SENT VIA E-MAIL

DISCIPLINE TRIBUNAL OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

IN THE MATTER BEFORE THE DISCIPLINE TRIBUNAL HELD PURSUANT TO THE *MOTOR VEHICLE DEALERS ACT, 2002*, S.O. 2002, c.30, Sch. B

TO: 1561604 ONTARIO INC. o/a CANADIAN AUTO SALES
1-1485 Laperriere Avenue
Ottawa, Ontario
K1Z 7T2

AND TO: Brian Swan
[redacted]

AND TO: Krzysztof Zygmunt Szejbach
[redacted]

NOTICE OF REFERRAL TO DISCIPLINE TRIBUNAL

Take notice that pursuant to section 14(4) 4 of the *Motor Vehicle Dealers Act, 2002*, (the "Act"), the Registrar has referred the complaint(s) against 1561604 ONTARIO INC o/a CANADIAN AUTO SALES to the Discipline Tribunal for alleged violations under the Code of Ethics, as set out in Ontario Regulation 332/08.

REASONS

Section 17 of the Act establishes a Discipline Tribunal and empowers the Discipline Tribunal to hear and determine issues concerning alleged breaches of the Code of Ethics. The Code of Ethics applies to all Registrants registered under the Act. Any Registrants that disregard or violate the Code of Ethics are subject to having their conduct reviewed by the Discipline Tribunal. The Code of Ethics requires that all Registrants conduct business with Integrity, Accountability, Compliance, Respect and Professionalism as well

as ensuring that requirements are met when it comes to Disclosure and Marketing and the Disclosure of Information in Sale and Lease Contracts.

PARTICULARS

The reasons for this Notice are:

Background:

1. 1561604 Ontario Inc. o/a Canadian Auto Sales was first registered on or around October 21, 2004 (“Dealer”).

2. Brian Swan (“Swan”) was first registered as a motor vehicle salesperson on or around May 14, 2004. At all material times, Swan was the sole Officer, Director, and the Person in Charge of the Dealer.

3. Krzysztof Zygmunt Szejbach (“Szejbach”) was first registered as a motor vehicle salesperson on or around September 21, 1992. Szejbach was first registered as a salesperson for the Dealer on July 8, 2009.

OMVIC Publications

4. Since the Act was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding registrants of their obligations to disclose all material facts about the vehicles they sell. The dates of said publications are attached hereto as Schedule “A”. Educational materials continue to be available on OMVIC’s website.

DIRECT CORRESPONDENCE WITH THE DEALER

5. On or about October 5, 2016, a warning letter was issued to the Dealer and to the attention of Swan, citing concerns about multiple consumer complaints involving vehicle condition issues. The letter also provided guidance on how to address these concerns.

6. On or around August 14, 2014, a warning letter was issued to the Dealer, and to the attention of Swan, highlighting the obligation to include all required disclosures on every Bill of Sale. This includes specifying the jurisdiction for out-of-province vehicle registrations if a vehicle had been registered outside of Ontario within the last seven years. The letter noted that this reminder was the second of its kind. It also stressed the consequences of non-compliance and recommended re-enrollment in the OMVIC certification course.

7. Since around October 19, 2004, Swan's registration has been subject to terms and conditions, including a positive obligation to disclose in writing, on the bill of sale, all material facts about the vehicle he sells to purchasers.

8. Since around June 9, 2006, Szejbach's registration has been subject to terms and conditions, including not being the final signatory on any sales or lease contracts on behalf of the dealer ("condition two").

PRIOR DISCIPLINE COMMITTEE ORDERS

9. On or around May 3, 2016, the Registrar issued a Notice of Complaint against the Dealer and Swan.

10. On or around September 22, 2016, the Discipline Committee issued an Order, attached hereto as Schedule "B". Swan and the Dealer were found to have violated Section 7 and 9 of the Code of Ethics in Ontario Regulation 332/08 (the "Code"). The Dealer was ordered to offer the OMVIC certification course to all current and future sales staff, and to pay a fine of $2,500.00. Swan was ordered to successfully complete the OMVIC certification course within 90 days. Both parties were ordered to comply with the Standards of Business Practice and the Act.

