SENT VIA E-MAIL

DISCIPLINE TRIBUNAL OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

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

TO: 5038938 Ontario Inc. o/a N & P Platinum Auto Sales
75 Water St. S
Cambridge, ON
N1R 3C9

AND TO: Niraj Patel

NOTICE OF REFERRAL TO DISCIPLINE TRIBUNAL

Take notice that pursuant to section 14(4) 4 of the *Motor Vehicle Dealers Act, 2002*, (the "Act"), the Registrar has referred the complaint(s) against 5038938 Ontario Inc. o/a N & P Platinum Auto Sales and Niraj Patel to the Discipline Tribunal for alleged violations under the Code of Ethics, as set out in Ontario Regulation 332/08.

REASONS

Section 17 of the Act establishes a Discipline Tribunal and empowers the Discipline Tribunal to hear and determine issues concerning alleged breaches of the Code of Ethics. The Code of Ethics applies to all Registrants registered under the Act. Any Registrants that disregard or violate the Code of Ethics are subject to having their conduct reviewed by the Discipline Tribunal. The Code of Ethics requires that all Registrants conduct business with Integrity, Accountability, Compliance, Respect and Professionalism as well as ensuring that requirements are met when it comes to Disclosure and Marketing and the Disclosure of Information in Sale and Lease Contracts.

PARTICULARS

The reasons for this Notice are:

Background

1. 5038938 Ontario Inc. o/a N & P Platinum Auto Sales (the "Dealer") was first registered as a motor vehicle dealer under the Act in and around December 2021. It is currently registered.

2. Niraj Patel ("Patel") was first registered as a salesperson under the Act in and around December 2021. At all material times, Patel has been a Director, General Manager, and Person in Charge of the day-to-day activities of the Dealer.

Reminders to Comply

3. During an inspection on or about September 11, 2024, a representative of the Registrar reminded the Dealer and Patel to remit payment for all third-party warranties within 30 days of sale, pursuant to s. 47(7)(c) of O. Reg. 333/08 and the Code of Ethics.

Dealer's Non-Compliance

2017 BMW 4-Series: Failure to Comply with (or Appeal) a Court Order and Failure to Respond to a Request for Information

4. On or about October 16, 2023, Patel, on behalf of the Dealer, sold a 2017 BMW 4-Series (VIN# * 810768) to a consumer ("Consumer A") at a selling price of $30,995, and the parties signed a retail bill of sale ("RBOS"). Consumer A traded in a 2019 Lexis IS (VIN# *034496) to the Dealer for a trade-in allowance of $28,318.58. After factoring in the differences between the price and trade-in allowance, as well as tax, licensing, and a payout lien on the trade-in vehicle, the total balance due was $37,583.35.

5. Consumer A opted to finance her purchase of the 2017 BMW 4-Series. In order to facilitate this, the Dealer, Consumer A, and a third-party dealer (the "Third-Party dealer") who assisted to secure financing, signed a series of bills of sale:
    a. On or about October 18, 2023, Patel, on behalf of the Dealer, and the Third-Party dealer signed a wholesale bill of sale ("WBOS"), whereby the Dealer sold the 2017 BMW 4-Series to the Third-Party dealer.
    b. On or about October 18, 2023, Consumer A and the Third-Party dealer signed a RBOS, whereby Consumer A traded-in her 2019 Lexus IS to the Third-Party dealer for the purchase of the 2017 BMW 4-Series.
    c. On or about October 18, 2023, Patel, on behalf of the Dealer, and the Third-Party dealer signed another WBOS, whereby the Third-Party dealer sold the 2019 Lexus IS to the Dealer.

6. The terms of the Consumer A's financing agreement stipulated that the loan amount would be $53,668.44, payable by 84 monthly payments of $638.91.

7. On or about October 19, 2023, Patel, on behalf of the Dealer, informed Consumer A's son that the sale of the 2017 BMW 4-Series would be cancelled unless he pays $3,500 in cash to the Dealer. The Dealer claimed that the 2019 Lexis IS traded-in for this transaction was in worse condition than what the parties had previously agreed upon.

