

DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

**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 -

MILLER-HUGHES FORD SALES LIMITED

- and -

SHAWN MALONEY

AGREED STATEMENT OF FACTS AND PENALTY

Miller-Hughes Ford Sales Limited has breached the following:

Sections 4(2) and 9(3) of the Code of Ethics, Ontario Regulation 332/08

Shawn Maloney has breached the following

Sections 6(2) of the Code of Ethics, Regulation 332/08

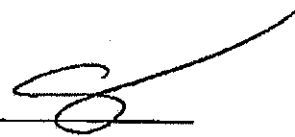
SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Miller-Hughes Ford Sales Limited (the "Dealer") was first registered as a motor vehicle dealer since in or around January 1983.
2. Shawn Maloney ("Maloney") was first registered as a motor vehicle salesperson in or around July 1987. At all material times, Maloney has been an officer, as well as the person in charge of the day-to-day activities of the Dealer.

OMVIC registrant education re: all-in pricing

3. Since the Act was proclaimed, OMVIC has issued the following publications and webinars reminding dealers of their obligation to advertise all-inclusive vehicle prices ("all-in pricing"). The dates of said publications are attached hereto as Schedule A. All of these publications continue to be available on OMVIC's website.



Initials

Direct correspondence with Dealer:

4. During an inspection on or about March 9, 2018, the all-in pricing regulation was discussed with Maloney.
5. By email dated July 29, 2020, Maloney was reminded of the Dealer's all-in pricing obligations.

Dealer's current non-compliance

6. On or about July 8, 2021, OMVIC investigators made inquiries about a 2018 Ford Escape (Stock #21033A), while posing as members of the public. This vehicle was advertised with a selling price of \$20,888 exclusive of tax and licensing fees.
7. A representative of Dealer advised the OMVIC investigators that the above referenced advertised vehicle price was not inclusive of a mandatory \$399 "registration fee". As such, the advertised price was not all-inclusive. This is contrary to section 36(7) of Ontario Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Maloney's non-compliance:

8. Maloney has failed to ensure that the Dealer conducts its business in compliance with the Act and Code of Ethics and thus has personally contravened section 6 of the Code of Ethics.

Generally:

9. The Dealer as since agreed to ensure all sales staff review the OMVIC advertising webinar shortly, in addition to adjusting their dealer management software to prevent further pricing discrepancies.

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

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.

Professionalism

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

9 (3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

It is thereby agreed that Maloney has contravened the following section of the Code of Ethics, as set out in Regulation 332/08;



Initials

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.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$2,500 no later than May 31, 2022.
2. Maloney agrees to successfully complete the MVDA KEY Elements course no later than May 31, 2022.
3. The Dealer agrees 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 May 31, 2022. 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.
4. The Dealer and Maloney agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

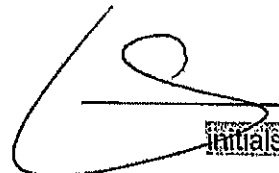
By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT Cornwall THIS 31st DAY OF JANUARY, 2022.

SHAWN MALONEY
(please print)

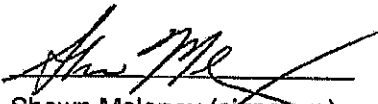

(signature)

I have the authority to bind the corporation:
Miller-Hughes Ford Sales Limited


initials

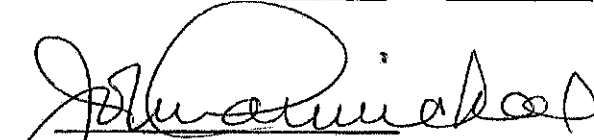
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DATED AT Cornwall THIS 31st DAY OF JANUARY, 2022.


Shawn Maloney (signature)

By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

DATED AT Toronto THIS 1st DAY OF February, 2022.


John Carmichael
Registrar, Motor Vehicle Dealers Act, 2002

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties identified above:

DATED AT Ancaster THIS 2nd DAY OF February, 2022.


Paul Burroughs
Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council

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