

Re: In the Matter of an Appeal by City Ford Sales Ltd. (“City Ford”) from the Decision of the Director of Fair Trading (as delegated to the Alberta Motor Vehicle Industry Council, “AMVIC”) to issue an Administrative Penalty to City Ford

July 9, 2018

Appeal Board: Paul Alpern, Caren Mueller, Nick Tywoniuk

Representing the Appellant, City Ford: Murray L. Engelking (Engelking Wood Barristers and Solicitors)

Representing the Respondent, Alberta Motor Vehicle Industry Council (“AMVIC”) and the Director of Fair Trading: Paula Hale (Shores Jardine LLP)

Appeal Heard: 31 May 2018

Location: Service Alberta Boardroom, Commerce Place, 10155 - 102 Street, Edmonton, Alberta

An Appeal Board constituted pursuant to section 179 of the *Fair Trading Act*, R.S.A. 2000, c. F-2, the *Appeal Board Regulation* thereunder (Alberta Regulation 195/199) and the Administrative Penalties (Fair Trading Act) Regulation (Alberta Regulation 135/2013) met to hear an Appeal by City Ford from the 1 November Decision of the Director of Fair Trading (as delegated to AMVIC) to issue an Administrative Penalty to City Ford.

THE ISSUES

1. Did City Ford breach provisions of the Fair Trading Act, the Automotive Business Regulation and/or the Vehicle Inspection Regulation?
2. In the circumstances, is it appropriate for this Appeal Board to vary or quash the decision that is being appealed?

RELEVANT LEGISLATION

FAIR TRADING ACT

Unfair practices

6(1) *In this section, “material fact” means any information that would reasonably be expected to affect the decision of a consumer to enter into a consumer transaction.*

(1.1) *It is an offence for a supplier to engage in an unfair practice.*

(2) *It is an unfair practice for a supplier, in a consumer transaction or a proposed consumer transaction,*

- (a)** *to exert undue pressure or influence on the consumer to enter into the consumer transaction;*

- (b) *to take advantage of the consumer as a result of the consumer's inability to understand the character, nature, language or effect of the consumer transaction or any matter related to the transaction*
 - (c) *to use exaggeration, innuendo or ambiguity as to a material fact with respect to the consumer transaction;*
 - (d) *to charge a price for goods or services that grossly exceeds the price at which similar goods or services are readily available without informing the consumer of the difference in price and the reason for the difference;*
- (3) *It is an unfair practice for a supplier*
- (a) *to enter into a consumer transaction if the supplier knows or ought to know that the consumer is unable to receive any reasonable benefit from the goods or services;*
 - (b) *to enter into a consumer transaction if the supplier knows or ought to know that there is no reasonable probability that the consumer is able to pay the full price for the goods or services;*
 - (c) *to include in a consumer transaction terms or conditions that are harsh, oppressive or excessively one-sided;*
 - (d) *to make a representation that a consumer transaction involves or does not involve rights, remedies or obligations that is different from the fact.*
- (4) *Without limiting subsections (2) and (3), the following are unfair practices if they are directed at one or more potential consumers:*
- (h) *a supplier's representation that goods have or do not have a particular prior history or usage if that is different from the fact;*

...

Contents of Sales Contracts

35 *A written direct sales contract must include*

- (a) *the consumer's name and address;*
- (b) *the supplier's name, business address, telephone number and, where applicable, fax number;*
- (c) *where applicable, the salesperson's name;*
- (d) *the date and place at which the direct sales contract is entered into;*
- (e) *a description of the goods or services, sufficient to identify them;*
- (f) *a statement of cancellation rights that conforms with the requirements set out in the regulations;*
- (g) *the itemized price of the goods or services, or both;*
- (h) *the total amount of the direct sales contract;*
- (i) *the terms of payment;*
- (j) *in the case of a sales contract for the future delivery of goods, future provision of services or future delivery of goods together with services, the delivery date for the goods or commencement date for the services, or both;*
- (k) *in the case of a sales contract for the future provision of services or the delivery of goods together with services, the completion date for providing the services or the goods together with services;*
- (l) *where credit is extended,*
 - (i) *a statement of any security taken for payment, and*
 - (ii) *the disclosure statement required under Part 9;*
- (m) *where there is a trade-in arrangement, a description of and the value of the trade-in;*
- (n) *the signatures of the consumer and the supplier.*