DEALER'S NON-COMPLIANCE

11. During an inspection on or around March 5, 2024, a representative of the Registrar attended the Dealer's premises to conduct an inspection of its books and records. The following particularized issues of non-compliance were discovered as part of the inspection:

A. 2015 Toyota Sienna – VIN No. ****6718

12. On or about July 23, 2023, the Dealer leased a 2015 Toyota Sienna to a consumer. The Dealer failed to disclose on the lease agreement that the vehicle had previously been registered in the province of Quebec. This non-disclosure is contrary to section 42(22) of the Ontario Regulation 333/08 ("Reg 333/08"), and therefore sections 7(1), 9(1), and 9(3) of the Code.

13. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08 and sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Capitalized cost of vehicle
    b. Implicit finance charge
    c. Total cost of the lease
    d. HST monthly payment amount

B. 2015 Nissan Rogue VIN No. ****7407

14. On or about December 19, 2023, the Dealer entered into a lease agreement with a consumer. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08 and sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Capitalized cost of vehicle
    b. Implicit finance charge
    c. Total cost of the lease
    d. Monthly HST payment
    e. Monthly payment amount
    f. Monthly payment due date

15. The Dealer failed to provide a current safety standards certificate ("SSC") for the used vehicle to the consumer. An SSC expires 36 days after the date of inspection. The safety inspection for this vehicle was conducted on July 23, 2023. The lease agreement is dated December 19, 2023, and therefore, an expired SSC was provided to the consumer. This is contrary to section 41(9)(d) of Reg 333/08, as well as section 7(1) and 9(3) of the Code.

C. 2010 Mercedes Benz VIN # ****2646

16. On or about April 16, 2021, the Dealer entered into a lease agreement with a consumer. The Dealer failed to disclose an accident damage estimate totaling $2,914.00 to the consumer. This non-disclosure is contrary to section 42(25) of Reg 333/08 and therefore sections 7(1), 9(1) and 9(3) of the Code.

17. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08 and sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Vehicle lease value
    b. Capitalized cost of vehicle
    c. Implicit finance charge
    d. Total cost of lease
    e. Monthly HST payment
    f. Monthly payment due date

D. 2012 Toyota Prius VIN # ****1075

18. On or about November 10, 2023, the Dealer entered into a lease agreement with a consumer. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08, and therefore sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Vehicle lease value
    b. Capitalized cost of vehicle
    c. Implicit finance charge
    d. Total cost of the lease

e. Monthly HST payment

19. The Dealer failed to disclose accident damage estimated at $1,153.14 for damages to the left side of the vehicle. This non-disclosure is contrary to section 42(25) of Reg 333/08, and therefore sections 7(1), 9(1), and 9(3) of the Code.

E. 2014 Toyota RAV 4 LE AWD VIN # ****1110

20. On or about November 16, 2022, the Dealer sold a used 2014 Toyota Rav 4 LE AWD to a purchaser who was not a registered motor vehicle dealer. The Dealer failed to disclose that the vehicle had previously been registered in the province of Newfoundland. This non-disclosure is contrary to section 42(22), and section 7(1) and section 9(3) of the Code.

21. By executing the Used Vehicle Bill of Sale as the final signatory, Szejbach violated Condition Two of the terms and conditions imposed on his registration.

G. 2014 Toyota Sienna LE VIN # ****4182

22. On or about September 23, 2021, the Dealer entered into a lease agreement with a consumer. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg, and therefore sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Capitalized cost of vehicle
    b. Implicit finance charge
    c. Total cost of lease
    d. HST owed on monthly payment

H. GMC Savannah VIN ****8742

23. On or about November 22, 2022, the Dealer sold a used GMC Savana to a purchaser who not a registered motor vehicle dealer.

