

**LICENCE APPEAL  
TRIBUNAL**

**TRIBUNAL D'APPEL EN MATIÈRE  
DE PERMIS**



**Safety, Licensing Appeals and  
Standards Tribunals Ontario**

**Tribunaux de la sécurité, des appels en  
matière de permis et des normes Ontario**

Citation: Mehmet Ali Gurbuz o/a Beta Auto v. Registrar, *Motor Vehicle Dealers Act, 2002*,  
2018 ONLAT MVDA 11320

Date: August 8, 2018  
File Number: 11320 MVDA

An Appeal from a proposal by the Registrar, *Motor Vehicle Dealers Act, 2002*, to Refuse  
Registration

Mehmet Ali Gurbuz o/a Beta Auto

Appellant

-and-

Registrar, *Motor Vehicle Dealers Act, 2002*

Respondent

**CONSENT ORDER**

Order made by: Joanne E. Foot, Member

Date of Order: August 3, 2018

## BACKGROUND

1. The first case conference in this matter was held on June 6, 2018. At this case conference it became apparent that the parties were close to agreement upon a settlement and a further case conference was scheduled for June 14, 2018, pending such agreement.
2. At the commencement of the second case conference, the parties advised the Tribunal that they had reached a settlement of all outstanding issues and that minutes of settlement were being prepared. Counsel for the respondent requested that the minutes of settlement be incorporated into a consent order.
3. Minutes of settlement were provided to the Tribunal on June 14, 2018. Subsequently, on July 13, 2018, revised minutes of settlement were provided to the Tribunal.

## ORDER

Accordingly, on the consent of the parties, I order that:

4. The proceedings in this matter are concluded and disposed of without a hearing on the basis of the terms set out in Schedule "A", which are incorporated into and made part of this Order.

LICENCE APPEAL TRIBUNAL



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Joanne E. Foot, Member

*Released: August 8, 2018*

## Schedule A

TO: Licence Appeal Tribunal  
530 - 20 Dundas Street West  
Toronto, ON M5G 2C2

FROM: The Registrar  
*Motor Vehicle Dealers Act, 2002*  
Ontario Motor Vehicle Industry Council  
65 Overlea Blvd., Suite 300  
Toronto, ON M4H 1P1

AND FROM: Mehmet Ali Gurbuz  
o/a Beta Auto  
1401 Weber Street East  
Kitchener, ON, N2A 3A7

Pursuant to subsection 6(2) of the *Motor Vehicle Dealers Act, 2002* ("MVDA"), Mehmet Ali Gurbuz o/a Beta Auto (the "Registrant") and the Registrar, *Motor Vehicle Dealers Act, 2002*, ("the Registrar"), in accordance with section 4.1 of the *Statutory Powers Procedure Act*, do hereby waive the requirements of a hearing and consent to an Order of the Licence Appeal Tribunal to register the Registrant as a general dealer and Mehmet Ali Gurbuz salesperson respectively based upon the following terms and conditions:

1. The Registrant will comply with all requirements of the MVDA and Ontario Regulation 333/08, the *Code of Ethics* in Ontario Regulation 332/08, the Ontario Motor Vehicle Industry Council ("OMVIC") Standards of Business Practice, 2010 and OMVIC Guidelines, as may be amended from time to time. The Registrant further agrees to read all correspondence and bulletins from OMVIC as released.
2. The Registrant will provide the Registrar with notice in writing, within five days, of any substantive changes to their business plan or information provided in obtaining their registration, pursuant to section 31 of Ontario Regulation 333/08.
3. The Registrant acknowledges that "trade" refers to buying, selling, leasing, advertising or exchanging an interest in a motor vehicle or negotiating or inducing or attempting to induce the buying, selling, leasing or exchanging of an interest in a motor vehicle as defined in the MVDA and pursuant to section 36 through to and including section 51 of Ontario Regulation 333/08; and is not limited to the signing of contracts. The Registrant further acknowledges that this includes attendance at auction on behalf of the Registrant and positions commonly referred to as Sales Manager, Finance and Insurance Manager, Branch Manager, Business Manager, General Manager or any individual who has supervisory authority over salespersons.
4. The Registrant will ensure that all personnel, agents, assignees or anyone acting on behalf of the Registrant are informed of the Terms and Conditions contained in this document to the extent necessary to ensure compliance with these Terms and Conditions.
5. The Registrant will ensure that all personnel, agents, assignees or anyone acting on behalf of the Registrant to trade motor vehicles will be registered as a salesperson to the Registrant.



