



Citation: Kafaldjian and 12318733 Canada Inc. o/a GMK Motors v. Registrar, Motor Vehicle Dealers Act, 2002, 2025 ONLAT MVDA 16640

Licence Appeal Tribunal File Number: 16640/MVDA

In the matter of an appeal from a Notice of Proposal to revoke registrations issued by the Registrar pursuant to the *Motor Vehicle Dealers Act, 2002*, S.O. c. 30, Sch. B (the "Act").

Between:

**Christopher Kafaldjian and
12318733 Canada Inc. o/a GMK Motors**

Appellant

And

Registrar, *Motor Vehicle Dealers Act, 2002*

Respondent

DECISION

PANEL: Caley Howard
Rebecca Hines

APPEARANCES:

For the Appellant: Christopher Kafaldjian (did not attend)

For the Respondent: Vlad Bosis, Counsel

Heard by videoconference: May 7, 2025

OVERVIEW

- [1] This is an appeal of the Notice of Proposal (“NOP”) issued by the Registrar, *Motor Vehicle Dealers Act, 2002* (the “respondent”) on January 18, 2025, to revoke the registration of 12318733 Canada Inc. o/a GMK Motors (“GMK”) as a motor vehicle dealer. The NOP also proposes to revoke the registration of Christopher Kafaldjian (“Kafaldjian”) as a motor vehicle salesperson.
- [2] Kafaldjian has been registered as a motor vehicle salesperson since December 2021. Since that time, he has been the officer and Director of GMK, which was first registered as a wholesale motor vehicle dealer in December 2021. As a wholesale dealer, GMK is only permitted to sell vehicles to other dealers.

ISSUES

- [3] The issues in dispute are:
- i. Does the past conduct of Kafaldjian afford reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty, thereby disentitling him to registration pursuant to s. 6(1)(a)(ii) of the Act?
 - ii. Does the past conduct of Kafaldjian afford reasonable grounds for belief that GMK will not carry on business in accordance with the law and with integrity and honesty, thereby disentitling GMK to registration pursuant to s. 6(1)(d)(iii) of the Act?
 - iii. Based on the findings of issues i. and ii., should the respondent’s NOP be carried out?

RESULT

- [4] We find that:
- i. Kafaldjian’s past conduct affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty, thereby disentitling him to registration pursuant to s. 6(1)(a)(ii) of the Act.
 - ii. Kafaldjian’s past conduct affords reasonable grounds for belief that GMK will not carry on business in accordance with the law and with integrity and honesty, thereby disentitling it to registration pursuant to s. 6(1)(d)(iii) of the Act.

- iii. We direct the respondent to carry out its NOP to revoke the registrations of Kafaldjian and GMK under the *Act*.

PROCEDURAL ISSUE

Non-attendance of the appellants

- [5] The appellants did not attend the hearing. The Licence Appeal Tribunal (“Tribunal”) attempted to contact Kafaldjian at the last known phone number and email address provided but was unsuccessful.
- [6] Rule 3.7 of the *Licence Appeal Tribunal Rules* (“*Rules*”) requires a party to attend a hearing. Further, if an unforeseen event prevents a party from attending the hearing, they must notify the Tribunal prior to the start time of the hearing. Kafaldjian did not attend the hearing and did not notify the Tribunal of any unforeseen event that prevented him from attending the hearing.
- [7] Rule 3.7.1 provides that if a party, who has been given notice of a hearing in accordance with the *Statutory Powers and Procedures Act* (“*SPPA*”), does not attend their hearing within 30 minutes of the scheduled start time, as stated in the hearing notice, the Tribunal may: a) proceed with the hearing in the absence of that party; and/or b) make any order it considers appropriate in the circumstances. In determining whether to proceed with the hearing in the absence of a non-attending party, the Tribunal will consider the reasons for the non-attendance.
- [8] After waiting 30 minutes for the appellants to attend the hearing, we invited the respondent to make submissions on how to proceed. The respondent submitted that the appellants were given sufficient notice of the hearing date because the Tribunal sent the parties notice of the hearing on April 8, 2025, by email which provided the date and time of the hearing. In the notice, the Tribunal warned the parties that the hearing may proceed in a party’s absence for non-attendance. Further, it maintained that the appellants attended the case conference in March 2025, and agreed to the proposed hearing dates. Finally, the Tribunal sent the parties a reminder of the upcoming hearing date on April 30, 2024.
- [9] We ordered that the hearing proceed in the appellants’ absence because after reviewing the notice of hearing and subsequent reminders we are satisfied that the Tribunal complied with its obligation under the *SPPA* and provided sufficient notice. The Tribunal sent the parties a Notice of Videoconference Hearing on April 8, 2025 and a subsequent reminder on April 30, 2024. Further, Kafaldjian attended the case conference on behalf of himself and GMK on March 31, 2025, and agreed to the scheduled hearing dates. Further, we find the case conference report and order was served on the appellants in accordance with the email address provided. We note that we have no explanation for the appellant’s