24. By executing Used Vehicle Bill of Sale as the final signatory, Szejbach violated condition two of the terms and conditions imposed on his registration.

I. 2012 Honda Civic VIN # ****2397

1. On or about March 3, 2022, the Dealer entered into a lease agreement with a consumer. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08, and therefore sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Capitalized cost of vehicle
    b. Implicit finance charge
    c. Total cost of lease
    d. HST owed on monthly payment
    e. Total monthly payment amount

J. 2017 Toyota Corolla VIN # ****0784

2. On or about November 16, 2023, the Dealer entered into a lease agreement with a consumer. The Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08, and therefore sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Capitalized cost of vehicle
    b. Implicit finance charge
    c. Total cost of lease
    d. HST owed on monthly payment
    e. Monthly payment due date

K. 2017 Honda Civic VIN # ****4961

3. On or March 31, 2021, the Dealer entered into a lease agreement with a consumer. The Dealer produced two separate lease agreements for this transaction, one was retained by the Dealer, the other was provided to the consumer. Both lease agreements identified different lease disclosure details. In doing so, the Dealer failed to provide the consumer a comprehensible contract that clearly cited the terms of the lease agreement. This is contrary to sections 7(1), 9(1), 9(3) and 9(4) of the Code.

4. In relation to both lease agreements, the Dealer failed to disclose all terms of the lease in the lease agreement, contrary to section 41(1) of Reg 333/08, and therefore sections 7(1), 9(1) and 9(3) of the Code. Undisclosed information includes but is not limited to:
    a. Vehicle lease value
    b. Capitalized cost of the vehicle
    c. Implicit finance charge
    d. Total cost of lease
    e. HST owed on monthly payment

SWAN'S NON-COMPLIANCE

5. Swan failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code and thus personally contravened sections 6(2) and 9(3) of the Code.

SZEJBACH'S NON-COMPLIANCE:

6. Szejbach failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code, and thus personally contravened sections 6(2) and 9(3) of the Code.

The Registrant(s) may provide a written response to the particulars set out above to OMVIC <u>within 15 days</u> of service of this Notice to: legal_dept@omvic.on.ca

If the Discipline Tribunal makes a determination that a registrant has failed to comply with the Code of Ethics, it may order one or more of the following:

- A fine up to $25,000 per party;
- Require the registrant to take further educational courses;
- If the registrant is a motor vehicle dealer, require the dealer to arrange and fund educational courses for salespersons employed by the dealer;
- Award costs.

This Notice of Referral to Discipline ("NORD") and decisions of the Discipline Tribunal may be published. Hearings before the Discipline Tribunal may be recorded and are open to the public.

APPLICATION OF THE *STATUTORY POWERS PROCEDURE ACT*

The *Statutory Powers Procedure Act, R.S.O 1990 c.s.22*, applies to the hearing to be held by this Discipline Tribunal. A party to a proceeding may be represented by counsel or an agent.

The good character, propriety of conduct or competence of the Registrant(s) shall be an issue in any hearing before the Discipline Tribunal and reasonable information of allegations with respect thereto has been furnished.

The Rules of Practice of the Discipline Tribunal will apply and are available on OMVIC's website. A Notice of Hearing and disclosure will be provided in accordance with the Rules of Practice of the Discipline Tribunal.

Take note that as per the Rules of Practice, failure to attend a hearing before the Discipline Tribunal may result in a decision being determined *ex parte* (in your absence).

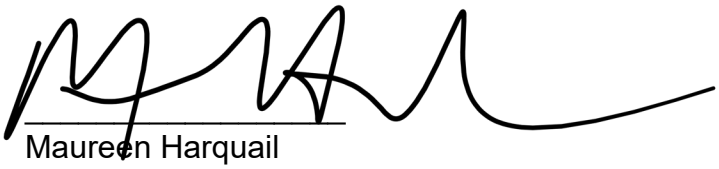
APPLICATION OF THE RULES OF PRACTICE OF THE DISCIPLINE TRIBUNAL

This is to serve notice that OMVIC may make application for its costs, pursuant to Rule 13 of the Rules of Practice.

