

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 -

LEADING EDGE MOTOR CARS INC.

- and -

DARRYN WILBUR

AGREED STATEMENT OF FACTS AND PENALTY

Leading Edge Motors Cars Inc and Darryn Wilbur 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. Leading Edge Motor Cars Inc. (the "Dealer") was first registered as a motor vehicle dealer in or around January 1999. Darryn Wilbur ("Wilbur") was first registered as a motor vehicle salesperson in or around January 1997. At all material times, Wilbur was the person in charge and or officer 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 Dealers Act, 2002* (the "Act") came into effect. Included was the requirement for dealers to disclose former daily rental vehicles in advertisements.



Registrant's Initials

3. In or around December 2008, OMVIC issued a bulletin advising dealers of up and coming changes to the Act. Included in the bulletin was the requirement to disclose former daily rental vehicles in advertisements.
4. After the Act was proclaimed, OMVIC further issued the following Dealer Standard publications reminding dealers of their obligations to disclose former daily rental vehicles in advertisements:
 - a. Spring 2010
 - b. Summer 2010
 - c. Spring 2011
 - d. Winter 2013
 - e. Fall 2013
 - f. Issue #3 2014
 - g. Issue #4 2014
 - h. Issues #2 2015
5. Furthermore, OMVIC issued the following dealer bulletins which also reminded dealers of their obligations to disclose former daily rental vehicles in advertisements:
 - a. April 2010
 - b. September 2012
6. On or about December 12, 2014, Wilbur successfully completed the OMVIC certification course.

Direct correspondence with Dealer:

7. By email dated December 17, 2014, a representative of the Registrar reminded the dealer of their requirements to ensure to disclose former daily rental vehicles in advertisements.
8. By email dated October 20, 2015, a representative of the Registrar reminded the dealer of their requirements to ensure to disclose former daily rental vehicles in advertisements.
9. By email dated January 20, 2016, a representative of the Registrar reminded the dealer of their requirements to ensure to disclose former daily rental vehicles in advertisements

Dealer non-compliance:

10. On or before February 6, 2017, the Dealer advertised 2 vehicles without disclosing their prior daily rental use. This is contrary to sub section 36(5) of Regulation 333/08, as well as section 4 of the Code of Ethics. The Dealer did provide the end purchaser of the subject vehicles with written disclosure of this information on their bills of sale.



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

Regulation 333/08:

36. Advertising:

5. If any of the following is true of a motor vehicle, an advertisement that attempts to induce a trade in the specific vehicle shall indicate, in a clear, comprehensible and prominent manner, that the vehicle was previously,
 - (a) leased on a daily basis, unless the vehicle was subsequently owned by a person who was not a registered motor vehicle dealer;
 - (b) used as a police cruiser or used to provide emergency services; or
 - (c) used as a taxi or limousine.

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

Disclosure and marketing:

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 \$1500, no later than September 23, 2017.
2. The Dealer agrees to offer all current and future sales staff the opportunity to complete the course. Current sales staff will be offered the course no later than September 23, 2017. 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.
3. The Dealer and Wilbur agree 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 VAUGHAN THIS 22 DAY OF JUNE, 2017

DARRYN WILBUR.
(please print)
Darryn Wilbur


(signature)

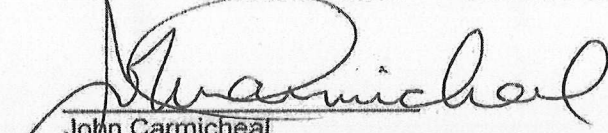
DATED AT VAUGHAN THIS 22 DAY OF JUNE, 2017

D. Wilbur
(please print)


I have the authority to bind the corporation:
Leading Edge Motor Cars Inc

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 28 DAY OF June, 2017


John Carmicheal
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 6 DAY OF July, 2017



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


Registrant's Initials