8. On or about October 19, 2023, Consumer A's son paid $3,500 in cash to the Dealer under duress in order to pick up the 2017 BMW 4-Series.

9. On or about October 19, 2023, Patel, on behalf of the Dealer, signed another RBOS with Consumer A, to reflect the payment of the $3,500 as a deposit. The RBOS was backdated to October 16, 2023. This new RBOS did not involve the Third-Party dealer responsible for arranging financing. None of the bills of sale involving the Third-Party dealer were amended as of this time.

10. Beginning on or about October 20, 2023, Consumer A contacted the Dealer via email and attempted to resolve this issue. Consumer A requested the Dealer to either return the $3,500, or amend the terms of the bills of sale involving the Third-Party dealer (and consequently the financing terms) to account for the deposit of $3,500.

11. Patel, on behalf of the Dealer, refused to refund the deposit of $3,500, or amend the terms of the bills of sale involving the Third-Party dealer (and consequently the financing terms) to account for the deposit of $3,500.

12. The Third-Party dealer also refused to amend the financing terms, citing its non-involvement with the updated transaction between Consumer A and the Dealer.

13. On or about September 6, 2024, Consumer A filed a Plaintiff's Claim before the Small Claims Court of the Ontario Superior Court of Justice (the "Small Claims Court"), naming the Dealer and the Third-Party dealer as defendants. Consumer A claimed a refund of the deposit of $3,500, general damages in the amount of $1,000, plus interest and costs.

14. The Dealer did not file a Defence, and the Small Claims Court noted the Dealer to be in Default on or about August 21, 2024.

15. The Third-Party dealer filed a Defence, denying responsibility for this matter. In and around January 2025, Consumer A and the Third-Party dealer reached a settlement agreement.

16. On or about November 3, 2025, the Small Claims Court held a hearing for this matter. Consumer A was present but the Dealer did not attend. The Small Claims Court awarded judgment against the Dealer in the amount of $3,500, plus costs and disbursements at $1,000 as well as pre- and post-judgment interest (hereinafter referred to as the "Court Order").

17. On or about November 4, 2025, Consumer A sent a demand letter to the Dealer via email, with attention to Patel, requesting the Dealer to comply with the Court Order. On or about November 11, 2025, Consumer A sent the demand letter to the Dealer again via email and req

18. On or about November 13, 2025, Consumer A sent the demand letter to the Dealer again via registered mail. The Dealer failed to comply with the Court Order.

19. On or about December 5, 2025, Consumer A filed a complaint against the Dealer with a representative of the Registrar.

20. On or about January 19, 2026, a representative of the Registrar sent a letter to the Dealer via email, requesting the Dealer to provide further documentation and information concerning the Dealer's transaction with Consumer A.

21. On or about January 26, 2026, Patel, on behalf of the Dealer, sent an email to the Registrar's representative, indicating that the Dealer was "in the process of disputing this matter in court and are working with our legal counsel to defend our position."

22. Between around January 29, 2026 and February 5, 2026, the Registrar's representative maintained separate communications with Consumer A and the Dealer.

23. On or about February 9, 2026, the Registrar's representative sent an email to the Dealer, informing Patel that the Dealer was responsible for either paying the awarded judgment from the Court Order, or appealing the Court Order. The Registrar's representative also notified the Dealer that she would be informing Consumer A that Consumer A could apply to the Compensation Fund.

24. On or about February 10, 2026, Consumer A applied to the Compensation Fund.

25. On or about February 18, 2026, the Registrar's representative sent an email to the Dealer, asking whether the Dealer planned on appealing the decision or complying with the Court Order. The Registrar's representative also notified the Dealer that Consumer A had applied to the Compensation Fund.

26. On or about May 25, 2026, Consumer A submitted further documents for her application to the Compensation Fund. Consumer A's application is currently under review.

27. The Dealer failed to respond to the email from the Registrar's representative, nor did the Dealer provide proof of compliance with, or appeal of, the Court Order to the Registrar's representative, contrary to s. 14(3) of the Act, as well as s. 9(1) of the Code of Ethics.