FURTHER PARTICULARS/SUPPLEMENTAL NOTICE

The Registrar may provide further and other particulars in respect of any other matters herein or in respect to any other matter including further particulars of violations of the Code of Ethics.

DATED at Toronto, this 14th day of August 2024



Maureen Harquail
Registrar, *Motor Vehicle Dealers Act, 2002*

SCHEDULE A: OMVIC PUBLICATIONS

NON-DISCLOSURE

	Dealer Standard		Dealer Bulletins/News		Webinar		Guidelines
1	Summer 2011	1	January 2010	1	December 2014	1	July 14, 2023
2	Winter 2012	2	September 2012	2	June 2015		
3	Summer 2012	3	December 2013	3	April 2017		
4	Winter 2013	4	June 2015	4	July 2023		
5	Summer 2013	5	August 2015				
6	2014: Issue 4	6	Fall 2016				
7	2016: Issue 3	7	April 2017				
8	2015: Issue 1	8	August 2018				
9	2015: Issue 2	9	March 2019				
10	2016: Issue 4	10	September 2019				
11	2017: Issue 3	11	October 2019				
12	2018: Issue 3	12	October 2020				
13	2019: Issue 1	13	February 2021				
14	2019: Issue 2	14	March 2022				
15	2020: Issue 1	15	August 2022				
16	2020: Issue 2	16	September 2022				
17	2020: Issue 4	17	December 2022				
18	2021: Issue 1	18	January 2023				
19	2023: Issue 3	19	March 2023				
		20	July 2023				
		21	September 2023				
		22	January 2024				

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 -

1561604 ONTARIO INC. o/a CANADIAN AUTO SALES

- AND -

BRIAN SWAN

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: September 22, 2016

Findings: Breach of Sections 7 and 9 of the Code of Ethics

Order:

1. The Dealer is ordered to pay a fine in the amount of $2500 within 90 days of the date of the Discipline Committee Order.

2. Swan is ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order. Swan has the option to complete the course in the city of Ottawa.

3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the OMVIC certification course (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 days 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 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Swan shall agree 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. 1561604 Ontario Inc o/a Canadian Auto Sales (the "Dealer") was first registered as a motor vehicle dealer in or around October 2004. Brian Swan ("Swan") was first registered as a motor vehicle salesperson in or around October 2004. At all material times, Swan was the sole officer and director, as well as the Person in Charge, of the Dealer.

2. On or about August 24, 2004, the Registrar issued a Notice of Proposal to refuse the registrations of the Dealer and Swan.

3. On or about October 19, 2004, the aforementioned Proposal was settled on consent Order (the "Order"). Pursuant to condition 20 of said Order, the Dealer agreed it is under a positive obligation to disclose in writing on the bill of sale all material facts about the vehicles it sells.

OMVIC publications:

4. In the Winter of 2008, OMVIC issued a Dealer Standard publication which highlighted some of the changes that would take place when the Motor Vehicle Dealers Act, 2002 (the "Act") came into effect, such as the requirement to provide written disclosure, of a vehicle's history and condition, such accident repair histories, previous daily rental histories, and out of province registrations ("disclosure").

5. The following Dealer Standard publications also reminded dealers of their disclosure obligations:

    a. Summer 2011
    b. Summer 2012
    c. Winter 2013
    d. Summer 2013
    e. Fall 2013

6. In addition to this, OMVIC also issued the following bulletins which reminded dealers of their disclosure obligations:

    a. January 2010
    b. September 2012
    c. December 2013

d. December 2014 (disclosure webinar)

7. Moreover, in the summer of 2010 OMVIC issued a Dealer Standard publication as well as a bulletin reminding dealers of their credit and lease disclosure obligations.

