



Citation: **11512692 Canada Inc. o/a Vin Auto, Yun Qing Chen, Ke Ke v. Registrar under the *Motor Vehicle Dealers Act, 2002*, 2023 ONLAT MVDA 14921**

Licence Appeal Tribunal File Number: 14921/MVDA

Appeal from a Notice of Proposal of the Registrar under the *Motor Vehicle Dealers Act, 2002* (the “Act”), to revoke the registrations of a motor vehicle dealer and salesperson, and refuse the registration of a salesperson, pursuant to s. 9 of the Act.

Between:

11512692 Canada Inc. o/a Vin Auto, Yun Qing Chen, Ke Ke

Appellants

-and-

Registrar under the *Motor Vehicle Dealers Act, 2002*

Respondent

CONSENT ORDER

ADJUDICATOR:

Jeffery Campbell, Vice-Chair

Date:

December 4, 2023

BACKGROUND

- [1] 11512692 Canada Inc. o/a Vin Auto (“Vin Auto”), Yun Qing Chen, and Ke Ke (collectively, the “appellants”) appeal from a Notice of Proposal issued by the Registrar under the Act (the “respondent”). By Notice of Proposal dated May 5, 2023 (the “NOP”), the respondent proposes to revoke the registration of Vin Auto as a motor vehicle dealer and the registration of Chen as a salesperson. It proposes to refuse the registration of Ke as a salesperson.
- [2] The respondent issued the NOP on May 5, 2023 pursuant to section 9 of the Act. The NOP arises from, among other things, allegations that Vin Auto and Chen breached conditions of their registration.
- [3] The parties advised the Tribunal that they had resolved the issues in dispute and both parties have consented to the registrations of Yun Qing Chen as a motor vehicle salesperson and Vin Auto as a motor vehicle dealer under the Act on the terms and conditions set out in Schedule A signed by the appellants on November 23, 2023 and by the respondent on November 27, 2023.
- [4] Further, both parties confirmed that pursuant to section 4.1 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S 2 (the “SPPA”), both parties waive the requirements of a hearing and consent to an Order of the Tribunal to continue the appellants’ registrations on the terms and conditions set out on Schedule A. A copy of the agreement which was signed by both parties is attached as Schedule A to this Order.

ON CONSENT OF BOTH PARTIES, I ORDER:

- [5] Pursuant to s. 4.1 of the SPPA and on the consent of the parties, I dispose of this proceeding without a hearing on the terms set out in the agreement signed by the appellants on November 23, 2023 and by the respondent on November 27, 2023, attached to this order as Schedule A, which Schedule A is incorporated and made part of this Order.

LICENCE APPEAL TRIBUNAL



Jeffery Campbell, Vice-Chair

Schedule 'A'

TO: Licence Appeal Tribunal
Tribunals Ontario
General Services
15 Grosvenor Street, Ground Floor
Toronto, ON M7A 2G6

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

AND FROM: Ke ('Ryan') Ke
c/o 11512692 Canada Inc. o/a Vin Auto
2343 Keele Street
North York, ON M6M 4A2

Pursuant to subsection 6(2) of the *Motor Vehicle Dealers Act, 2002*, Ke ('Ryan') Ke (the "Applicant") 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 based upon the following terms and conditions:

REGISTRATION:

1. The Applicant agrees to be registered as a salesperson and shall not apply to be a dealer for a period of **two (2) years**.
2. The Applicant shall not act as a salesperson on behalf of any dealer other than the Applicant's current sponsoring dealer 11512692 Canada Inc. o/a Vin Auto, unless the Applicant obtains written approval from the Registrar.
3. The Applicant shall not be a partner, shareholder, officer, director, owner, person-in-charge, bank signing authority, or controlling mind of any dealer.
4. The Applicant shall not transfer his registration as a salesperson to another dealer without having first obtained prior written approval of the Registrar.
5. The Applicant shall provide the Registrar with notice in writing, within five days, of any substantive changes to his role with his sponsoring dealer or information provided in obtaining his registration, pursuant to section 31 of Ontario Regulation 333/08.
6. The Applicant shall comply with requests for information, made on behalf of the Registrar.
7. The Applicant shall 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.
8. The Applicant shall ensure that any dealers, employers, personnel, agents, assignees or anyone acting on behalf of the Applicant or involved in the of trading in motor vehicles with the Applicant, are informed of the Terms and Conditions contained in this document to the extent necessary to ensure compliance with these Terms and Conditions.