6. The Registrant will not conduct business with any person acting as a motor vehicle dealer and trading in motor vehicles without first confirming that the person is registered as a motor vehicle dealer in accordance with the MVDA.

#### **Premises**

7. The Registrant will operate exclusively from the location approved by the Registrar and will not invite the public to trade at a place other than the approved location, pursuant to section 28 of Ontario Regulation 333/08.
8. The Registrant agrees not to change the location approved by the Registrar without first obtaining the Registrar's approval, in writing, pursuant to section 31 of Ontario Regulation 333/08. The Registrant will then provide the Registrar with notice in writing, within 5 days, of any such change in the location.
9. The Registrant will ensure that all advertisements placed by or on behalf of the Registrant will identify the registered name, address and phone number of the location approved by the Registrar, pursuant to section 36(2) of Ontario Regulation 333/08.

#### **Books and Records**

10. The Registrant will maintain all books and records at the Registrant's registered premises in accordance with the MVDA and pursuant to section 52 through to and including section 60 of Ontario Regulation 333/08.
11. The Registrant will provide the Registrar's office with copies of his financial statements for the previous fiscal year within 90 days of the end of that fiscal year.
12. The Registrant will ensure that all vehicles purchased will be registered within 6 days in accordance with section 11 of the *Highway Traffic Act* ("HTA").
13. The Registrant will undertake to ensure that all vehicles sold will be registered in the name of the purchaser, in the records of the MTO before releasing the vehicle to the purchaser.
14. The Registrant will undertake that in the event their books and records are lost, stolen or destroyed in whole or in part, the Registrar will be advised, in writing, within 5 days of the event pursuant to section 55 of Ontario Regulation 333/08; and will include all relevant documentation. The documentation will include, but is not limited to, police reports, insurance claims and affidavits. The Registrant further agrees to make all reasonable efforts to reconstitute the lost, stolen or damaged records.
15. The Registrant will obtain a receipt prior to the removal of any records by a government or professional agency; or any other person or entity, from the registered premise. Such receipt will include the recipient's name, address, telephone number, description of records taken, the time of return and signature of recipient. The Registrant undertakes to provide the receipt to OMVIC when requested by the Registrar.

## Disclosure

16. The Registrant will ensure that all trades in motor vehicles are completed in accordance with section 30 of the MVDA and pursuant to sections 39, 40, 41, 42 and 43 of Ontario Regulation 333/08 and section 4 of Ontario Regulation 332/08, where applicable.
17. The Registrant will disclose all material facts about the motor vehicles for purchase or lease to its customers. The Registrant further agrees to disclose all material facts on the Bill of Sale, in writing. The Registrant will ensure compliance with the disclosure obligation notwithstanding whether or not the vehicle has been branded through MTO. For greater certainty, a material fact is one that if disclosed could affect the decision of a reasonable person to purchase or lease the vehicle or affect the purchase price. In the case of damaged vehicles, the Registrant further agrees to disclose as much detail as possible regarding the nature and severity of the damage. The Registrant undertakes to research the history of all the motor vehicles under trade to ensure all material facts are disclosed.
18. The Registrant agrees not to represent any charges or fees on a Bill Sale as being required by law where the charges or fees are not required by law. For greater clarity, this includes charges or fees such as tax, registration fee or certification.
19. Subject to any legal defenses, the Registrant agrees to accept full responsibility for the quality of any repairs or alterations to a motor vehicle completed by the Registrant's personnel, agents, assignees, affiliated repair facilities or anyone acting on behalf of the Registrant.

