

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

BETWEEN :

REGISTRAR, MOTOR VEHICLE DEALERS ACT, 2002

- AND -

2382919 ONTARIO INC. o/a QAZI MOTORS

- AND -

HAMMAD QAZI

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: May 21, 2019

Findings: Breach of Section 5, 6, 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of \$500 no later than **May 31, 2019**.
2. Qazi is ordered to successfully complete the Automotive Certification On-Site Course (the "Course") no later than **July 31, 2019**.
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 **April 30, 2019**. 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. The Dealer and Qazi 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. 2382919 Ontario Inc. o/a Qazi Motors (the "Dealer") was first registered as a motor vehicle dealer in around June 2014. Hammad Qazi ("Qazi") was registered as a motor vehicle salesperson in around June 2014. At all material times Qazi was the Director, as well as the Person in Charge of the Dealer.
2. On or about June 18, 2014, Qazi executed terms and conditions of registration on behalf of the Dealer. As per condition 1, the Dealer agreed to comply with the Act, Code of Ethics, and Standards of Business Practice as may be amended from time to time.
3. As per condition 18, the Dealer agreed it was under a positive obligation to disclose to purchasers all material facts about the vehicles it sells. The Dealer further agreed to undertake to research the histories of the vehicles it sells and in the case of a previously damaged vehicle, to provide purchasers with as much detail as possible with respect to the nature and severity of the damage.

OMVIC publications

4. In around April 2017 OMVIC published a Webinar reminding registrants of their disclosure requirements when selling vehicles to other registrants ("wholesale" trades).

Direct prior warnings

5. During an inspection on about May 7, 2018 the Dealer was directly reminded of its obligation to disclose all material facts about vehicles it sells.

Dealer non-compliance:

6. On or about April 3, 2018 the Dealer purchased a 2017 Honda Civic Touring, (VIN 2HGFC1F92HH101966) with the following declarations:
 - a. Vehicle has been declared a total loss by the insurer
 - b. The manufacturer's warranty has been cancelled
 - c. Repair Estimate: \$298.00.
 - d. Total distance driven is unknown, but as of 12/22/2017 it was believed to be 2,865km. The total distance driven is believed to be higher than the distance indicated. Odometer is: Good



Moreover, this vehicle had been recovered after being stolen ("theft recovery").

7. On or about June 4, 2018, Qazi wholesaled this vehicle on behalf of the Dealer, without disclosing a, b, d, above. The Dealer also failed to disclose that the vehicle was a theft recovery vehicle. This is contrary to the Dealer's terms and conditions of registration, as well as sections 5(2), 5(17), 5(18), 5(21), 7(1), 9(1), and 9(2) of the Code of Ethics.
8. On or before June 5, 2018, the purchaser independently received information concerning the vehicle's past history and wanted to either return the vehicle to the Dealer, re-negotiate the vehicle purchase price to reflect what the purchaser believed would now be a lower vehicle value.
9. On or about June 5, 2018 a representative of the Registrar was contacted by Qazi, seeking advice with respect to this matter, on behalf of the Dealer. Qazi was advised of his obligations to provide written disclosure, on the bill of sale, of all material facts about the vehicles he sells.
10. By email dated June 5, 2018, Qazi mischaracterized to the purchaser of the vehicle the advice he had been given by the Registrar's representative. This is unprofessional, and contrary to section 9(1) of the Code of Ethics.
11. Qazi has failed to ensure the Dealer is conducting business in compliance with the Act, Code of Ethics, as well as the Dealer's terms and conditions of Registration. As such, Qazi's conduct is personally non-compliant with section 6(2) of the Code of Ethics.

It is thereby agreed that the Dealer and Qazi have breached sections 5(2)(17)(18)(21), 6(2), 7(1) and 9(1)(2) of the Code of Ethics, as set out in regulation 332/08:

5. (2) If the vehicle is a used motor vehicle and the dealer cannot determine the total distance that the vehicle has been driven but can determine the distance that the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that the total distance that the vehicle has been driven is believed to be higher than that distance.
 - (17) If the manufacturer's warranty on the vehicle was cancelled, a statement to that effect.
 - (18) If the vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the *Highway Traffic Act*, a statement to that effect.
 - (21) If the vehicle had been recovered after being reported stolen, a statement to that effect.
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.



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.

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, dishonorable, unprofessional or unbecoming of a registrant.

(2) In carrying on a business, a registrant shall act with honesty, integrity and fairness.

Joint Submission on Penalty

1. The Dealer agrees to pay a fine in the amount of \$500 no later than **May 31, 2019**.
2. Qazi agrees to successfully complete the Automotive Certification On-Site Course (the "Course") no later than **July 31, 2019**.
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 **April 30, 2019**. 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. The Dealer and Qazi 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 breached subsections 5, 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 \$500 no later than **May 31, 2019**.
2. Qazi is ordered to successfully complete the Automotive Certification On-Site Course (the "Course") no later than **July 31, 2019**.



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 **April 30, 2019**. 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. The Dealer and Qazi 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