License require – designated businesses

104

- (1) *No person may engage in a designated business unless the person holds a licence under this Act that authorizes the person to engage in that business.*

Duty to maintain records

132

- (1) *Every licensee and former licensee must create and maintain*
- (a) *complete and accurate financial records of its operations in Alberta for at least 3 years after the records are made, and*
 - (b) *other records and documents described in the regulations for the period specified in the regulations.*
- (2) *Every licensee and former licensee must make the records referred to in subsection (1) available for inspection by an inspector at a place in Alberta and at a time specified by the inspector.*

Notice of administrative penalty

158.1

- (1) *If the Director is of the opinion that a person*
- (a) *has contravened a provision of this Act or the regulations, or*
 - (b) *has failed to comply with a term or condition of a licence issued under this Act or the regulations,*
- the Director may, by notice in writing given to the person, require the person to pay to the Crown an administrative penalty in the amount set out in the notice.*
- (2) *Where a contravention or a failure to comply continues for more than one day, the amount set out in the notice of administrative penalty under subsection (1) may include a daily amount for each day or part of a day on which the contravention or non-compliance occurs or continues.*
- (3) *The amount of an administrative penalty, including any daily amounts referred to in subsection (2), must not exceed \$100 000.*
- (4) *Subject to subsection (5), a notice of administrative penalty shall not be given more than 3 years after the day on which the contravention or non-compliance occurred.*
- (5) *Where the contravention or non-compliance occurred in the course of a consumer transaction or an attempt to enter into a consumer transaction, a notice of administrative penalty may be given within 3 years after the day on which the consumer first knew or ought to have known of the contravention or non-compliance but not more than 8 years after the day on which the contravention or non-compliance occurred.*

Right to make representations

158.2 *Before imposing an administrative penalty in an amount of \$500 or more, the Director shall*

- (a) *advise the person, in writing, of the Director's intent to impose the administrative penalty and the reasons for it, and*
- (b) *provide the person with an opportunity to make representations to the Director.*

...

Appeal

179

(1) *A person*

- (a) *who has been refused a licence or renewal of a licence,*
- (b) *whose licence is made subject to terms and conditions,*
- (c) *whose licence has been cancelled or suspended under section 127, or*
- (d) *to whom an order under section 129 or 157 is directed, or*

(e) to whom a notice of administrative penalty is given under section 158.1(1)

may appeal the decision or order by serving the Minister with a notice of appeal within 30 days after being notified in writing of the decision or order.

- (2) *The Minister must, within 30 days after being served with a notice of appeal under subsection (1) and payment of the fee for the appeal as established by the regulations, refer the appeal to an appeal board appointed in accordance with the regulations or to an appeal board designated under subsection (4).*
- (3) *The Minister may appoint an individual as the chair of the appeal board who serves as the chair whether or not an appeal is being considered by the appeal board.*
- (4) *The Minister may designate a board or commission established by or under an Act of the Legislature to be an appeal board for the appeals specified in the designation.*
- (5) *The Minister may set the time within which an appeal board is to hear an appeal and render a decision and may extend that time.*
- (6) *An appeal board that hears an appeal pursuant to this section may confirm, vary or quash the decision or order that is being appealed.*
- (7) *The Minister may set the rates of remuneration for and provide for the payment of reasonable living and travelling expenses to the members of an appeal board.*
- (8) *An appeal under this section is a new trial of the issues that resulted in the decision or order being appealed.*