COMPLIANCE

9. The Applicant shall comply with all requirements of the MVDA and Ontario Regulation 333/08, the *Code of Ethics* in Ontario Regulation 332/08, and the Ontario Motor Vehicle Industry Council ("OMVIC") *Standards of Business Practice, 2010*, as may be amended from time to time. The Applicant further agrees to read all received correspondence, publications, OMVIC issued Guidelines, and bulletins from OMVIC as released.
10. The Applicant 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 Applicant further acknowledges that this includes attendance at auction on behalf of the Applicant 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.

DISCLOSURE

11. The Applicant acknowledges and understands that, when trading in motor vehicles on behalf of a dealer, all trades in motor vehicles are to be 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 sections 4 and 5 of Ontario Regulation 332/08, where applicable.
12. The Applicant acknowledges and understands that, when trading in motor vehicles on behalf of a dealer, all material facts must be disclosed about the motor vehicles for purchase or lease to customers. 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.

ACCOUNTABILITY AND PROFESSIONALISM

13. The Applicant shall not do or omit to do anything that causes the dealer who employes or retains the Applicant, to contravene its obligations under the MVDA or its Regulations, pursuant to section 6(2) of the Code of Ethics.
14. The Applicant shall use best efforts to prevent errors, misrepresentations, fraud or any unethical practice in respect of a trade in a motor vehicle, pursuant to section 9(3) of the Code of Ethics.
15. The Applicant shall ensure that his registration will not be used to trade in motor vehicles where the Applicant knows, or ought to know, that the trade will facilitate an illegal or unethical practice.

EFFECTIVE PERIOD

16. These Terms and Conditions shall commence from the date of the Licence Appeal Tribunal's Order and remain in effect for a period of **two (2) years**, unless otherwise specified in these Terms and Conditions.

ACKNOWLEDGMENTS AND UNDERTAKINGS

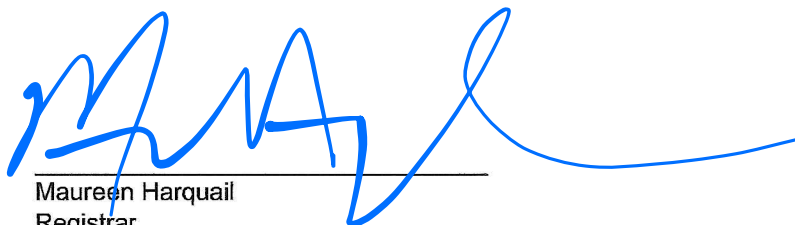
- 35. The Registrar is relying on the accuracy, truthfulness and completeness of all documents, statements or information provided to her by the Applicant.
- 36. The Applicant acknowledges that the Registrar may take further administrative action, including a proposal to revoke, refuse or suspend registration, to impose conditions, or to take disciplinary action, arising from any matters that have occurred or may occur related to past conduct, honesty and integrity, financial responsibility or compliance with these Terms and Conditions.
- 37. Independent legal advice has been obtained, or the Applicant, have had the opportunity to obtain independent legal advice, respecting consent to the Terms and Conditions contained in this document.

Signed in the City of Toronto this 23 day of November 2023.


Ke ('Ryan') Ke, Applicant salesperson

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

Date: Nov 27 2023


Maureen Harquail
Registrar
Motor Vehicle Dealers Act, 2002

TO: Licence Appeal Tribunal
Tribunals Ontario
General Services
15 Grosvenor Street, Ground Floor
Toronto, ON M7A 2G6

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

AND FROM: 11512692 Canada Inc. o/a Vin Auto
2343 Keele Street
North York, ON M6M 4A2

Yun Chen
c/o 11512692 Canada Inc. o/a Vin Auto
2343 Keele Street
North York, ON M6M 4A2

Pursuant to subsection 6(2) of the *Motor Vehicle Dealers Act, 2002*, 11512692 Canada Inc. o/a Vin Auto (the "Dealer") and Yun Chen ("Chen") (collectively the "Registrants") 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 based upon the following terms and conditions:

REGISTRATION

1. The Registrants shall comply with all requirements of the MVDA and Ontario Regulation 333/08, the *Code of Ethics* in Ontario Regulation 332/08, and the Ontario Motor Vehicle Industry Council ("OMVIC") *Standards of Business Practice, 2010* as may be amended from time to time. The Registrants further agree to read all received correspondence, publications, OMVIC issued Guidelines, and bulletins from OMVIC as released.
2. The Registrants shall provide the Registrar with notice in writing, within five days, of any substantive changes to their business plan or information provided in obtaining or renewing their registration, pursuant to section 31 of Ontario Regulation 333/08.
3. The Registrants shall provide the Registrar with notice in writing, within five days, of any change in the officers or directors of the Dealer, pursuant to section 24 of the MVDA. The Registrants further agree to notify the Registrar of any change in partners or owner, person(s) in charge, and signing authority for the dealership. The Registrants further agree not to effect such changes without first obtaining the Registrar's prior approval, in writing, which should be provided to the Registrants within a reasonable amount of time.
4. The Registrants acknowledge 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 Registrants further acknowledge that this includes attendance at auctions on behalf of the Dealer 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.

