

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 -

1202894 ONTARIO INC o/a EDWARDS MAZDA/POIRIER NISSAN

- and -

EDWARD POIRIER

AGREED STATEMENT OF FACTS AND PENALTY

1202894 Ontario Inc o/a Edwards Mazda/Poirier Nissan and Edward Poirier have breached the following:

Section 4 of the Code of Ethics, Regulation 332/08

Section 9 of the Code of Ethics, Regulation 332/08

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. 1202894 Ontario Inc. o/a Edwards Mazda/Poirier Nissan ("the Dealer") was first registered as a motor vehicle dealer in or around August 1997. Edward Poirier ("Poirier") was first registered as a motor vehicle dealer salesperson in or around April 1983. At all material times, Poirier was the officer and Person in Charge of the Dealer.



 Registrant's Initials

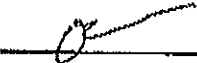
PAGE 2/8 - RQVD AT 11/20/2015 3:11:18 PM JE eastern Standard Time - SVR:QMVICFAX-BZ - DNIS:3724 - CSID:613 735 2767 - DURATION (mm-ss):02:20

2. In the winter of 2008, OMVIC issued a Dealer Standard publication which highlighted some of the upcoming changes that would take place when the *Motor Vehicle Dealer Act, 2002* ("the Act") came into effect, including the requirement for dealers to advertise all inclusive vehicle prices ("all in price").
3. The following Dealer Standard publications further reminded dealers of the all in price advertising requirements:
 - a. Summer 2010
 - b. Spring 2011
 - c. Winter 2013
 - d. Spring 2013
 - e. Summer 2013
 - f. Fall 2013
 - g. Winter 2014
 - h. Spring 2014
 - i. Summer 2014
 - j. Fall 2014
4. In addition to the above mentioned publications, OMVIC also issued the following dealer bulletins which further reminded dealers of the all in price advertising requirements:
 - a. January 2010 (2 bulletins)
 - b. April 2010 (2 bulletins)
 - c. February 2012
 - d. August 2012
 - e. April 2013
 - f. April 2014 (2 bulletins)
 - g. June 2014 (2 bulletins)
5. On or about February 3, 2014, the Registrar issued a Notice of Complaint against the Dealer for failing to comply with the all in price advertising requirements.
6. On or about May 9, 2014, the Discipline Committee issued an Order pursuant to a negotiated resolution of the above mentioned Notice of Complaint. As per condition 2 of the Order, Poirier was required to complete the OMVIC certification course. As per condition 4 of the Order, the Dealer was required to ensure all future advertising complies with the Act and Standards of Business Practice, as may be amended from time to time.
7. On or about July 21, 2014, Poirier successfully completed the OMVIC certification course, as required by the above mentioned Order.



Registrant's Initials

8. During an inspection on or about March 6, 2015, the following Dealer advertisements were found to be non-compliant with the all in price advertising requirements:
- a. On or before January 9, 2016, an advertisement was published by or on behalf of the Dealer for a 2014 Chrysler Town and Country, Stock #18048, with a selling price of \$25,988. On or about January 22, 2015, the Dealer sold this vehicle and charged an additional \$502.50 in administration and OMVIC fees. As such, the advertised price was not all inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, by failing to produce advertisements which are compliant with the Act, the Dealer has breached the Discipline Committee Order, dated May 9, 2014. This is contrary to section 9 of the Code of Ethics. The Dealer has since refunded the purchaser the amount they were charged over their vehicle's advertised price.
 - b. On or before January 9, 2015, an advertisement was published by or on behalf of the Dealer for a 2014 Chrysler Town and Country, Stock #17978, with a selling price of \$25,988. On or about February 19, 2015, the Dealer sold this vehicle and charged an additional \$502.50 in administration and OMVIC fees. As such, the advertised price was not all inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. Moreover, by failing to produce advertisements which are compliant with the Act, the Dealer has breached the Discipline Committee Order, dated May 9, 2014. This is contrary to section 9 of the Code of Ethics. The Dealer has since refunded the purchaser the amount they were charged over their vehicle's advertised price.
9. On or before June 9, 2015, the Dealer displayed vehicles on the Dealer's lot which solely promoted a bi-weekly payment. This is contrary to section 61 of Regulation 17/05 of the *Consumer Protection Act, 2002*, as well as sections 4 and 9 of the Code of Ethics.
10. On or before July, 30, 2015, advertisements were placed by or on behalf of the Dealer which solely promoted a bi-weekly payment. This is contrary to section 61 of Regulation 17/05 of the *Consumer Protection Act, 2002*, as well as sections 4 and 9 of the Code of Ethics.
11. The Dealer has since offered to ensure the General Manager successfully completes the OMVIC certification course within 90 days of the date of Discipline Committee Order.



Registrant's Initials

By failing to comply with the following sections of the *Consumer Protection Act, 2002*, and *Motor Vehicle Dealers Act, 2002*:

Consumer Protection Act, 2002:

Regulation 17/05

61. Credit Advertising:

Any person who makes representations in respect of a credit agreement, or causes representations to be made in respect of a credit agreement, in an advertisement shall do so in accordance with this section, regardless of whether the representations are made orally, in writing or in any other form.

(2) An advertisement that offers fixed credit and discloses the interest rate payable by the borrower under the credit agreement or the amount of a payment to be made by the borrower to the lender in connection with the credit agreement shall also disclose the following information:

1. The annual percentage rate for the credit agreement.
2. The length of the term of the credit agreement.
3. If the advertisement is for a supplier credit agreement and applies to a specifically identified good or service,
 - i. the cash price of the good or service, and
 - ii. the cost of borrowing, unless,
 - A. the only element of the cost of borrowing is interest, or
 - B. the advertisement is broadcast on radio or television, displayed on a billboard or bus board or made through any other medium with similar time or space limitations.

Motor Vehicle Dealers Act, 2002:

Regulation 333/08

36(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 and Poirier have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

4. 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.
9. 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.

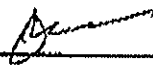


Registrant's Initials

PAGE 5/8 - RCVO AT 11/20/2015 3:11:18 PM [Eastern Standard Time] - SVR:OMVIC/AX-8/2 - ONIS:3724 - CSID:613 735 2767 - DURATION (mm-ss)02:28

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$5,500 within 90 days of the date of the Discipline Committee Order.
2. 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 within 90 days of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 of be 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.
3. The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.



Registrant's Initials

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 Pembroke THIS 20th DAY OF Nov, 2015

Edward Poirier

(please print)

[Signature]

(signature)

I have the authority to bind the corporation:
1202894 Ontario Inc o/a Edwards Mazda/Poirier Nissan

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 Pembroke THIS 20th DAY OF Nov, 2015

[Signature]

Edward Poirier

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 20th DAY OF November, 2015

[Signature]

Mary Jane South
Registrar, Motor Vehicle Dealers Act, 2002

PAGE 7/8 - RCVD AT 11/20/2015 3:11:18 PM ESTERN Standard Time - SVR-OMVIC/FAX-B/Z - DNIS-3724 - CSID-613 735 2767 - DURATION (mm-ss):02:20

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

DATED AT Hanover THIS 7 DAY OF Dec, 2014



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

Registrant's Initials

PAGE 8/8 - RCVD AT 11/20/2015 3:11:18 PM [Eastern Standard Time] - SVR:OMVIC/FAX-8/2 - DNIS:3724 - CS10:613 735 2767 - DURATION (mm-ss):02-20

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Nov. 20. 2015 2:51PM EDWARDS MAZDA