Direct correspondence with Dealer:

8. During an inspection on or about February 6, 2009, a representative of the Registrar reminded Swan, on behalf of the Dealer, of the Dealer's obligation to ensure all lease agreements contain all required information as per section 74 of Regulation 17\05 of the *Consumer Protection Act, 2002* ("CPA").

9. During an inspection on or about August 18, 2011, a representative of the Registrar reminded Swan, on behalf of the Dealer, of the Dealer's obligation to ensure all credit agreements contain all required information as per section 63 of Regulation 17\05 of the CPA. Swan was also reminded of the Dealer's obligation to provide purchasers with written disclosure on the Bill of Sale of a vehicle's previous out of province registration, including the jurisdiction[s] in which the vehicle was registered.

10. By letter dated August 14, 2014, a representative of the Registrar reminded Swan, on behalf of the Dealer, of the Dealer's obligation to provide purchasers with written disclosure on the Bill of Sale of a vehicle's previous out of province registration, including the jurisdiction[s] in which the vehicle was registered.

Dealer non-compliance:

11. During an inspection on or about September 29, 2015, a representative of the Registrar found the following issues:

    a. On or about July 5, 2015, Swan purchased a 2007 Dodge Ram 2500 (VIN 1D7KS28C97J546058). At the time of purchase, this vehicle was declared as having a $7,991 accident history, as well as being previously registered in Quebec. On or about June 3, 2015, Swan sold this vehicle on behalf of the Dealer without providing the purchaser with written disclosure of the vehicle's previous out of province registration. This is contrary to sections 42(22), and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. Moreover, in failing to provide this disclosure in writing to the purchaser, the Dealer has breached condition 20 of the Order. This is contrary to section 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle's history.

    b. On or about August 13, 2015, Swan sold a 2008 Ford Ranger (VIN 1FTZR45E98PB17426) on behalf of the Dealer. This vehicle has a $3,185 accident history and the Dealer failed to provide the purchaser with written disclosure of this information. This is contrary to sections 42(19), and 42(25) of Regulation 333/08, as well as sections 7 and 9 of the Code of Ethics. Moreover, in failing to provide this disclosure in writing to the purchaser, the Dealer has breached condition 20 of the Order. This is contrary to section 9 of the Code of Ethics. In addition to this, the Bill of Sale fails to indicate the terms of borrowing, despite this vehicle being financed. This is contrary to section 63 of Regulation

17/05 of the CPA, as well as sections 7 and 9 of the Code of Ethics. The Dealer has since provided OMVIC with confirmation from the purchaser they are aware of their vehicle's history and terms of borrowing.

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

***Consumer Protection Act, 2002* (Regulation 17/05):**

63. (1) The initial disclosure statement for a credit agreement for fixed credit shall be in writing and, for the purpose of subsection 79 (2) of the Act, shall disclose the following information, in addition to the information required under subsection 78 (1) of the Act:

0.1 The outstanding principal balance as at the beginning of the term of the credit agreement.

1. The total of the advances to be made to the borrower.

2. If more than one advance is to be made to the borrower, the nature, timing and amount of each advance.

3. The length of the term of the credit agreement.

4. The cost of borrowing.

5. The length of the term of the amortization period, if different from the length of the term of the credit agreement.

6. The interest rate payable by the borrower under the credit agreement, if the rate will not change during the term of the credit agreement.

7. If the interest rate payable by the borrower under the credit agreement may change during the term of the credit agreement,

i. the initial interest rate payable by the borrower under the credit agreement,
ii. the manner of determining the annual interest rate at any time during the term of the credit agreement, and
iii. unless the amount of the scheduled payments is adjusted to account for changes in the interest rate, the lowest interest rate at which the scheduled payments would not cover the interest that would accrue between consecutive scheduled payments based on the outstanding principal balance as at the beginning of the term of the credit agreement.

8. The date on which interest begins to accrue under the credit agreement.

9. The circumstances under which interest is compounded under the credit agreement.

10. For each element of the cost of borrowing, other than interest, the nature of the element and amount payable by the borrower.