5. The Registrants will ensure that their registrations will not be used to trade in motor vehicles where the Registrants know, or ought to know, that the trade will facilitate an illegal or unethical practice.
6. The Registrants shall ensure that all salespersons, employees, personnel, agents, assignees or anyone acting on behalf of the Registrants are informed of the Terms and Conditions contained in this document to the extent necessary to ensure compliance with these Terms and Conditions.
7. The Registrants shall ensure that all salespersons or anyone acting on behalf of the Registrant to trade in motor vehicles, will be registered as a salesperson to the Dealer.
8. The Registrants shall 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.

INTERESTED PERSON/REAL CONTROLLING MIND

9. The Registrants shall not permit the involvement of Yang Zheng nor Zhuxi Shen directly or indirectly in the operation of the dealership. This includes, but is not limited to any involvement in any motor vehicle trades, administrative, supervisory, management, financing or customer service capacity. Further, the Registrants shall not permit the involvement of Yang Zheng nor Zhuxi Shen in the capacity of repair or service of motor vehicles.
10. The Registrants confirm that 13852083 Canada Inc., Ke Ke (the son of Chen), Kangning Luo, 14196651 Canada Inc, Top Hand Inc. o/a Autogather, Yang Zheng (the nephew of Chen) and Zhuxi Shen do not currently and will not in the future (subject to condition 11 below) finance or loan funds the Dealer, either directly or indirectly. The Registrants shall make reasonable efforts to determine the source of financing received to ensure compliance with these Terms and Conditions.

FINANCIAL RESPONSIBILITY

11. The Registrants shall not receive any private sources of financing or loan funds without obtaining the prior written approval of the Registrar, which should be provided to the Registrants within a reasonable amount of time. 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.
12. The Registrants shall maintain bank accounts that are compliant with section 59 of Ontario Regulation 333/08.
13. The Registrants shall maintain a trust account, in respect of any deposits made in excess of \$10,000 or any funds in relation to motor vehicles sold on consignment on behalf of a consumer, pursuant to section 58 of Ontario Regulation 333/08. The Registrants agree to provide written confirmation to the Registrar, within five days, if any trust account is established in the Dealer's business name.
14. The Registrants shall ensure that any funds received in the purchase or lease of a motor vehicle prior to delivery; and any funds received in the purchase of a motor vehicle that has been consigned to the Dealer; and any funds received in the purchase of a third-party warranty or service plan, that the entire amount of funds will be deemed to be trust funds.

15. The Registrants will maintain a record or/and ledger account, which lists the names and addresses of all persons that provided the Registrants with trust funds. The Registrants will ensure that it contains the details of the amounts retained and a record of all disbursements.
16. The Registrants will ensure that the Dealer's bank account transactions will relate exclusively to the operation or financing of the Dealer's business activities. The Registrants agree to notify the Registrar, in writing within 5 days, of any substantial change to or establishment of the Dealer's banking accounts.
17. The Registrants will ensure that any consumer claim made to the Motor Vehicle Dealers Compensation Fund (the "Fund") in relation to the Registrants, and the Fund determines entitlement to compensation of the claim pursuant to section 42 of Ontario Regulation 338/08; that the Registrants shall reimburse the Fund for any monies paid in relation to the claim.
18. The Registrants agree to pay any outstanding judgments or court orders against the Registrants without delay, subject to any appeals or judicial reviews of same.
19. The Registrants shall comply with all federal, provincial and municipal tax obligations. The Registrants shall 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.

BOOKS AND RECORDS

20. The Registrants shall maintain all books and records at the Dealer's registered premises in accordance with the MVDA and pursuant to section 52 through to and including section 60 of Ontario Regulation 333/08. This includes, but is not limited to, retaining records for 6 years in relation to the following: records of any financing of the business (including any security interests granted, loan agreements and credit arrangements), any of the Dealer's contracts related to a motor vehicle trade on consignment, sale, lease, purchase, or trade-in.
21. The Registrants shall ensure that a contract is created and retained with respect to each consignment contract that the Dealer enters into with respect to a motor vehicle and each sale to a purchaser of a motor vehicle that is the subject of a consignment contract. The Registrants shall ensure that any of its contracts relating to sales on consignment comply with section 45 of Ont. Regulation 333/08.
22. The Registrants shall maintain books and records, which accurately record the true nature of transactions involving the trade of a motor vehicle. The Registrants will not be involved in the creation of books and records, which are false or misleading as to the true nature of a transaction involving the trade of a motor vehicle.
23. The Registrants shall provide free access to books and records of the Registrant to an authorized representative of the Registrar in accordance with section 15 of the MVDA.
24. The Registrants shall comply with requests for information, made on behalf of the Registrar.
25. The Registrants will maintain a garage register in accordance with section 60(1) of the *Highway Traffic Act* ("HTA") and pursuant to section 57 of Ontario Regulation 333/08.
26. The Registrants will not purchase a vehicle without first ensuring that the vehicle is registered to the seller and, if it is in Ontario, in the Ontario Ministry of Transportation (MTO) records.
27. The Registrants shall ensure that all vehicles purchased will be registered within 6 days in accordance with section 11 of the *Highway Traffic Act* ("HTA").

