. Al-Sabti has 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:

Supply to Unregistered Person

4(4) A motor vehicle dealer shall not supply motor vehicles to another motor vehicle dealer for the purpose of trading in motor vehicles unless the other motor vehicle dealer is registered in that capacity.

Regulation 333/08:

Wholesalers

21. A motor vehicle dealer registered as a wholesaler shall not act as a motor vehicle dealer, other than,

(a) to trade in motor vehicles with other registered motor vehicle dealers;

(a. 1) to purchase motor vehicles from the Crown or a person who is exempt from the Act and the regulations as a result of one of the paragraphs of subsection 2 (1)

(b) to sell motor vehicles at an auction where,

(i) the person who arranges for and conducts the auction is exempt from the Act and the regulations as a result of paragraph 1 of subsection 2 (1)

(ii) the sale is made to a person who, at the time of the sale, is located in another jurisdiction and registered in that jurisdiction as a person with equivalent status to a registered motor vehicle dealer.

It is thereby agreed that the Dealer and Al-Sabti 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 the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming of a registrant.

It is thereby agreed that Al-Sabti 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 \$4,500 no later than December 31, 2019.
2. Al-Sabti agrees to successfully complete the MVDA Key Elements course, no later than December 31, 2019.
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 December 31, 2019. 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 Al-Sabti 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 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 \$4,500 no later than December 31, 2019.
2. Al-Sabti is ordered to successfully complete the MVDA Key Elements course, no later than December 31, 2019.
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 December 31, 2019. 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 Al-Sabti 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