Effect of Appeal

180

- (1) *Subject to subsection (2), an appeal under section 179 does not affect the status or enforceability of the decision or order being appealed.*
- (2) *A person who is appealing a decision or order under section 179(1)(b), (c) or (d) may apply to the chair of the appeal board to stay the decision or order being appealed until the appeal board renders its decision on the appeal.*
- (3) *On application under subsection (2) and after allowing the Director to make representations, the chair may, if the chair considers it appropriate, order a stay of the decision or order being appealed until the appeal board renders its decision on the appeal.*

AUTOMOTIVE BUSINESS REGULATION

Term of licence

5

- (1) *An automotive business licence has a term of one year and may be renewed for additional one-year terms.*
- (2) *In a case where, in the opinion of the Director, it is in the public interest to issue or renew a licence referred to in [section 3](#) for a term of less than one year, the Director may do so.*

Records

9

In addition to the requirement to create and maintain financial records in accordance with section 132(1) of the Act, every business operator and former business operator must maintain all records and documents created or received while carrying on the activities authorized by the licence for at least 3 years after the records were created or received.

Advertising

11

- (1) *Every business operator must ensure that the business operator's advertising indicates in a conspicuous manner*
 - (a) *the name of the business operator as set out in the licence or the trade name of the business operator as set out in the licence, and*

- (b) *in the case of print and television advertising, that the business operator holds an automotive business licence under the Act.*
- (2) *A business operator must ensure that every advertisement for an automotive business that promotes the use or purchase of goods or services*
 - ...
 - (l) *includes in the advertised price for any vehicle the total cost of the vehicle, including, but not limited to, all fees and charges such as the cost of accessories, optional equipment physically attached to the vehicle, transportation charges and any applicable taxes or administration fees, but not including GST or costs and charges associated with financing, and*
 - (m) *includes the stock number of the specific vehicle that is advertised as being available for sale at the time the advertisement is placed.*

General codes of conduct

- 12** Every business operator must comply with [section 6](#) of the Act and in addition must
- (o) *comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.*

Registration

16

- (1) *A salesperson of an automotive sales business operator must be registered for automotive sales before acting on behalf of the business operator;*
- (7) *Where a salesperson ceases to act on behalf of a business operator the salesperson shall forthwith return to the Director the certificate issued in respect of the salesperson's acting for that business operator.*

Salesperson ceases to be authorized

21

- (1) *When an automotive sales business operator, automotive leasing business operator or automotive consignment business operator ceases to authorize a salesperson to act on its behalf, the business operator must send to the Director written notification of*
 - (a) *the name of the salesperson; and*
 - (b) *the date that the salesperson ceases to be authorized to act on its behalf.*
- (2) *The business operator must notify the Director either before the salesperson ceases to be authorized or within 15 days after the salesperson ceases to be authorized.*

VEHICLE INSPECTION REGULATION

Sale of used motor vehicle

15

- (1) *Subject to subsection (2), a dealer in used motor vehicles shall, before entering into a contract to sell a motor vehicle, give to the buyer a used motor vehicle mechanical fitness assessment that contains the following:*
 - (a) *a statement identifying the type of motor vehicle as a truck, motorcycle, bus, van, light truck, automobile or other type of motor vehicle;*
 - (b) *a statement showing the make, model, year, vehicle identification number, odometer reading in kilometers or miles, licence plate number and province of registration of the vehicle;*
 - (c) *the name and address of the dealer selling the vehicle and the name of the technician who issued the mechanical fitness assessment;*
 - (d) *a statement that the mechanical fitness assessment expires 120 days after the date on which it was issued;*
 - (e) *a statement certifying that at the time of sale the motor vehicle*
 - (i) *complies with the [Vehicle Equipment Regulation \(AR 122/2009\)](#), or*

- (ii) does not comply with the [Vehicle Equipment Regulation \(AR 122/2009\)](#) and containing a description of the items of equipment that are missing or do not comply with the [Vehicle Equipment Regulation \(AR 122/2009\)](#);
- (f) the signature of the technician who conducted the mechanical fitness assessment;
- (g) the date the mechanical fitness assessment was issued.

