

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 -

FACCHIN LUCIANO o/a CITY WIDE AUTO SALES

AGREED STATEMENT OF FACTS AND PENALTY

Facchin Luciano o/a City Wide Auto Sales has breached the following:

Section 7 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. Facchin Luciano o/a City Wide Auto Sales (the "Dealer") was first registered as a motor vehicle dealer in or around February 2005. Luciano Facchin is the sole proprietor of the Dealer.

OMVIC Publications:

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 disclose previous accident history.
3. OMVIC issued the following Dealer Standard publications reminding dealers of their obligations to provide consumers with written disclosure of vehicle's history and condition, such as accident histories:
 - a. Summer 2011
 - b. Summer 2012
 - c. Winter 2013
 - d. Fall 2013

4. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of their obligations to provide consumers with written disclosure of vehicle's history and condition, such as accident histories:
 - a. January 2010
 - b. September 2012
 - c. December 2013
 - d. December 2014

Direct Correspondence with Dealer:

5. During an inspection on or about November 1, 2012, a representative of the Registrar reminded the Dealer of its obligation to adhere to section 42 of Regulation 333/08.
6. During an inspection on or about November 16, 2012, a representative of the Registrar reminded the Dealer of its obligation to adhere to section 42 of Regulation 333/08 and provided copies of this section to the Dealer.
7. On or about March 18, 2013, a caution letter was sent to the Dealer, urging the Dealer to review disclosure requirements carefully to ensure compliance.
8. On or about April 22nd, 2015, the following examples of non-compliance were found:



Registrant's Initials

Dealer Non-Compliance:

9. On or about November 4 2014, the Dealer purchased a 2001 Honda Civic (VIN 2HGES16611H916687) with an accident history of \$10,425 disclosed. On or about November 19, 2014, the Dealer sold the vehicle without disclosing the accident history in writing on the bill of sale. This is contrary to sections 42(19) and 42(25) of Regulation 333/08 as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided confirmation that the consumer was aware of the accident history.

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

Regulation 333/08

42: 19: If the total costs of repair 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

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

It is thereby agreed that the Dealer and Facchin have breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

7. 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.
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.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$1,250. Due to extenuating circumstances, the Dealer has been allowed 18 months from the date of the Discipline Committee Order to pay the fine.
2. Facchin agrees to successfully complete the OMVIC certification course (the "course") and has been allowed 6 months from the date of the Discipline Committee Order to complete it, due to extenuating circumstances.
3. 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 or who are otherwise required to do so pursuant to the Act.

The Dealer agrees to comply with the Act and Standards of Business Practice, as may be amended from time to time.



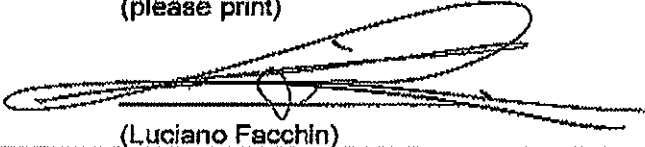
 Registrant's Initials

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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 NIAA FALLS THIS 10 DAY OF MAY, 2016

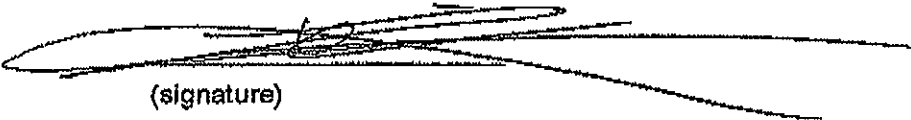
LUCIANO FACCHIN
(please print)



(Luciano Facchin)

DATED AT NIAA FALLS THIS 10 DAY OF MAY, 2016

LUCIANO FACCHIN
(please print)




(signature)

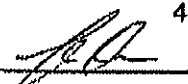
I have the authority to bind the corporation;
Facchin Luciano o/a City Wide Auto Sales

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 Trent THIS 12th DAY OF May, 2016



Mary Jane South,
Registrar, Motor Vehicle Dealers Act, 2002



Registrar's Initials

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

DATED AT Amcaster THIS 6th DAY OF June, 2016



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

Registrant's Initials