

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 -

2125313 ONTARIO INC. o/a NEWMARKET MITSUBISHI

- and -

MARCELLO ALGIERI

AGREED STATEMENT OF FACTS AND PENALTY

2125313 Ontario Inc. o/a Newmarket Mitsubishi and Marcello Algieri have breached the following:

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

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. 2125313 Ontario Inc. o/a Newmarket Mitsubishi (the "Dealer") was first registered as a motor vehicle dealer in or around May 2001. Marcello Algieri ("Algieri") was first registered as a motor vehicle salesperson in or around May 1986. At all material times, Algieri was sole officer and director of the Dealer.
2. On or about April 30, 2007, Algieri executed terms and conditions of registration on behalf of the Dealer. As per condition 6, the Dealer agreed to comply with the Code of Ethics and Standards of Business Practice, as may be amended from time to time.
3. 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 Dealers Act, 2002* (the "Act") came into effect, including the requirement for dealers to advertise an all-inclusive vehicle price.
4. Once the Act came into effect, the following Dealer Standard publications further reminded dealers of the requirement to advertise an all-inclusive vehicle price:
 - a. Spring 2010
 - b. Summer 2010


Registrant's Initials

- c. Spring 2011
5. Furthermore, OMVIC issued the following bulletins which also reminded dealers of the requirement to advertise an all-inclusive price:
 - a. January 2010 (2 separate publications)
 - b. April 2010 (2 separate publications)
 - c. February 2012
 - d. August 2012
 6. During an inspection on or about April 30, 2010, a representative of the Registrar reminded Algieri, on behalf of the Dealer, of the requirement to ensure advertised vehicle prices include all additional fees.
 7. By email dated March 28, 2014, a representative of the Registrar reminded Algieri, on behalf of the Dealer, of the requirement to ensure advertised vehicle prices include all additional fees.
 8. On or about May 16, 2014, representatives of the Registrar conducted an educational presentation concerning advertising regulations at the Dealer's premises. The Dealer was again reminded of the requirement to ensure advertised vehicle prices include all additional fees.
 9. On or about June 12, 2014, an advertisement was published by or on behalf of the Dealer which featured a 2013 Mitsubishi Mirage SE with a selling price of \$9,998 plus taxes. On this same date, a representative of the Registrar made inquiries about the above mentioned vehicle, while posing as a member of the public. This representative of the Registrar was advised by a representative of the Dealer that the advertised vehicle price did not include the following additional charges:
 - a. Freight
 - b. PDI
 - c. Dealer administration fees
 - d. Air tax

As such, the advertised vehicle price was not all inclusive, contrary to section 36(7) of Regulation 333/08, as well as section 4 of the Code of Ethics.

10. The Dealer has since provided the Registrar with confirmation that the Dealer subsequently sold the 2013 Mitsubishi Mirage SE vehicles that it had in stock to separate consumers for the all-inclusive price of \$9,998 plus taxes.

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.



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

4. 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.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$ 2,500 within 90 days of the date of the Discipline Committee Order.
2. Algieri agrees to successfully complete the OMVIC certification course within 90 days of the date of the Discipline Committee Order. Any costs associated with enrolment in the course will be the responsibility of Algieri and/or the Dealer.
3. The Dealer and Algieri 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 Newmarket THIS 19th DAY OF November, 2014

Marcel Algieri
(please print)
Marcello Algieri


(signature)

DATED AT Newmarket THIS 19th DAY OF November, 2014

Marcel Algieri
(please print)
Marcello Algieri, on behalf of the Dealer


(signature)

I have the authority to bind the corporation:
2125313 Ontario Inc. o/a Newmarket Mitsubishi

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.

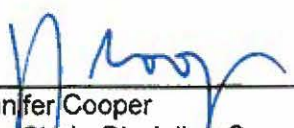
DATED AT Toronto THIS 25 DAY OF NOV, 2014



Carl Compton,
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 Toronto THIS 2nd DAY OF December, 2014



Jennifer Cooper
Vice-Chair, Discipline Committee of the
Ontario Motor Vehicle Industry Council

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