

## 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

B E T W E E N :

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

FAITH ENTERPRISES INC. o/a FARIDI MOTORS

- and -

SHAH FARIDI

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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:** February 4, 2021

**Findings:** Breach of Sections 6, 7 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of **\$3,600**. The fine will be paid in monthly instalments of \$300 per month for a period of twelve months. The first payment will be paid no later than **March 1, 2021**, and all remaining payments on the first of every month thereafter.
2. Faridi is ordered to successfully complete the Course no later than **April 30, 2021**.
3. The Dealer is ordered to offer all **future** sales staff the opportunity to complete 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 **future** sales staff who have completed the Course or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Faridi 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:

### **Background:**

1. Faith Enterprises Inc. o/a Faridi Motors (the "Dealer") was first registered as a motor vehicle dealer in around August 2018. Shah Faridi ("Faridi") was first registered as a motor vehicle salesperson in around May 2017. At all material times, Faridi was the Director, as well as the person in charge of the day to day activities of the Dealer.
2. On or about May 12, 2017, Faridi successfully completed the Automotive Certification course (the "Course"). The following is included in the course materials:
  - a. Dealers' requirement to disclose all material facts about the vehicles they sell ("disclosure requirements"), including but not limited to:
    - a. accident damage histories including the dollar value of damage
    - b. previous out of province registrations
    - c. If a vehicle's manufacturer warranty has been cancelled
    - d. whether a vehicle's true distance travelled is unknown
  - b. Dealers' requirement to ensure all funds related to the trade in motor vehicles are deposited into the dealer's business bank account.
3. On or about August 17, 2018, the Faridi executed terms and conditions of registration on behalf of the Dealer.
4. As per condition 1, the Dealer agreed to abide by the Code of Ethics, and Standards of Business Practice, as may be amended from time to time.
5. As per condition 11, the Dealer agreed to maintain its books and records in accordance with sections 52 through 60 of Regulation 333/08.

6. As per condition 18, the Dealer agreed to provide purchasers with written disclosure, on the bill of sale, of all material facts about the vehicles it sells.

**OMVIC publications re: material fact disclosure:**

7. Since the Dealer has been registered, OMVIC has issued the following Dealer Standard publications reminding dealers of their disclosure requirements:
- a. Issue #3 2018
  - b. Issue #1 2019
  - c. Issue #2 2019

The contents of these publications continue to be available on OMVIC's website.

**Direct correspondence with Dealer:**

8. During an inspection on or about November 26, 2018, a representative of the Registrar reviewed with Faridi the Dealer's disclosure requirements.

**Dealer non-compliance:**

9. During an inspection of the Dealer on about January 31, 2020 a representative of the Registrar found the following compliance issues:

**Failure to disclose material facts on bills of sale:**

10. Between on or about November 6, 2018 and on or about January 9, 2020, Faridi sold the following vehicles on behalf of the Dealer but failed disclose the following:
- a. The dollar value of vehicles' accident damage and/or
  - b. If a vehicle's manufacturer's warranty has been cancelled

This is contrary to sections 42(19), 42(20), and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics:

	<b>VEHICLE</b>	<b>PURCHASE DATE</b>	<b>SOLD DATE</b>	<b>MISSING DISCLOSURE WHEN SOLD</b>
A.	2015 Nissan Altima (VIN 1N4AL3AP8FN317292)	July 31, 2019	October 8, 2019	Accident damage: \$11,995 42(19), 42(25)  Manufacturer's warranty has been cancelled 42(20), 42(25)
B.	2010 Honda Civic (VIN 2HGFG1B62AH000349)	No purchase bill of sale	August 18, 2019	Accident damage: \$4,491 42(19), 42(25)

C.	2008 Acura MDX (VIN 2HNYD28358H508824)	September 12, 2019	December 20, 2019	Accident damage: \$11,465 42(19), 42(25)
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11. The Dealer did disclose on the original bills of sale that the subject vehicles were “insurance write off[s]”. The Dealer has since provided confirmation from the purchasers that they are aware of the information which was missing on their original bills of sale.

### Generally

12. Faridi has failed to ensure the Dealer conducts its business in compliance with the Regulations and Code of Ethics, and thus has personally contravened sections 6 and 9 of the Code of Ethics.

### Acknowledgment and Undertaking

13. The Dealer acknowledge and undertakes that all sales staff members currently employed by the Dealer will successfully complete the Automotive Certification course (the “Course”) no later than **April 30, 2021**. The Dealer shall incur all costs associated with this.

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002*:  
Regulation 333/08:

#### *42. Additional information in contracts of sale and leases*

*(19) If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed \$3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.*

*(20) If the manufacturer’s warranty on the motor vehicle was cancelled, a statement to that effect.*

*(25) Any other fact about the motor vehicle that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle on the terms of the purchase or lease.*

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

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.

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

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 and Faridi have breached the following section of the Code of Ethics, as set out in Regulation 332/08:

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.

### **Joint Submission on Penalty**

1. The Dealer agrees to pay a fine in the amount of **\$3,600**. The fine will be paid in monthly instalments of \$300 per month for a period of twelve months. The first payment will be paid no later than **March 1, 2021**, and all remaining payments on the first of every month thereafter.
2. Faridi agrees to successfully complete the Course no later than **April 30, 2021**.
3. The Dealer agrees to offer all **future** sales staff the opportunity to complete 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 **future** sales staff who have completed the Course or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Faridi 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 and Faridi have breached subsections 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 **\$3,600**. The fine will be paid in monthly instalments of \$300 per month for a period of twelve months. The first payment will be paid no later than **March 1, 2021**, and all remaining payments on the first of every month thereafter.
2. Faridi is ordered to successfully complete the Course no later than **April 30, 2021**.
3. The Dealer is ordered to offer all **future** sales staff the opportunity to complete 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 **future** sales staff who have completed the Course or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Faridi 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

A handwritten signature in black ink, appearing to read 'Paul Burroughs', with a horizontal line underneath the signature.

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*Paul Burroughs, Chair*