

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 -

ROY FOSS MOTORS LTD.

- and -

KAREN FOSS-RICCI

- and -

JAMES RICCI

AGREED STATEMENT OF FACTS AND PENALTY

Roy Foss Motors Ltd., Karen Foss-Ricci and James Ricci have breached the following:

Section 7 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. Roy Foss Motors Ltd. (the "Dealer") was first registered as a motor vehicle dealer in or around March 2007. Karen Foss-Ricci ("Karen") was first registered as a motor vehicle salesperson in or around May 1996. At all material times, Karen has identified herself as person in charge and or director of the Dealer. James Ricci ("James") was first registered in or around May 2011. At all material times, James has identified himself as the general manager of the Dealer.

JR

Registrant's initial

2. During an inspection dated May 30, 2011, the Dealer was reminded of their obligation to ensure to provide consumers with written disclosure of a vehicle's prior daily rental use and out of province history.
3. On or about April 14, 2014, the Dealer purchased a 2013 Chevrolet Malibu (VIN 1G11E5SA6DF304504), declared as a former daily rental vehicle. On or about April 24, 2014, the Dealer sold this vehicle without providing the consumer with the required written disclosure of the vehicle's former daily rental use. This is contrary to sub section 42(7) of regulation 333/08, as well as section 7 and 9 of the Code of Ethics. After the issuance of the Notice of Complaint, the Dealer has provided OMVIC with confirmation that the consumer is now fully aware of their pertinent vehicle history.
4. On or about May 20, 2014, the Dealer purchased a 2013 Chevrolet Express (VIN 1GCWGFFA9D1160791), declared as a former daily rental vehicle. On or about July 22, 2014, the Dealer sold this vehicle without providing the consumer with the required written disclosure of the vehicle's former daily rental use. This is contrary to sub section 42(7) of regulation 333/08, as well as section 7 and 9 of the Code of Ethics. After the issuance of the Notice of Complaint, the Dealer has provided OMVIC with confirmation that the consumer is now fully aware of their pertinent vehicle history.
5. On or about April 14, 2014, the Dealer purchased a 2013 Chevrolet Cruze (VIN 1G1PC53B2E7178677), declared as a former daily rental vehicle, as well as having previously being registered in Quebec. On or about August 22, 2014, the Dealer sold this vehicle without providing the consumer with the required written disclosure of the vehicle's former daily rental use and out of province registration. This is contrary to sub section 42(7) and 42(22) of regulation 333/08, as well as section 7 and 9 of the Code of Ethics. After the issuance of the Notice of Complaint, the Dealer has provided OMVIC with confirmation that the consumer is now fully aware of their pertinent vehicle history.
6. On or about June 24, 2014, the Dealer purchased a 2014 GMC Suburb (VIN 1GN3KJE72ER187864), declared as a former daily rental vehicle. On or about August 30, 2014, the Dealer sold this vehicle without providing the consumer with the required written disclosure of the vehicle's former daily rental use. This is contrary to sub section 42(7) of regulation 333/08, as well as section 7 and 9 of the Code of Ethics. After the issuance of the Notice of Complaint, the Dealer has provided OMVIC with confirmation that the consumer is now fully aware of their pertinent vehicle history.

By failing to comply with the following regulations under the *Motor Vehicle Dealers Act, 2002*:

Disclosure

42. Additional information in contracts of sale and leases.

(7) If any of the following is true of the motor vehicle, a statement to the effect that the vehicle was previously,

- i. leased on a daily basis, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer under the *Motor vehicle Dealers Act* or the *Motor Vehicle Dealers Act, 2002*.



Registrant's Initial

(22). If the motor vehicle previously received treatment in a jurisdiction other than Ontario that was equivalent to having a permit issued under section 7 of the *Highway Traffic Act* or having been traded in Ontario, a statement to that effect and a statement of which jurisdiction, except if one or more permits have been issued for the vehicle under section 7 of the Act to cover at least the seven previous consecutive years.

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

7. A registrant shall ensure that all documents used by the registrant in the course of trade in a motor vehicle are current and comply with the law.

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.

JOINT SUBMISSION ON PENALTY:

1. The Dealer agrees to pay a fine in the amount of \$6,000 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. James agrees 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.
3. 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 within 90 days the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 days of 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer, Karen and James agree to comply with the *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.

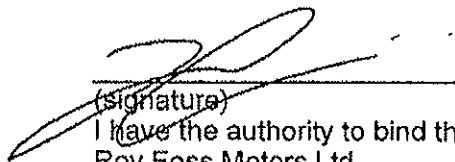
JR

Registrant's initial

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.

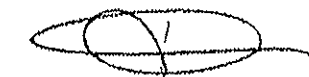
DATED AT THORNHILL THIS 09 DAY OF APRIL, 2015


JAMES RICCI
(please print)
Name of Authorized Representative


(signature)
I have the authority to bind the corporation:
Roy Foss Motors Ltd.

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 THORNHILL THIS 09 DAY OF APRIL, 2015


(please print)
Karen Foss-Ricci

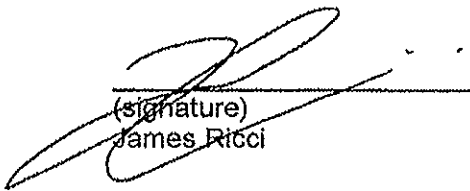

(signature)
Karen Foss-Ricci

JR
Registrant's initial

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 T. Hornhill THIS 09 DAY OF April, 2015

JAMES RICCI
(please print)
James Ricci


(signature)
James Ricci

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 1005 THIS 10th DAY OF April, 2015


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 17 DAY OF April, 2015

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

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Registrant's initial