11. The details with respect to grace periods under the credit agreement.

12. The annual percentage rate for the credit agreement.

13. Subject to subsection (2), the optional services accepted by the borrower, the charge for each optional service, the borrower's right to terminate any optional service of a continuing nature and the manner of exercising that right.

14. The total of all payments the borrower is required to make in connection with the credit agreement and the timing and amount of each payment, including, without limitation, any down payment, trade-in allowance, balloon payment and final payment.

15. If the credit agreement does not require the borrower to make scheduled payments,
    i. the circumstances under which the outstanding balance or a portion of it is required to be paid by the borrower, or
    ii. the provisions of the credit agreement that set out those circumstances.

16. The method used to apply each payment by the borrower against the accumulated cost of borrowing and against the outstanding principal balance.

17. The prepayment rights, charges and penalties that apply to the credit agreement.

18. The method of calculating the amount that the lender is required to refund or credit to the borrower under subsection 76 (2) of the Act and section 60 of this Regulation, if the borrower prepays the full outstanding balance under the credit agreement.

19. The default charges under the credit agreement.

20. If the borrower is giving a security interest in personal property to secure the borrower's indebtedness under the credit agreement, a description of the property that will be subject to the security interest.

21. If the credit agreement requires the borrower to purchase insurance,
    i. that the borrower may purchase the insurance from any insurer who may lawfully provide that type of insurance and may purchase the insurance directly from the insurer or through an agent of the borrower's choice, and
    ii. if the credit agreement gives the lender the following right, that despite subparagraph i, the lender has the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

Motor Vehicle Dealers Act, 2002 **(Regulation 333/08)**

42. Additional information in contracts of sale and leases:

19. If the total costs of repairs to fix the damage caused to the motor vehicle by an incident exceed $3,000, a statement to that effect and if the registered motor vehicle dealer knew the total costs, a statement of the total costs.

22. If the motor vehicle previously received treatment in a jurisdiction other than Ontario that was equivalent to having had 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 jurisdictions, except if one or more permits have been issued for the vehicle under section 7 of that Act to cover at least the seven previous consecutive years.

25. Any other fact about the motor vehicle that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle on the terms of the purchase or lease.

Moreover, in failing to comply with the following condition of the Order, it is thereby agreed that the Dealer has breached section 9 of the Code of Ethics:

20. The Dealer and Salesperson agree that they are under a positive obligation to disclose in writing on the bill of sale all material facts about the vehicles he sells to his purchasers. Purchasers include both retail and wholesale buyers. Material facts such as, but not limited to salvage, previous salvage, accidented and repaired, theft recovery, previous taxi cab, previous police car, previous daily rental write off, unibody damage, frame damage and any other material fact that may affect one's decision whether or not to purchase said vehicle. The Dealer and Salesperson agree to make reasonable efforts to research the history of all the Dealer's vehicles prior to sale to ensure all material facts are disclosed. The Dealer and Salesperson agree that should any information come to light which the Registrar deems to be a material fact concerning a vehicle the Dealer has sold, the Dealer will comply with all reasonable requests made by the Registrar to provide compensation to the purchaser.

It is thereby agreed that the Dealer and Swan 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 a 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 $2500 within 90 days of the date of the Discipline Committee Order.

2. Swan agrees to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order. In Ottawa.

3. The Dealer agrees to offer all current and future sales staff the opportunity to complete the OMVIC certification course (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 days 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 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Swan 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 and Longman breached subsections 4 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 $2500 within 90 days of the date of the Discipline Committee Order.

2. Swan is ordered to successfully complete the OMVIC certification course (the "course") within 90 days of the date of the Discipline Committee Order. Swan has the option to complete the course in the city of Ottawa.

3. The Dealer is ordered to offer all current and future sales staff the opportunity to complete the OMVIC certification course (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 days 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 1, 2009, or who are otherwise required to do so pursuant to the Act.

4. The Dealer and Swan shall agree 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