Expiry of mechanical fitness assessment

- 16** A dealer's mechanical fitness assessment provided under [section 15\(1\)](#) for a used motor vehicle expires 120 days after the date on which it was issued.

ADMINISTRATIVE PENALTIES (FAIR TRADING ACT) REGULATION

Notice of administrative penalty

- 1** A notice of an administrative penalty must contain the following information:
- (b) identification of the provision of the Act or regulation that was contravened or not complied with.

BACKGROUND AND EVIDENCE

1. AMVIC conducts both random inspections and consumer complaint-initiated investigations.
2. Beginning July 27, 2015, AMVIC conducted a series of random inspections on City Ford to ensure the vehicle dealership was operating in accordance with the Fair Trading Act and associated regulations.
3. Various deficiencies were alleged following a July 27, 2015 inspection, including:
 - a. Selling vehicles over the advertised price by adding additional fees, including administration and/or documentation fees, AMVIC fees and tire levies; failure to comply with the all-in pricing requirements of Section 11(2) of the Automotive Business Regulation.
 - b. Failure to provide current Mechanical Fitness Assessments ("MFAs") to consumers prior to signing of a Bill of Sale as required by Sections 15 and 16 of the Vehicle Inspection Regulation.
4. A further inspection was conducted on February 24, 2016. Deficiencies alleged following that inspection included:
 - a. Selling vehicles over the advertised price by adding additional fees, including administration and/or documentation fees, AMVIC fees and tire levies; failure to comply with the all-in pricing requirements of Section 11(2) of the Automotive Business Regulation.
 - b. Failure to provide current Mechanical Fitness Assessments to consumers prior to signing of a Bill of Sale as required by Sections 15 and 16 of the Vehicle Inspection Regulation.
5. A further inspection was conducted on May 29, 2017. Deficiencies alleged following that inspection included in a letter to City Ford dated June 14, 2017:
 - a. Dealer license expired May 31, 2017;
 - b. AMVIC logo or other indication of AMVIC licensure was not on Facebook as required by Section 11(1) of the Automotive Business Regulation.
 - c. Vehicles advertised on Facebook did not include the stock number of the specific vehicle being advertised contrary to Section 11(2)(m) of the Automotive Business Regulation.
 - d. Selling vehicles over the advertised price by adding additional fees, including administration and/or documentation fees, AMVIC fees and tire levies; failure to

comply with the all-in pricing requirements of Section 11(2) of the Automotive Business Regulation.

