

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 -

Wayne Pitman Ford Lincoln Inc.

- and -

Wayne Bricknell

AGREED STATEMENT OF FACTS AND PENALTY

Wayne Pitman Ford Lincoln Inc. has breached the following:

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

Section 5(16) of the Code of Ethics, Regulation 332/08

Section 7(1) of the Code of Ethics, Regulation 332/08

Section 9(3) of the Code of Ethics, Regulation 332/08

Wayne Bricknell has breached the following:

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

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

SUMMARY OF AGREEMENT

The parties to this proceeding agree that:

1. Wayne Pitman Ford Lincoln Inc. (the "Dealer") was first registered as a motor vehicle dealer in or around June 2006. Wayne Bricknell ("Bricknell") was first registered as a motor vehicle salesperson in or around November 1983. At all material times Bricknell was an Officer and the person in charge of the day to day activities of the Dealer.



Registrant's Initials

Previous direct correspondence with Dealer:

2. During an inspection on about March 21, 2007, a representative of the Registrar reminded Bricknell, on behalf of the Dealer, of the Dealer's obligation to provide purchasers with written disclosure of all material facts about their vehicles he sells.
3. During an inspection on about November 12, 2013, a representative of the Registrar reminded Bricknell on behalf of the Dealer, of the Dealer's obligation to provide purchasers with written disclosure of all material facts about their vehicles it sells.

Dealer non-compliance:

4. During an inspection on or about December 10, 2018, a representative of the Registrar found the following non-compliance issues:
 - a) On about February 21, 2018 the Dealer wholesaled a 2005 Toyota Corolla (VIN 2T1BR32E75C554786), without providing the purchaser with written disclosure of the vehicle's accident damage history of \$3,361 on the bill of sale. This is contrary to sections 5, 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC confirmation the purchaser was aware of their vehicle's history.
 - b) On about February 26, 2018, the Dealer sold a 2009 Toyota Corolla (VIN 2T1BU40E89C026364) without providing the purchaser with written disclosure of the vehicle's accident damage history of \$7,505 on the bill of sale. This is contrary to sections 42 (19) and (25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC confirmation the purchaser they are aware of their vehicle's history. The Dealer offered monetary compensation for the lack of disclosure.
 - c) On about June 30, 2018, the Dealer sold a 2009 Acura MDX (VIN 2HNYD28289H006883) without providing the purchaser with written disclosure of the vehicle's accident damage history of \$3,069 on the bill of sale. This is contrary to section 42 (19) and (25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC confirmation the purchaser was aware of their vehicle's history.
 - d) The Dealer advertised and/or sold the following former daily rental vehicles without providing disclosure in the advertisement and/or the bill of sale. This is contrary to section 36(5), 42(7) and 42(25) of Regulation 333/08, as well as sections 4, 7 and 9 of the Code of Ethics.



Registrar's Initials

	Vehicle	Date advertised	Date sold	Non-disclosure on contract Reg 42(7) and (25)	Non-disclosure Ad Reg 36(5)
i.	2017 Ford Flex VIN - 2FMHK6C80HBA10812	N/A	2018-04-07	•	
ii.	2018 Ford Flex VIN - 2FMHK6D82JBA00268	N/A	2018-04-20	•	
iii.	2017 Ford Fusion VIN - 3FA6P0T97HR376034	N/A	2018-04-26	•	
iv.	2018 Ford Flex VIN - 2FMHK6D84JBA00238	2018-08-28	2018-09-18	•	•
v.	2017 Ford Edge VIN - 2FMPK4J89HBB84266	2018-08-28	2018-10-30	•	•
vi.	2018 Ford Flex VIN - 2FMHK6D8XJBA10305	2018-12-10	N/A		•
vii.	2018 Ford Escape VIN - 1FMCU9J91JUA37776	2018-11-12	N/A		•

5. The Dealer has since provided OMVIC with confirmation three of the five purchasers were aware of their vehicle's history. The Dealer has attempted to reach out to the remaining two purchasers to advise them of their vehicle's history.
6. The Dealer has failed its due diligence requirement with respect to thoroughly researching the histories of the vehicles it sells, and in doing so is non-compliant with section 9(3) of the Code of Ethics.
7. In failing to ensure the Dealer's disclosure requirements is compliant with the law, Bricknell has personally breached sections 6(2) and 9(1) of the Code of Ethics.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$8,350 no later than May 30, 2020.
2. Bricknell agrees to pay a fine in the amount of \$1,250 no later than May 30, 2020.
3. Bricknell agrees to successfully complete the Automotive Certification On-Site Course (the "Course") no later than May 30, 2020.



 Registrant's Initials

4. 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 May 30, 2020. Future sales staff will be offered the course within 90 days of being retained in this capacity by the Dealer. 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 Bricknell 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 Waukegan THIS 9th DAY OF March, 2020

Wayne Bricknell

(please print)

Wayne Bricknell



(signature)

DATED AT Waukegan THIS 9th DAY OF March, 2020

Wayne Bricknell

(please print)



I have the authority to bind the corporation:

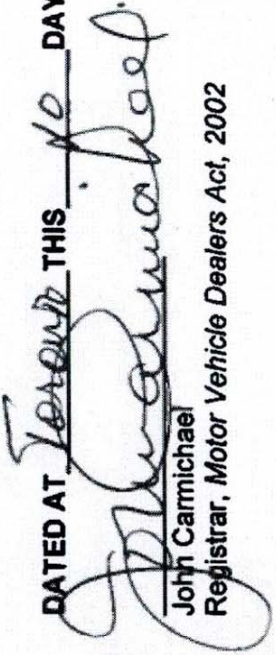
Wayne Pitman Ford Lincoln Inc.



Registrant's Initials

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 10 DAY OF March, 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 Amherst THIS 27TH DAY OF March, 2020



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



Registrant's Initials