absence. We therefore conclude that they were aware of the hearing dates and chose not to participate.

BACKGROUND

- [10] On January 16, 2024, Kafaldjian Motors Limited o/a Kafaldjian Motors (“Kafaldjian Motors”) filed an application for registration as a motor vehicle dealer in the general class, which would permit it to sell vehicles to members of the public. Kafaldjian is the officer and director of Kafaldjian Motors.
- [11] On September 3, 2024, the Tribunal issued a consent order, which specified that as a pre-condition to registration of Kafaldjian Motors, it was to provide the respondent with a letter of credit in the amount of \$20,000.00. The respondent submits that the letter of credit was never supplied and so Kafaldjian Motors was never registered.
- [12] The NOP alleges that on two occasions in September 2024, Kafaldjian, on behalf of Kafaldjian Motors, furnished a falsified wall certificate in the name of Kafaldjian Motors which was submitted to E-Block Auction and Northlake Financial, in an attempt to pass Kafaldjian Motors off as a registered motor vehicle dealer.

ANALYSIS

The past conduct of Kafaldjian affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty

- [13] Under s. 6(1)(a)(ii) and s. 6(1)(d)(iii), the onus is on the respondent to prove that the past conduct of Kafaldjian affords reasonable grounds for belief that he and GMK will not carry on business in accordance with the law and with integrity and honesty. The standard of “reasonable grounds for belief” was set out by the Court of Appeal in *Ontario Alcohol and Gaming Commission of Ontario v. 751809 Ontario Inc. (Famous Flesh Gordon’s)*, 2013 ONCA 157 (CanLII). The respondent does not have to show that the appellants’ past conduct makes it more likely than not that their business will not be carried out as required, but only that its belief to that effect is based on more than mere suspicion and on compelling and credible information. Further, the respondent must also show that there is a nexus between the past conduct and the appellants’ ability to conduct business under the *Act* serving the interests of the public.
- [14] The respondent submits that it has shown reasonable grounds for belief based on two attempts by Kafaldjian to pass off Kafaldjian Motors as a registered motor vehicle dealer during his dealings with E-Block Auctions and Northlake Financial, by furnishing a falsified wall certificate.