## Financial Responsibility

20. The Registrant agrees not to receive any new private sources of financing without the prior approval of the Registrar. This does not apply where the Registrant has applied on his own account and has obtained financing from a corporation registered under the *Loan and Trust Corporations Act*, *The Bank Act* or from a credit union or league to which the *Credit Unions and Caisses Populaires Act*, as may be amended from time to time.
21. The Registrant will comply with all federal, provincial and municipal tax obligations. The Registrant will ensure all required filings are current and submitted with required payments. All taxes collected are deemed to be trust funds and will not be used for any other purpose other than remittances to the federal, provincial and municipal government.
22. The Registrant will maintain bank accounts that are compliant with section 59 of Ontario Regulation 333/08.
23. The Registrant will maintain a trust account, in respect of any deposits made in excess of \$10,000.00 or any funds in relation to motor vehicles sold on consignment on the behalf of a consumer, pursuant to section 58 of Ontario Regulation 333/08. The Registrant agrees to provide written confirmation to the Registrar, within five days, that a trust account has been established in the Registrant's business name at its financial/banking institution.

24. The Registrant will ensure that bank account transactions relate exclusively to the operation or financing of the business. The Registrant agrees to notify the Registrar of any change in any business banking accounts.
25. The Registrant will ensure that any consumer claim made to the Motor Vehicle Dealers Compensation Fund (the "Fund") in relation to the Registrant, and the Fund determines entitlement to compensation of the claim pursuant to section 42 of Ontario Regulation 338/08, that the Registrant will reimburse the Fund for any monies paid in relation to the claim

#### OMVIC Transaction Fee

26. The Registrant understands that the transaction fee is payable on any sales or leases to non-dealer registrants, including sales or leases in exports, fleet transactions and consignments.
27. The Registrant undertakes to provide OMVIC with documentation, when requested by the Registrar, to establish that a particular transaction is exempt from the transaction fee. The Registrant further understands that if requested documentation is not provided to OMVIC, the Registrant will be required to remit the transaction fee on the transaction.

#### ACKNOWLEDGMENT AND UNDERTAKING:


28. The Registrar is relying on the accuracy and completeness of all documents, statements or information provided by the Registrant in support of the Registrant's application for registration.
29. The documents, information or statements provided to the Registrar are true to the best of the Registrant's knowledge, and belief; and that full answer to all questions, inquiries and requests made by the Registrar in connection with the Registrant's application have been given.
30. The Registrar may take further administrative action, including a proposal to suspend or revoke registration, arising from any matters that have occurred or may occur related to honesty and integrity, financial responsibility or compliance with these terms and conditions.
31. Independent legal advice has been obtained or the Registrant has had the opportunity to obtain independent legal advice respecting consent to the Terms and Conditions contained in this document.

Signed in the City of Kitchener this 11 day of July 2018.

Mehmet Ali Gurbuz

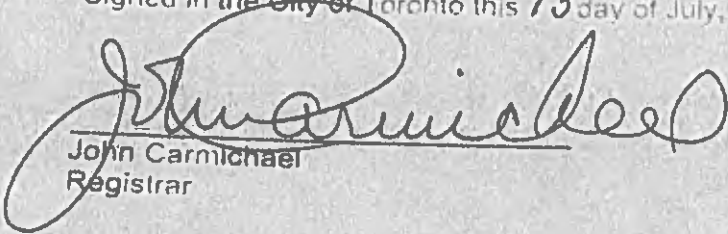
Name of Authorized Representative of the Registrant (please print clearly)

NA

  
I have authority to bind the dealership. (signature)

These Terms and Conditions are accepted by the Registrar, Motor Vehicle Dealers Act, 2002.

Signed in the City of Toronto this 13 day of July, 2018

  
John Carmichael  
Registrar