28. By failing to comply with, or appealing, the Court Order, the Dealer has contravened s. 3(1), 8(2), and 9(1) and (2) of the Code of Ethics.

2016 Volkswagen Golf GTI: Failure to Remit Warranty Payment to a Warranty Provider, Provide the RBOS to a Consumer, and Respond to a Request for Information

29. On or about March 26, 2025, the Dealer sold a 2016 Volkswagen Golf GTI (VIN# *052070
30.) to a consumer ("Consumer B"). The parties signed an RBOS, but Consumer B did not receive a copy of the RBOS.

31. Consumer B paid around $3,400 to the Dealer for a third-party warranty. The Dealer informed Consumer B that the warranty would begin on or about April 2, 2025.

32. On or about April 3, 2025, the vehicle's registration with the Ministry of Transportation was transferred from the Dealer's name to Consumer B's name.

33. Consumer B subsequently had a claim denied by the warranty provider and learned that the Dealer did not remit the warranty payment to the warranty provider. Thereby, Consumer B did not have the warranty coverage. The Dealer failed to ensure it complied with the 30-day remittance requirement, as set out in s. 47(7)(c) of O. Reg. 333/08.

34. In and around October 2025 and January 2026, Consumer B contacted the Dealer to resolve the outstanding warranty payment.

35. On or about February 17, 2026, Consumer B filed a complaint with a representative of the Registrar.

36. On or about March 9, 2026, a representative of the Registrar sent a letter to the Dealer, to the attention of Patel. The Registrar's representative requested the Dealer to provide a written response explaining the Dealer's position with respect to the complaint, a written statement explaining offers the Dealer has made or is willing to make, the RBOS, WBOS, warranty agreement, and proof of warranty remittance for this transaction and other warranty transactions from February to March 2026. The Registrar's representative also requested the Dealer to provide the documentation and information requested by March 16, 2026.

37. On or about March 16, 2026, the Dealer sent an email to the Registrar's representative, acknowledging the complaint but failing to provide any of the documentation or information requested.

38. On or about March 19, 2026, the Registrar's representative repeated the request for documentation and information and set a deadline of March 20, 2026.

39. On or about March 24, 2026, the Registrar's representative advised the Dealer that she had not received any documentation and information. Patel, on behalf of the Dealer, requested an extension until March 25, 2026.

40. On or about March 25, 2026, Patel, on behalf of the Dealer, sent an email to the Registrar's representative, providing a copy of a WBOS and offered to refund Consumer B his payment for the third-party warranty. The Dealer failed to provide any of the other documentation or information requested.

41. In and around March 2026, the Registrar's representative sent requests to Consumer B for further documentation, including a copy of the RBOS. Consumer B advised that he did not have a copy of the RBOS and that the Dealer failed to email him a copy, despite agreeing to do so.

42. On or about April 22, 2026, a representative of the Registrar repeated the request for the outstanding documentation and information and set a deadline of April 29, 2026.

43. On or about April 29, 2026, Patel, on behalf of the Dealer, sent an email to the Registrar's representatives, advising that he did not have the warranty agreement or proof of warranty remittance. Patel explained that the warranty payment was never submitted to the warranty provider. On behalf of the Dealer, Patel also offered to compensate Consumer B in the amount of $1,500.

44. On or about May 4, 2026, a representative of the Registrar repeated the request for the RBOS and proof of warranty remittance for transactions between February and March 2026. The Registrar's representative requested the Dealer to send these documents by May 8, 2026.

45. On or about May 8, 2026, a representative of the Registrar sent an email to the Dealer, requesting the Dealer to clarify whether the $1,500 being offered was in addition to the refund of the warranty payment that was not submitted to the warranty provider. The Registrar's representative also reminded the Dealer that the RBOS and the Dealer's other warranty transactions between February and March 2026, were due to be submitted on May 8, 2026.

46. On or about May 8, 2026, Patel, on behalf of the Dealer, explained that the $1,500 being offered was in addition to the refund of the warranty payment (around $3,400). Patel failed to provide any of the outstanding documents, as requested.