E-Block Auction Application

- [15] E-Block Auction is a motor vehicle auction that deals only with registered motor vehicle dealers, not with members of the public. In order to do business with E-Block Auction, motor vehicle dealers are required to provide it with proof of registration as a motor vehicle dealer in the jurisdiction where the dealer does business. The NOP states that in September 2024, Kafaldjian, on behalf of Kafaldjian Motors, submitted to E-Block Auction a falsified wall certificate from the Ontario Motor Vehicle Industry Council (“OMVIC”) in order to convince E-Block Auction that Kafaldjian Motors was a registered motor vehicle dealer in Ontario, when Kafaldjian Motors was not registered.
- [16] Jessie Kinniburgh, an employee of E-Block Auction, testified that they received an application from Kafaldjian, on behalf of Kafaldjian Motors, which attached a copy of a wall certificate purporting to demonstrate that Kafaldjian Motors was a motor vehicle dealer registered with OMVIC. Ms. Kinniburgh testified that both she and another employee attempted to verify the registration using a search function on the OMVIC website and were unable to verify Kafaldjian Motors’ registration. Ms. Kinniburgh then contacted OMVIC directly.
- [17] Susan Dicks, Manager of registration with OMVIC testified that Kafaldjian Motors was never registered as a motor vehicle dealer in Ontario because it never provided the letter of credit that was a pre-condition to its registration. This pre-condition was agreed to by OMVIC and Kafaldjian on behalf of Kafaldjian Motors and set out in a Tribunal consent order dated September 1, 2024.
- [18] We find that the Kafaldjian Motors wall certificate submitted to E-Block Auction was falsified because Kafaldjian Motors was never registered as a motor vehicle dealer with OMVIC. In addition, Ms. Dicks testified that she checked with the IT department to ensure that the certificate had not been issued in error and was assured that it had not been. Further, the registration number on the wall certificate, which is supposed to be a unique number assigned to each certificate issued by OMVIC, was the same registration number issued to GMK’s wall certificate, suggesting that the GMK’s certificate was used to falsify the Kafaldjian Motors certificate.
- [19] We find that the falsified wall certificate was submitted by Kafaldjian to E-Block Auction on behalf of Kafaldjian Motors because emails and screen shots provided by E-Block Auction show that the application attaching the falsified wall certificate was completed in the name of Chris Kafaldjian. The Kafaldjian Motors application for registration as a motor vehicle dealer, which was completed by Kafaldjian on behalf of Kafaldjian Motors, shows that Kafaldjian used the same

email address on the OMVIC application form as was used to communicate with and send the falsified wall certificate to E-Block Auction. This email address was also included under the business contact information on the E-Block Auction application form that was submitted along with the falsified certificate. Further, the cell phone number for Kafaldjian on the OMVIC application form was identical to the cell phone number included in the E-Block Auction application under Dealer Principal Information.

- [20] The OMVIC investigator of this matter, Todd Pearce, also testified at the hearing that he interacted with Kafaldjian in person during his investigation of this matter, and Kafaldjian gave Mr. Pearce the same cell phone number to enable Mr. Pearce to contact Kafaldjian.
- [21] Mr. Pearce also testified that, as a result of his investigation, he laid charges under the *Provincial Offences Act* against Kafaldjian for furnishing and falsifying information or documents relating to a trade in motor vehicles twice, contrary to s. 27 of the *Act*; and acting as a motor vehicle dealer when not registered to do so contrary to s.4 (1) (a) of the *Act*. As of the date of this hearing, the status of these charges is unknown.
- [22] We find the testimony of the respondent's witnesses, Mr. Pearce, Ms. Dicks and Ms. Kinniburgh, was consistent and was corroborated by the documentary evidence. For these reasons, we find their testimony credible and the documentary evidence persuasive.
- [23] Further, as Kafaldjian did not attend the hearing to testify, we do not have the benefit of his perspective. We find that the respondent has met its burden of proving that Kafaldjian furnished a falsified wall certificate to E-Block Auction in September 2024.

Northlake Financial Application

- [24] Northlake Financial is a financial institution that lends funds exclusively to motor vehicle dealers. The NOP alleges that Kafaldjian, on behalf of Kafaldjian Motors, submitted the same falsified wall certificate to Northlake Financial in September 2024 in support of an application to obtain financing.
- [25] An employee of Northlake Financial, Craig Van Rooyen, testified at the hearing that he had a telephone conversation with Kafaldjian, who was inquiring about obtaining financing for Kafaldjian Motors. Mr. Van Rooyen testified that, after the phone call, he corresponded with Kafaldjian by email, which culminated in

Kafaldjian emailing a completed dealer agreement form with the falsified wall certificate attached.

