

**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 -**

**ERIN DODGE CHRYSLER LTD.**

**- and -**

**MARK KEENAN**

**AGREED STATEMENT OF FACTS AND PENALTY**

Erin Dodge Chrysler Ltd. and Mark Keenan have breached the following:

Section 4 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. Erin Dodge Chrysler Ltd, the ("Dealer") was first registered as a motor vehicle dealer in or around June 1982. Mark Keenan ("Keenan") was first registered as a motor vehicle salesperson in or around September 1983. At all material times, Keenan was an Officer and Director General Manager of the dealer.
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 in the bulletin was the requirement for Dealers to disclose former daily rental vehicles in advertisements.

3. Once the Act came into effect, the following Dealer Standard publications further reminded dealers of the requirement to disclose former daily rental vehicles in the advertisements:
  - a. Winter 2008
  - b. Fall 2008
  - c. Spring 2010
  - d. Summer 2010
  - e. Spring 2011
  - f. Fall 2013
4. On or before July 4, 2014, an advertisement was placed by or on behalf of the Dealer for a 2013 Chrysler 300 S Sedan, stock #P10992 with an advertised selling price of \$29,995 and without disclosing it's former daily rental use in the advertisement. On or about July 4, 2014, representatives of the Registrar attended the Dealer while posing as members of the public. The Dealer then attempted to sell this vehicle. This is contrary to sub section 36(5) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
5. The Dealer has since agreed to ensure the General Sales Manager of the Dealer complete the OMVIC certification course in person (the "course") within 90 days of the date of the Discipline Committee Order.

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

Regulation 333/08:

36 (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. O. Reg. 333/08, s.36 (5)

It is thereby agreed that the Dealer has breached the following sections 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.

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.

  
\_\_\_\_\_  
Registrant's Initials

**JOINT SUBMISSION ON PENALTY:**

6. The Dealer agrees to pay a fine in the amount of \$1,500 within 90 days of the date of the Discipline Committee Order.
7. The Dealer agrees to offer all registered salespeople the opportunity to complete the OMVIC certification course, within 90 days of the date of the Discipline Committee Order. The dealer will pay all costs associated with this. Future sales staff will be offered the course within 90 days if being retained in this capacity by the Dealer. The Dealer will pay 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.
8. The Dealer and Keenan 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 ~~MISSISSAUGA~~ <sup>MK</sup> THIS 26 DAY OF JUNE, 2015

M. KEENAN  
(please print)  
Mark Keenan

[Signature]  
(signature)

[Signature]  
Registrant's Initials

DATED AT MISSISSAUGA THIS 26 DAY OF JUNE, 2015

M Keenan  
(please print)

[Signature]  
I have the authority to bind the corporation:  
Erin Dodge Chrysler Ltd.

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 8<sup>th</sup> DAY OF July, 2015

[Signature]  
Mary Jane South,  
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 London THIS 11 DAY OF July, 2015

C Poultney  
Catherine Poultney  
Chair, Discipline Committee of the  
Ontario Motor Vehicle Industry Council

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Registrant's Initials