

## DISCIPLINE DECISION

IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE MOTOR  
VEHICLE DEALERS ACT 2002, S.O. 2002, C.30, Sch. B

B E T W E E N :

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

- AND -

EAST-COURT FORD LINCOLN SALES LIMITED

- AND -

PUNIT "PRINCE" SIBAL

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Pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee, I, the Chair of the Discipline Committee, have reviewed and considered the written Agreed Statement of Facts and Joint Submission on Penalty together with both Parties' waiver of a Hearing to this Proceeding and provide the following Order:

**Date of Decision:** August 30, 2018

**Findings:** Breach of Sections 4, 6 and 9 of the Code of Ethics

**Order:**

1. The Dealer is ordered to pay a fine in the amount of \$7,500 no later than **November 22, 2018**.
2. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **October 22, 2018**.
3. The Dealer is ordered to offer all current and future sales staff, including managers and individuals in positions of authority at the Dealer, the opportunity to complete the Automotive Certification Course (the "course"). Current sales staff will be offered the course within no later than **November 22, 2018**. 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 or who are otherwise required to do so pursuant to the Act.



4. The Dealer and Sibal are ordered to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Written Reasons:

### **Reasons for Decision**

#### **Introduction**

This matter proceeded on the basis of an Agreed Statement of Facts, Joint Submission on Penalty and the Parties' Waiver of Hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Committee and the Appeals Committee.

#### **Agreed Statement of Facts**

The parties to this proceeding agree that:

1. Eastcourt Ford Lincoln Sales Limited (the "Dealer") was first registered as a motor vehicle dealer in or around March 1983.
2. Punit "Prince" Sibal ("Sibal") was first registered as a motor vehicle salesperson in or around June 1992. Since in or around September 2009 Sibal has been identified, or identified himself, as the General Manager and/or Person In Charge of the Dealer.
3. On or about December 1, 2015, Sibal successfully completed the Automotive Certification course.

#### **Direct Correspondence with Dealer:**

4. By email dated June 8, 2010, an OMVIC representative advised Sibal, on behalf of the Dealer of the Dealer's obligation to ensure advertised vehicle prices are available to everyone and are not based on discounts or coupons only certain consumers would qualify for.
5. The Dealer and/or Sibal were further reminded of these requirements on the following dates:
  - a. September 17, 2010
  - b. September 21, 2010
  - c. December 14, 2010
  - d. June 27, 2011
  - e. July 13, 2016
  - f. April 6, 2017
  - g. April 11, 2017
  - h. September 8, 2017
  - i. September 25, 2017

#### **Dealer non-compliance:**

6. During an inspection of the Dealer on or about June 8, 2017, representatives of the Registrar discovered that between on or about March 11, 2017 and on or about March



21, 2017, the Dealer published 3 separate advertisements in the Toronto Sun newspaper which featured a 2016 Ford F150 Super Cab XLT with an advertised price of \$24,488 plus HST. This price was net of a \$1,000 rebate only available to Costco members ("Costco rebate"), and the advertisement failed to indicate this. As such, the Dealer was advertising vehicle prices not available to everyone. This is misleading, and contrary to section 28 of the Act, as well as subsections 4(2) and 9(2) of the Code of Ethics, as they relate to advertising only.

7. As Person in Charge of the Dealer, Sibal has failed to ensure the Dealer's advertising is compliant with the Act and Code of Ethics, despite numerous warnings from representatives of the Registrar. As such, Sibal's conduct contradicts subsections 6(1) and 9(3) of the Code of Ethics as they relate to advertising only.
8. The Dealer and Sibal have since undertaken to ensure that when price advertising vehicles, the price available to the general public will be the most prominently displayed.
9. The Dealer and Sibal have since undertaken to have all of the Dealer's advertisements reviewed by OMVIC, prior to publication, until **August 30, 2019**.

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

#### 28. False advertising

No registrant shall make false, misleading or deceptive statements in any advertisement, circular, pamphlet or material published by any means relating to trading in motor vehicles.

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. (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. (3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

It is thereby agreed that Sibal has breached the following sections of the Code of Ethics, as set out in Regulation 332/08:

4. (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.
6. (2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading in motor vehicles.



9. (3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

**JOINT SUBMISSION ON PENALTY:**

1. The Dealer agrees to pay a fine in the amount of \$7,500 no later than **November 22, 2018.**
2. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **October 22, 2018.**
3. The Dealer agrees to offer all current and future sales staff, including managers and individuals in positions of authority at the Dealer, the opportunity to complete the course. Current sales staff will be offered the course within no later than **November 22, 2018.** 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Sibal agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.



### **Decision of the Chair**

Having reviewed and considered the Agreed Statement of Facts, the Chair of the Discipline Committee hereby concludes that the Dealer breached subsections 4, 6 and 9 of the OMVIC Code of Ethics, as set out in Ontario Regulation 332/08, made under the *Motor Vehicle Dealers Act, 2002*. The Chair of the Discipline Committee also agrees with the Parties' Joint Submission on Penalty and, accordingly, makes the following Order:

1. The Dealer is ordered to pay a fine in the amount of \$7,500 no later than **November 22, 2018**.
2. The Dealer is ordered to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than **October 22, 2018**.
3. The Dealer is ordered to offer all current and future sales staff, including managers and individuals in positions of authority at the Dealer, the opportunity to complete the Automotive Certification Course (the "course"). Current sales staff will be offered the course within no later than **November 22, 2018**. 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 or who are otherwise required to do so pursuant to the Act.
4. The Dealer and Sibal are ordered to comply with the Act and Standards of Business Practice, as may be amended from time to time.

Ontario Motor Vehicle Industry Council  
Discipline Committee



Paul Burroughs, Chair

