

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 -

765620 Ontario Inc. o/a 401 Dixie Mazda

- and -

Mohammad Baig

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: September 28, 2020

Findings: Breach of Sections 6, 7 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 **November 30, 2020.**
2. Baig is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **November 30, 2020.** This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified time frame."
3. 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 30, 2020.** This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified time frame. 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. As in all other areas of its business, the Dealer and Baig 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. 765620 Ontario Inc. o/a 401 Dixie Mazda (The "Dealer") was first registered as a motor vehicle dealer in or around April 1988. Mohammad Baig ("Baig") was first registered as a motor vehicle salesperson in or around May 2005. At all material times, Baig was responsible for the day to day activities of the Dealer.
2. Baig successfully completed the Automotive Certification Course (The "Course") in March 2012. Included in the course materials is dealers' obligation to disclose daily rental vehicles on the bill of sale.

OMVIC publication re: non-disclosure

3. In the winter of 2008, OMVIC issued a Dealer Standard publication advising dealers of the up and coming changes to the Act, including the requirement to disclose former daily rental vehicles on the bill of sale ("disclosure requirements")
4. After the Act was proclaimed, OMVIC further issued the following Dealer Standard publications reminding dealers of the disclosure requirements:
 - a. Summer 2011
 - b. Summer 2012
 - c. Summer 2013
 - d. Issue #4 2014
 - e. Issue #4 2016
5. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of the disclosure requirements:
 - a. January 2010
 - b. September 2012
 - c. December 2013



Prior correspondence with Dealer

6. During an inspection on or about June 13, 2006, a representative of the Registrar reminded the Dealer of their requirement to disclose daily rental vehicles on bills of sale.

Current non-compliance:

7. During an inspection on or about March 6, 2019, a representative of the Registrar found the Dealer sold the following vehicles without providing consumers with written disclosure that these were former daily rental units, despite in all transactions the Dealer having had this information disclosed to them at the time of purchase. This is contrary to section 42(7) 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 the purchaser's were made aware of their vehicle's history.

	Vehicle	Daily Rental disclosed on wholesale bill of sale	Date purchased	Date sold
a.	2017 Chevrolet Cruze (VIN 1G1BE5SM8H7228038)	Yes	2018-07-19	2018-12-06
b.	2017 Chevrolet Cruze (VIN 1G1BE5SM4H7223127)	Yes	2018-07-30	2018-11-29

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:

- (7) If any of the following is true of the motor vehicle, a statement to the effect that the vehicle was previously,
 - i. leased on a daily basis, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer under the *Motor Vehicle Dealers Act* or the *Motor Vehicle Dealers Act, 2002*,

(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.

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

Compliance



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. O. Reg. 332/08, s. 7 (1).

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

Accountability:

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 Baig have breached the following:

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.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$3,000 no later than **November 30, 2020.**
2. Baig agrees to successfully complete the Automotive Certification Course (the "Course") no later than **November 30, 2020.** This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified time frame."
3. 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 30, 2020.** This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified time frame. 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. As in all other areas of its business, the Dealer and Baig 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 Baig breached subsections 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 \$3,000 no later than **November 30, 2020**.
2. Baig is ordered to successfully complete the Automotive Certification Course (the "Course") no later than **November 30, 2020**. This date is subject to any pandemic disruptions Georgian College may encounter in delivering the course within the specified time frame."
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4. As in all other areas of its business, the Dealer and Baig 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

