

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 -

Park Lane Chevrolet Cadillac Ltd.

- and -

David Bailey

AGREED STATEMENT OF FACTS AND PENALTY

Park Lane Chevrolet Cadillac Ltd. has breached the following:

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

Section 6 of the Code of Ethics, Regulation 332/08

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

David Bailey has breached the following:

Section 6 of the Code of Ethics, Regulation 332/08

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

Background:

1. Park Lane Chevrolet Cadillac Ltd. (the "Dealer") was first registered as a motor vehicle dealer in around May 2000.
2. David Bailey ("Bailey") was first registered as a motor vehicle salesperson in or around June 1983. At all material times, Bailey was the officer and person in charge of the day-to-day activities of the Dealer.


Registrant's Initials

OMVIC publications re: All-in pricing

3. Since the winter of 2008, OMVIC has issued numerous publications reminding registrants of their obligations to advertise all-inclusive vehicle prices. These publications are referenced in the attached Schedule A and continue to be available on OMVIC's website.

Direct correspondence with Dealer:

4. By email dated October 9, 2012, the Dealer was reminded of the Dealer's all-in pricing requirements.

Dealer non-compliance:

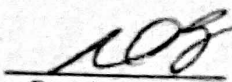
5. On or before September 26, 2020 the Dealer published an advertisement for a 2015 Chevrolet Cruze 1LT (VIN 1G1PC5SB1F7243195) with an advertised price of \$11,586 plus tax and licensing.
6. On or before this same date, the Dealer published an advertisement for a 2016 Chevrolet Cruze Premier (VIN 3G1BG5SM3GS608320) with an advertised price of \$14,881 plus tax and licensing.
7. On this same date, representatives of the Registrar made inquiries about both vehicles, while posing as members of the public. The Dealer's representative advised the Registrar's representatives that the selling price of both vehicles included an additional \$299 administration fee as well as the \$10 OMVIC fee. As such, the Dealer's advertised prices were not all-inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Continued advertising non-compliance:

8. Between on or about April 9, 2021 and April 12, 2021, the Dealer published additional advertisements which stated the vehicle prices were plus a \$299 administration fee and the \$10 OMVIC fee. As such the Dealer's advertised vehicle prices were not all-inclusive, contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Generally:

9. As the person in charge of the day-to-day activities of the Dealer, Bailey failed to ensure that the Dealer's advertising, as well as its registered employees, comply with the Act and Code of Ethics. As such, Bailey has contravened sections 6 and 9 of the Code of Ethics.
10. The Dealer has agreed the individuals employed by the Dealer in the position of Sales Manager will successfully complete the MVDA Key Elements Course (the "Course") no later than October 15, 2021.


Registrant's Initials

By failing to comply with the following sections of the *Motor Vehicle Dealers Act, 2002* (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 the following section of the Code of Ethics, as set out in Regulation 332/08:

Disclosure and marketing:

4. (1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.

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.

Accountability:

6. (1) A registered motor vehicle dealer shall ensure that every registered salesperson that the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with this Regulation.

It is thereby agreed that Bailey has breached the following section 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.


Registrant's Initials

It is thereby agreed that the Dealer and Bailey have both breached the following section 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 \$5,000 no later than **November 31, 2021**
2. David Bailey agrees to pay a fine in the amount of \$2,500 no later than **November 31, 2021.**
3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Course, at the Dealer's expense. Current sales staff will be offered the course no later than **October 15, 2021.**
4. The Dealer and Bailey 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 _____ THIS 3 DAY OF August, 2021.

DAVID BAILEY

(please print)



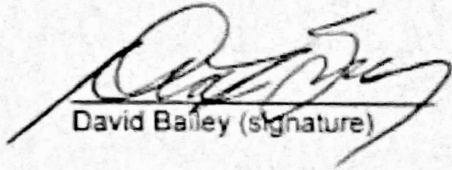
(signature)

I have the authority to bind the corporation:
Park Lane Chevrolet Cadillac Ltd.


Registrant's Initials

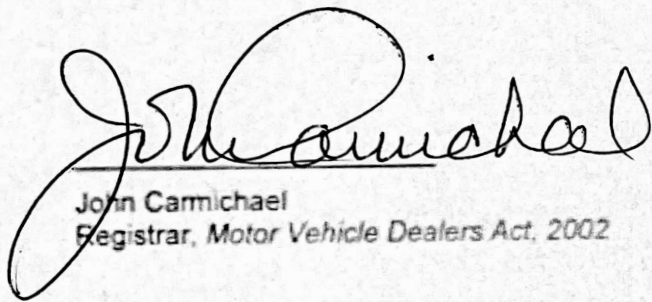
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DATED AT _____ THIS 3 DAY OF August, 2021.


David Bailey (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.

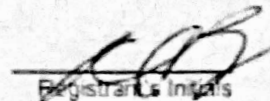
DATED AT Toronto THIS 5th DAY OF August, 2021.


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 20th DAY OF August, 2021.


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


Registrar's Initials