- [26] We note that the dealer profile portion of the agreement submitted to Northlake Financial was completed by Kafaldjian and contained the same cell phone number and email address as those submitted to both E-Block Auction and OMVIC by Kafaldjian, on behalf of Kafaldjian Motors. Further, the dealer agreement form and falsified wall certificate were sent to Mr. Van Rooyen from the same email address. In addition, the dealer agreement form refers to GMK as an “other affiliated dealer and/or company.”
- [27] The respondent relied on the copies of the wall certificates for Kafaldjian Motors that it obtained from both E-Block Auction and Northlake Financial. They are identical. Therefore, we find that the same falsified wall certificate was submitted to both businesses.
- [28] Mr. Van Rooyen’s testimony was corroborated by email correspondence between Kafaldjian and him and the documents that Kafaldjian submitted to Northlake Financial. Therefore, we find his testimony credible.
- [29] Once again, we do not have the benefit of any evidence from Kafaldjian to challenge the respondent’s evidence. We find that the respondent has met its burden of proving that Kafaldjian furnished a falsified wall certificate to Northlake Financial in September 2024.
- [30] We find that the respondent has provided compelling and credible evidence that establishes that Kafaldjian, while acting on behalf of Kafaldjian Motors, furnished a falsified certificate in support of its applications to do business with E-Block Auction and Northlake Financial. We find that in doing so, Kafaldjian was attempting to lead E-Block Auction and Northlake Financial to believe that Kafaldjian Motors was a registered motor vehicle dealer when, in fact, it was not. Further, we find that this behaviour directly relates to Kafaldjian’s ability to conduct business under the *Act* in a manner that serves the interests of the public because it demonstrates a disregard for the *Act* and for OMVIC as the regulating body of motor vehicle dealers.
- [31] Therefore, we find that the past behaviour of Kafaldjian affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty, thereby disentitling him to registration pursuant to s. 6(1)(a)(ii) of the *Act*.

Kafaldjian's past conduct affords reasonable grounds for belief that GMK will not carry on business in accordance with the law and with integrity and honesty

- [32] Pursuant to s. 6(1)(d)(iii) of the *Act*, GMK will be disentitled to registration if the past conduct of Kafaldjian affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty.
- [33] The Director's Certificates for GMK and Kafaldjian, dated March 6, 2025, show that Kafaldjian has been an officer and/or director and the person in charge of the day to day operation of GMK since December 23, 2021. Therefore, we find that Kafaldjian is an "interested person" in GMK within the meaning of s. 6(4) (a-c) of the *Act*.
- [34] Given Kafaldjian's position as officer and director of GMK, we find that Kafaldjian's past conduct can be fixed on GMK. There is no evidence of any means by which GMK's business can be safeguarded from concerns arising from Kafaldjian's past conduct.
- [35] Consequently, we find that the respondent has satisfied the burden of proof that the past conduct of Kafaldjian affords reasonable grounds for belief that GMK will not carry on business in accordance with the law and with integrity and honesty and therefore, it is disentitled to registration in accordance with s. 6(1)(d)(iii) of the *Act*.

The NOP should be carried out

- [36] We find that the NOP should be carried out.
- [37] The Tribunal has the statutory discretion to consider an appellant's circumstances and determine whether the public interest requires outright revocation of the registrations, as proposed in the NOP, or whether the purpose of the *Act* can be adequately protected through the imposition of conditions.
- [38] The *Act* has two broad purposes: first, to provide protection to consumers; and second, to promote professionalism among dealers and salespeople within the automobile industry.
- [39] The conduct of Kafaldjian consists of furnishing a falsified wall certificate on two occasions in order to pass off Kafaldjian Motors as a registered motor vehicle dealer.
- [40] We did not have the benefit of hearing submissions from Kafaldjian regarding any proposed addition of terms and conditions to the registrations for our

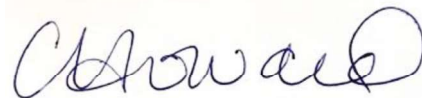
consideration. However, we find that the imposition of conditions cannot protect the public interest in this case because Kafaldjian attempted to work around the pre-condition attached to OMVIC's agreement to register Kafaldjian Motors, the provision of a letter of credit, by furnishing falsified certificates. We find this conduct severe because he disregarded the rules of the regulatory authority and attempted to conduct business without registration which supports an unwillingness to follow the laws and rules for basic registration.

[41] Therefore, we do not find that terms and conditions are appropriate in this case.

ORDER

[42] For the reasons set out above, pursuant to s. 9(5) of the *Act*, we direct the respondent to carry out the NOP and revoke the registrations of the appellants, Kafaldjian and GMK.

Released: June 5, 2025



Caley Howard
Adjudicator



Rebecca Hines
Adjudicator