

DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE *MOTOR VEHICLE DEALERS ACT, 2002, S.O. 2002, c.30, Sch. B*

BETWEEN:

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

-and-

MONACO MOTORCARS INC o/a MONACO MOTORS

-and-

RAHMATULLAH ABDUL KHALIQ

-and-

MUKHTAR ABDUL KHALIQ

AGREED STATEMENT OF FACTS AND PENALTY

Monaco Motorcars Inc o/a Monaco Motor has breached the following:

Section 4 and 9 of the Code of Ethics, Regulation 332/08

Rahmatullah Abdul Khaliq and Mukhtar Abdul Khaliq have breached the following:

Section 6 and 9 of the Code of Ethics, Regulation 332/08

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Monaco Motorcars Inc o/a Monaco Motor (the "Dealer") was first registered as a motor vehicle dealer in around August 2011.
2. Rahmatullah Abdul Khaliq ("RAK") was first registered as a motor vehicle salesperson in around July 2013.
3. Mukhtar Abdul Khaliq ("MAK") was first registered as a motor vehicle salesperson in around August 2014.
4. At all material times, RAK was the Director, as well as a person in charge of the day to day activities of the Dealer.

RA **MK**

Registrant's Initials

5. At all material times, MAK was the General Manager, as well as a person in charge of the day to day activities of the Dealer.
6. On or about May 27, 2013, RAK successfully completed the Automotive Certification course (the "Course").
7. On or about May 29, 2014, MAK successfully completed the Course.
8. The Course syllabus includes the requirements for dealers to ensure the representations made in their vehicle advertisements are accurate and truthful.

Direct correspondence with Dealer:

9. During an inspection of the Dealer on or about July 18, 2017, an OMVIC inspector reminded RAK of the Dealer's obligation to ensure the representations made in the Dealer's advertisements were true.
10. On or about January 22, 2020, an OMVIC representative reminded MAK of the importance of ensuring the Dealer's advertisements did not contain misleading information.
11. On or about February 3, 2020, an OMVIC representative reminded MAK of the importance of ensuring the Dealer's advertisements did not contain misleading information.
12. On or about February 11, 2020, an OMVIC representative reminded MAK of the importance of ensuring the Dealer's advertisements did not contain misleading information.

Current non-compliance:

13. On or about February 11, 2021, OMVIC received a consumer complaint regarding the Dealer's advertising.
14. Specifically, the Dealer had advertised a 2008 Maserati Gran Turismo (Stock #0038419). The advertisement indicated the vehicle's mileage was 89,000 kilometres. The vehicle originated in the United States. The true distance travelled was 89,000 miles.
15. The Dealer failed to ensure the advertisement truthfully described vehicle's true distance travelled. This is contrary to sections 4 and 9 of the Code of Ethics.

Generally

16. RAK and MAK failed to ensure that the Dealer conducted its business in compliance with the Code of Ethics, personally contravening sections 6 and 9 of the Code of Ethics.

RA

MAK

Registrant's Initials

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

Disclosure and Marketing

4(1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, and programs and prices connected with those vehicles.

4(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

Professionalism

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 RAK and MAK have breached the following sections of the Code of Ethics as set out in Regulation 332/08:

Accountability

6(1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

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.

Mitigating and Aggravating Factors

17. In support of the joint submission on penalty, the parties agree that it is a mitigating factor that the Dealer, RAK and MAK have no prior discipline proceedings under the MVDA and Code of Ethics, Regulation 332/08.
18. The parties also agree that it is an aggravating factor that the Dealer, RAK and MAK did not respond promptly, adequately and/or in a diligent manner to the Registrar's notice of complaint.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$3,000 no later than **June 25, 2022**.

RA MK
Registrant's Initials

2. RAK agrees to complete the MVDA Key Elements course no later than July 31, 2022.
3. MAK agrees to complete the MVDA Key Elements course no later than July 31, 2022.
4. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than July 31, 2022.
5. The Dealer, RAK and MAK, agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Toronto THIS 24 DAY OF March, 2022.

RAHMATULLAH ABOUL KHALIQ

(please print)

Rehmat

(signature)

I have the authority to bind the corporation:
Monaco Motorcars Inc o/a Monaco Motor

RA MK
Registrant's Initials

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Toronto THIS 24 DAY OF March, 2022.



Rahmatullah Abdul Khaliq (signature)

By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Toronto THIS 24 DAY OF March, 2022.



Mukhtar Abdul Khaliq (signature)

RA MR

Registrant's Initials

By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

DATED AT Toronto THIS 25 DAY OF March, 2020.



John Carmichael
Registrar, *Motor Vehicle Dealers Act, 2002*

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties identified above:

DATED AT Ancaster THIS 25 DAY OF April, 2022.

Paul Burroughs
Paul Burroughs
Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council

On behalf of,

Deb Mattina, Member
Wally Pietraszko, Member

RA MA
Registrant's Initials