

DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Public Member
Joe Wade, Registrant
Chris Pinelli, Registrant

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-

MATIN AUTOHAUS LIMITED o/a OWEN SOUND HONDA

-AND-

SIKANDER UMAR

-AND-

ASHIM UMAR

Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, a Reviewing Panel has 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: October 18, 2023

Findings: The Dealer has contravened the following:
Sections 4(2) and 9(1) of the Code of Ethics, Ontario Regulation 332/08
Sikander Umar and Ashim Umar have contravened the following:
6(2) and 9(1) of the Code of Ethics, Regulation 332/08

Order:

1. Matin Autohaus Limited o/a Owen Sound Honda (the "Dealer") are ordered to pay a fine in the amount of \$2,500 no later than **December 31, 2023.**
2. Sakinder Umar is ordered to successfully complete the MVDA Key Elements course no later than **December 31, 2023.**
3. Ashim Umar is ordered to successfully complete the MVDA KEY Elements course no later than **December 31, 2023.**
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **December 31, 2023.** Future sales staff will be offered the course within 90 days of being retained in this capacity. 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.
5. The Dealer, Sakinder Umar, and Ashim Umar shall comply with the Act and Standards of Business Practice, as may be amended from time to time.

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.

Background:

1. Matin Autohaus Ltd o/a Owen Sound Honda (the "Dealer") was first registered as a motor vehicle dealer in and around November 1985.
2. Sikander Umar ("S. Umar") was first registered as a motor vehicle salesperson in and around December 1983. At all material times, S. Umar has been a director, as well as a person in charge of the day-to-day activities of the Dealer.
3. Ashim Umar ("A. Umar") was first registered as a motor vehicle salesperson in and around September 1999. At all material times, A. Umar has been a director, as well as a person in charge of the day-to-day activities of the Dealer.
4. On or about January 10, 2017, A. Umar successfully completed the Automotive Certification course (the "Course"). Included in the Course materials are dealers' obligation to ensure advertised vehicle prices include all additional mandatory fees ("all-in pricing").

OMVIC registrant education re: all-in pricing

5. Since the Act was proclaimed, OMVIC has issued various publications and webinars reminding dealers of their all-in pricing obligations. The dates of said publications are attached hereto as Schedule A. All these publications continue to be available on OMVIC's website.

Previous correspondence with the Dealer:

6. By letter dated May 11, 2022, S. Umar was reminded of the Dealer's all-in pricing obligations.

Dealer's Contravention of the Code of Ethics

7. On or before June 21, 2022, the Dealer advertised a 2019 Honda Ridgeline (stock #M7735A) with a selling price of \$48,990 plus taxes and licensing fees.
8. On or about June 22, 2022, an OMVIC representative made inquiries about the subject vehicle, while posing as a member of the public.
9. A. Umar, on behalf of the Dealer, provided the OMVIC representative a vehicle price quote that included the following additional charges:
 - a. \$10 OMVIC fee
 - b. \$27.90 Tire Levy fee
10. As such, the advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4 and 9 of the Code of Ethics.

S. Umar's contraventions of the Code of Ethics

11. S. Umar failed to ensure that the Dealer conducted its business in compliance with the Act and Code of Ethics and thus personally contravened sections 6 and 9 of the Code of Ethics.

A. Umar's contraventions of the Code of Ethics

12. A. Umar failed to ensure that the Dealer conducted its business in compliance with the Act and Code of Ethics and thus personally contravened sections 6 and 9 of the Code of Ethics.

It is thereby agreed the Dealer failed to comply with the following sections of the Act, O. Reg. 333/08:

36. Advertising:

(7) If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible, and prominent manner and shall be set out as the total of,

(a) the amount that a buyer would be required to pay for the vehicle; and

(b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.

It is thereby agreed that the Dealer has contravened the following section of the Code of Ethics, as set out in O. Reg. 333/08.

Disclosure and marketing

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.

It is thereby agreed that S. Umar and A. Umar have contravened the following section of the Code of Ethics, as set out in O. Reg. 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, S. Umar, and A. Umar have contravened the following section of the Code of Ethics, as set out in ON Regulation 333/08.

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.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts, as well as the additional submissions provided by the Parties, the Reviewing Panel is satisfied that the facts as set out in the Agreed Statement of Facts support the allegations that the Dealer has breached subsections 4(2) and 9(1) of the OMVIC Code of Ethics, and S. Umar and A. Umar have breached subsections 6(2) and 9(1), as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*.

The Reviewing Panel also agrees with the Parties' Joint Submission on Penalty and determines that the penalty is in the public interest and serves as a general and specific deterrence and will send a message that the offence will not be repeated. Accordingly, the Reviewing panel makes the following Order:

1. Matin Autohaus Limited o/a Owen Sound Honda (the "Dealer") are ordered to pay a fine in the amount of \$2,500 no later than **December 31, 2023**.
2. Sakinder Umar is ordered to successfully complete the MVDA Key Elements course no later than **December 31, 2023**.

3. Ashim Umar is ordered to successfully complete the MVDA KEY Elements course no later than **December 31, 2023**.
4. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the Automotive Certification course (the "Course"). Current sales staff will be offered the Course no later than **December 31, 2023**. Future sales staff will be offered the course within 90 days of being retained in this capacity. 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.
5. The Dealer, Sakinder Umar, and Ashim Umar shall comply with the Act and Standards of Business Practice, as may be amended from time to time.

Dated: October 19th, 2023

Ontario Motor Vehicle Industry Council
Discipline Committee

A handwritten signature in black ink, appearing to read 'Joe Wade', written over a horizontal line.

Joe Wade, Discipline Committee Chair

On behalf of
Sherry Darvish, *Public Member*
Chris Pinelli, *Member*

