

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 -

FALLS CHEVROLET CADILLAC BUICK GMC LTD.

- and -

BRIAN CULLEN

AGREED STATEMENT OF FACTS AND PENALTY

Falls Chevrolet Cadillac Buick GMC Ltd. and Brian Cullen 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. Falls Chevrolet Cadillac Buick GMC Ltd. (the "Dealer") was first registered as a motor vehicle dealer in or around January 2001. Brian Cullen ("Cullen") was first registered as motor vehicle salesperson in or around March 1983. At all material times Cullen has been the officer and director of the Dealer.

✓ April 1984. 



Registrant's Initials

Direct correspondence with the Dealer:

2. During an inspection dated April 30, 2015, a representative of the Registrar reminded the Dealer of their requirements to ensure to advertise all-inclusive vehicle prices, as required by sub section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.
3. By letter dated July 28, 2015, a representative of the Registrar reminded the Dealer of their requirements to ensure to advertise all-inclusive vehicle prices, as required by sub section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

Dealer non-compliance:

4. On or about September 15, 2015, the Dealer published a newspaper advertisement that did not disclose all-inclusive vehicle prices, contrary to sub section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics.

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

Advertising

36. (1) A registered motor vehicle dealer to whom this section applies shall ensure that any advertisement placed by the dealer complies with this section.
- (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.

It is thereby agreed that the Dealer and Cross 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.
- (2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.
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:

1. The Dealer agrees to pay a fine in the amount of \$1,500 within 90 days of the date of the Discipline Committee Order. The fine is payable to the Ontario Motor Vehicle Industry Council.
2. Cullen agrees to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order.
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 of the date of the Discipline Committee Order. Future sales staff will be offered the course within 90 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 1st, 2009, or who are otherwise required to do so pursuant to the Act.
4. The Dealer agrees to ensure that all future advertising is in compliance with *Motor Vehicle Dealers Act, 2002* and Standards of Business Practice, as may be amended from time to time.
5. The Dealer agrees to comply with the *Motor Vehicle Dealers Act, 2002* 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 Niagara Falls THIS 7th DAY OF December, 2015

Brian Cullen
(please print)
Name of Authorized Representative
Brian Cullen

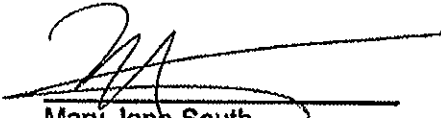
[Signature]
(signature)

I have the authority to bind the corporation:
Falls Chevrolet Cadillac Buick GMC Ltd.

[Signature]
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 10th DAY OF December, 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 Ancaster THIS 18 DAY OF December, 2015



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


Registrant's Initials