28. The Registrants 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.
29. The Registrants 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 Registrants further agree to make all reasonable efforts to reconstitute the lost, stolen or damaged records.
30. The Registrants 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 Registrants undertake to provide the receipt to OMVIC when requested by the Registrar.

DISCLOSURE

31. The Registrants shall 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 sections 4 and 5 of Ontario Regulation 332/08, where applicable.
32. The Registrants shall disclose all material facts about the motor vehicles for purchase or lease to its customers. The Registrants further agree to disclose all material facts on the Bill of Sale, in writing. The Registrants 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 reasonably possible regarding the nature and severity of the damage. The Registrants undertake to conduct a reasonable amount of research into the history of all the motor vehicles under trade to ensure all material facts are disclosed.
33. The Registrants agree 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.
34. The Registrants acknowledge and understand that they may be required to comply with requests made by the Registrar in relation to any failures to comply with any disclosure obligations pursuant to s. 42 of Ont. Regulation 333/08. Further, where there has been a material fact which has not been disclosed, the Registrants will exercise best efforts to provide reasonable compensation to a purchaser concerning a motor vehicle under trade.
35. Subject to any legal defenses, the Registrants agree to accept full responsibility for the quality of any repairs or alterations to a motor vehicle completed by the Registrants' personnel, agents, assignees, affiliated repair facilities or anyone acting on behalf of the Registrants.

LIENS

36. The Registrants shall ensure that if it agrees to pay any outstanding loan, repair or storage fees in relation to a vehicle being traded-in to it, a statement to this effect is included in writing, on the contract, as required pursuant to section 43(4) of Ontario Regulation 333/08 and section 9(5) of the Code of Ethics of Ont. Regulation 332/08. The Registrants shall fulfil these obligations by immediately paying off the loan and ensuring that any related liens are discharged.

37. The Registrants shall ensure that prior to selling or leasing a motor vehicle to a customer, the vehicle is free of any liens or encumbrances and the customer is free to enjoy quiet possession and use of the vehicle in accordance with section 13 of the Sale of Goods Act.

EFFECTIVE PERIOD

38. These Terms and Conditions shall commence from the date of the Licence Appeal Tribunal's Order and remain in effect for a period of **two (2) years**, unless otherwise specified in these Terms and Conditions.

ACKNOWLEDGMENTS AND UNDERTAKINGS

35. The Registrar is relying on the accuracy, truthfulness and completeness of all documents, statements or information provided to her by the Registrants.
36. The Registrants acknowledge that the Registrar may take further administrative action, including a proposal to revoke, refuse or suspend registration, to impose conditions, or disciplinary action, arising from any matters that have occurred or may occur related to past conduct, honesty and integrity, financial responsibility or compliance with these Terms and Conditions.
37. Independent legal advice has been obtained, or the Registrants have had the opportunity to obtain independent legal advice, respecting consent and agreement to the Terms and Conditions contained in this document.

Signed in the City of Toronto this 23 day of November 2023.



I have the authority to bind 11512692 Canada Inc. o/a Vin Auto (signature)

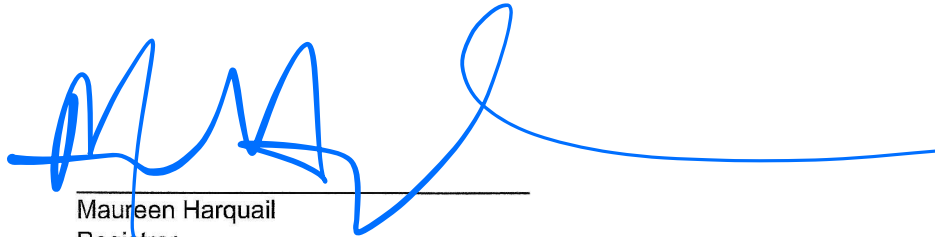
Signed in the City of Toronto this 23 day of November 2023.



Yun Chen, registered salesperson

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

Date: Nov 27 2023

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Maureen Harquail
Registrar
Motor Vehicle Dealers Act, 2002