47. On or about May 8, 2026, the Registrar's representative sent an email to the Dealer, once again reminding the Dealer to submit the outstanding documents.

48. In and around May 2026, the Registrar's representative communicated with Consumer B about the Dealer's resolution offer. Consumer B declined to accept the offer. On or about May 13, 2026, the Registrar's representative notified the Dealer of the refusal.

49. The Dealer failed, in a timely manner, to submit the WBOS and provide the information pertaining to his failure to maintain the warranty agreement or proof of warranty remittance in regard to the 2016 Volkswagen Golf GTI, contrary to s. 14(3) of the Act, as well as s. 9(1) of the Code of Ethics.

50. The Dealer failed to submit the RBOS and its other warranty transactions between February and March 2026 to the Registrar's representatives, contrary to s. 14(3) of the Act, as well as s. 9(1) of the Code of Ethics.

51. The Dealer failed to maintain a copy of the warranty agreement for the 2016 Volkswagen Golf GTI, contrary to s. 53(1)(i) of O. Reg. 333/08, as well as s. 9(1) and (3) of the Code of Ethics.

52. The Dealer failed to remit Consumer B's payment of around $3,400 for the warranty to the warranty provider within 30 days of entering into the contract, contrary to s. 47(7)(c)(ii) of O. Reg. 333/08, as well as s. 9(1) and (3) of the Code of Ethics.

53. The Dealer also failed to provide Consumer B with a copy of the RBOS, contrary to s. 40(9)(c) of O. Reg. 333/08, as well as s. 9(1) and (3) of the Code of Ethics.

Patel's Non-Compliance

54. By failing to provide the requested documentation and/or information in response to the repeated requests related to the 2017 BMW 4-Series and 2016 Volkswagen Golf GTS before the stipulated deadlines, Patel failed to comply with s. 14(3) of the Act and thereby violated ss. 6(2) and 9(1) of the Code of Ethics.

55. As a Director, General Manager, and Person in Charge of the day-to-day activities of the Dealer, Patel failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened ss. 6(2), 8(2), and 9(1) and (3) of the Code of Ethics.

The Registrant(s) may provide a written response to the particulars set out above to OMVIC <u>within 15 days</u> of service of this Notice to: legal_dept@omvic.on.ca

If the Discipline Tribunal makes a determination that a registrant has failed to comply with the Code of Ethics, it may order one or more of the following:

- A fine up to $25,000 per party;
- Require the registrant to take further educational courses;
- If the registrant is a motor vehicle dealer, require the dealer to arrange and fund educational courses for salespersons employed by the dealer;
- Award costs.

This Notice of Referral to Discipline ("NORD") and decisions of the Discipline Tribunal may be published. Hearings before the Discipline Tribunal may be recorded and are open to the public.

The *Statutory Powers Procedure Act, R.S.O 1990 c.s.22*, applies to the hearing to be held by this Discipline Tribunal. A party to a proceeding may be represented by counsel or an agent.

The good character, propriety of conduct or competence of the Registrant(s) shall be an issue in any hearing before the Discipline Tribunal and reasonable information of allegations with respect thereto has been furnished.

The Rules of Practice of the Discipline Tribunal will apply and are available on OMVIC's website. A Notice of Hearing and disclosure will be provided in accordance with the Rules of Practice of the Discipline Tribunal.

Take note that as per the Rules of Practice, failure to attend a hearing before the Discipline Tribunal may result in a decision being determined *ex parte* (in your absence).

APPLICATION OF THE RULES OF PRACTICE OF THE DISCIPLINE TRIBUNAL

This is to serve notice that OMVIC may make application for its costs, pursuant to Rule 13 of the Rules of Practice.

FURTHER PARTICULARS/SUPPLEMENTAL NOTICE

The Registrar may provide further and other particulars in respect of any other matters herein or in respect to any other matter including further particulars of violations of the Code of Ethics.

DATED at Toronto, this 15th day of July, 2026

Maureen Harquail, KC, MPA, ICD.D.
Registrar, *Motor Vehicle Dealers Act, 2002*