

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 -

NORTHSIDE AUTO LTD. o/a NORTHSIDE TOYOTA

- and -

FRANK PALUMBO

AGREED STATEMENT OF FACTS AND PENALTY

Northside Auto Ltd o/a Northside Toyota has breached the following:

Section 4(2) of the Code of Ethics, Regulation 332/08

Frank Palumbo has breached the following:

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

Northside Auto Ltd o/a Northside Toyota and Frank Palumbo have breached the following:

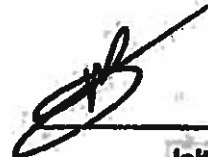
Section 9(1) of the Code of Ethics, Regulation 332/08

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

Background

1. Northside Auto Ltd o/a Northside Toyota (the "Dealer") was registered as a motor vehicle dealer in around April 1995. Frank Palumbo ("Palumbo") was first registered as a motor vehicle salesperson in around June 1983. Palumbo is an Officer, as well as a person in charge of the day to day activities of the Dealer.


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OMVIC registrant education re: all-in pricing

2. Since the Act was proclaimed, OMVIC has issued the following publication and webinars reminding dealers of their all-in pricing obligations, all of which continue to be available on OMVIC's website:

	Dealer Standard		Bulletin		Webinar
A	Winter 2008	U	January 2010	BB	April 2015
B	Spring 2010	V	April 2010	CC	April 2017
C	Spring 2011	W	February 2012		
D	Winter 2013	X	August 2012		
E	Spring 2013	Y	April 2014		
F	Summer 2013	Z	June 2014		
G	2014: Issue 1	AA	April 2015		
H	2014: Issue 2				
I	2014: Issue 3				
J	2014: Issue 2				
K	2015: Issue 3				
L	2015: Issue 4				
M	2016: Issue 1				
N	2016: Issue 2				
O	2016: Issue 3				
P	2016: Issue 4				
Q	2017: Issue 2				
R	2017: Issue 3				
S	2018: Issue 2				
T	2019: Issue 2				

Direct correspondence with Dealer:

3. By email dated November 29, 2011, Palumbo was reminded of the Dealer's all-in pricing obligations.
4. By email dated May 24, 2012, Palumbo was again reminded of the Dealer's all-in pricing obligations.
5. By email dated June 26, 2012, Palumbo was again reminded of the Dealer's all-in pricing obligations.



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Dealer's current non-compliance

6. On or before June 18, 2019, the Dealer published an advertisement for a 2019 Toyota Rav 4 (Stock #PRO19)) with a selling price of \$30,995.
7. On this same date, representatives of the Registrar made inquiries about the subject vehicle, while posing as members of the public. A representative of the Dealer advised the Registrar's representatives that the advertised vehicle price did not include an additional \$399 administration fee, as well as an additional \$149 "tire and rim fee". As such, the Dealer's advertisement did not promote an all-inclusive price, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
8. After some discussion, the Dealer's representative agreed to remove the tire and rim fee and reduce the administration fee by \$200, which would still have resulted in the vehicle's selling price being \$199 over its advertised price.
9. As the person in charge of the Dealer, Palumbo has failed to ensure that the Dealer conducts its business in compliance with the Act and Code of Ethics and thus has personally contravened sections 6 and 9 of the Code of Ethics.

By failing to comply with the following section of the Act:

Regulation 333/08:

36. Advertising:

(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 has breached section 4 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.



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It is thereby agreed that Palumbo has breached section 6 of the Code of Ethics, as set out in Regulation 332/08:

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.

It is thereby agreed that the Dealer and Palumbo have breached section 9 of the Code of Ethics, as set out in Regulation 332/08:

Professionalism

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 \$2,000 no later than May 15, 2020.
2. The Dealer agrees to ensure a person in charge of the day to day activities of the Dealer will successfully complete the MVDA Key Elements course no later than May 15, 2020.
3. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than March 20, 2020.
4. 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 15, 2020. 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.
5. The Dealer and Palumbo agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.


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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 Sault Ste Marie THIS 10 DAY OF FEBRUARY, 2020

MARIO PALUMBO

(please print)



(signature)

I have authority to bind the corporation:
Northside Auto Ltd o/a Northside Toyota

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 Sault Ste Marie THIS 10 DAY OF FEBRUARY, 2020

FRANK PALUMBO

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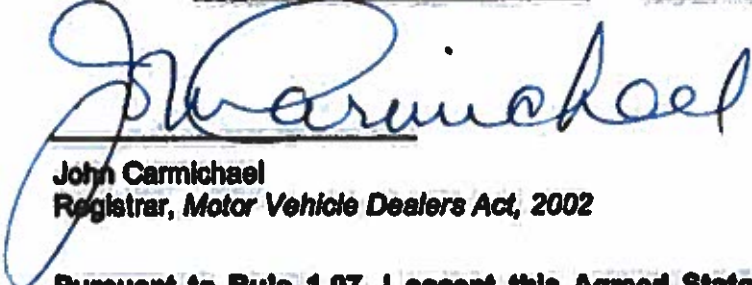


(signature)
Frank Palumbo

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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.

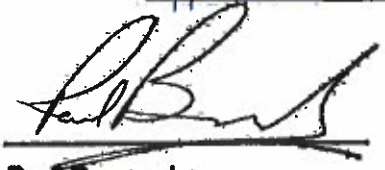
DATED AT Toronto THIS 14 DAY OF February, 2020



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 21st DAY OF February, 2020



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

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