- e. One salesperson's (William Vida) business license had lapsed.
 - f. Failure to provide current Mechanical Fitness Assessments to consumers prior to signing of a Bill of Sale as required by Sections 15 and 16 of the Vehicle Inspection Regulation.
 - g. Using a fictitious vehicle identification number to apply for credit on behalf of a consumer.
6. By letter to City Ford dated September 20, 2017, the Director of Fair Trading (as delegated) (the "Director") wrote to City Ford to advise of a proposed administrative penalty in the sum of \$24,000 arising from alleged violations referred to in the June 14, 2017 letter to City Ford referenced in paragraph 5, above, and City Ford's failure to bring its business practices into compliance with the Fair Trading Act and associated regulations despite repeated notices over three years. Pursuant to Section 158.2(b) of the Fair Trading Act, the Director invited City Ford to make written representations in response to the proposed administrative penalty.
7. By letter dated October 16, 2017, City Ford made representations including the following:
- a. Its commitment to be compliant with all laws and regulations.
 - b. The fact that it had made significant changes to its policies and procedures to be compliant.
 - c. It is the #1 retailer of Ford vehicles in Alberta for almost every year since 1986.
 - d. City Ford sold 12,346 vehicles from 2014 through 2016.
 - e. Despite that volume, City Ford has, in its view, a relatively low frequency of consumer complaints to AMVIC.
 - f. City Ford's reputation is critical to its past and future success.
 - g. A publicized AMVIC penalty/punishment would be destructive to City Ford's business and employees.
 - h. City Ford does not wish to be in violation of any legislation of any kind ever.
 - i. City Ford welcomes any assistance AMVIC can provide to ensure maximum compliance.
 - j. With reference to online advertising and the alleged failure to include information about City Ford's AMVIC licensure, City Ford contracted with Postmedia Network Inc on March 5, 2017 to develop and manage City Ford's Facebook presence. The day City Ford became aware of the AMVIC logo omission, City Ford advised Postmedia, who corrected the logo omission and issued an apology to City Ford.
 - k. With reference to the allegation of advertising vehicles without a stock number, this refers to a Facebook post including a picture of a Ford Explorer, inviting viewers to visit City Ford and test drive any brand new Explorer. This was a generic advertisement without reference to any specific vehicle, price, payment, terms and conditions, etc.
 - l. With reference to the allegations that various vehicles were sold above the advertised price, City Ford offered the following feedback:
 - i. Stock #17F942 – City Ford posted the manufacturer's suggested retail price ("MSRP"). The MSRP does not include extra charges such as documentation fees, tire levies and AMVIC levies. City Ford had been under the impression that posting the MSRP was acceptable.
 - ii. Stock #16F1689 – this vehicle was advertised for \$26,995 (after a \$1,000 discount for Costco members) and sold for \$26,999 + \$6.25 (AMVIC fee) + \$20 (tire recycling fee). The \$4.00 overcharge and the addition of the AMVIC and tire levies were mistakes.
 - iii. Stock #17FU180 – City Ford's salesperson was unaware that this vehicle was still being advertised online at the same sale price that it had been advertised in print the day prior with a print notice that the sale price was ending that same day (March 17). The vehicle, however, was also

- advertised on-line with a “sale-ends” date of March 31. The bill of sale was dated March 18. That was a mistake. City Ford has since set up programs to ensure that conflicting start and end dates will not occur in the future.
- iv. Stock #16F2171 – the price on the bill of sale included \$1,675 in accessories that the customer requested at the time of sale. If we back-out that \$1,675, the customer paid \$151 less than the advertised price.
 - v. Stock #17ES935 – this new vehicle was sold by our used card department as the customer had originally tried to purchase a used Escape but their financing had been declined. Ford Credit Canada recommended looking at a new Escape which allow successful financing approval and lower payments for the customer. The used vehicle department was unaware that this particular new Escape was being advertised for a price lower than the price sold to the customer.
 - m. With reference to the allegation that City Ford’s salesperson, William Vida, showed on the AMVIC database as being linked to the business but with an expired registration, William Vida was not selling vehicles for City Ford at the time his registration was expired. William was attending school at the time. William had been selling for City Ford on previous co-op terms and was licensed to do so. When William returned to school, City Ford did not terminate his employment as City Ford expected him back to work as service advisor. Accordingly, there was no need to advise AMVIC.
 - n. With respect to the allegations that consumers did not receive MFAs prior to entering into a sales contract, City Ford advises as follows:
 - i. Stock #16F586A – City Ford’s MFA had expired nine days prior to the date on the bill of sale. City Ford has implemented a process to prevent this from occurring in the future.
 - ii. Stock #16F2202A – Customer was shown this vehicle several days after it had been traded into us but before we had completed all of our internal work (inspection, reconditioning, cleaning, etc.). We informed the customer that the vehicle was not ready for sale until we completed all internal paperwork, including the MFA. The customer could not understand our reluctance toward making a sale and we agreed to sell the vehicle on the basis that we would cancel the sale if the customer was not satisfied when the MFA was ultimately done.
 - iii. Stock #16F2129A – the vehicle was initially sold on May 11, 2017 to a customer who signed the valid MFA that day. The customer’s credit was declined so she was unable to complete the purchase in her name. On May 13, 2017, the customer’s mother (same address) purchased the vehicle for her daughter and City Ford completed a new bill of sale in her mother’s name. The mother signed a copy of the exact same MFA on May 13, 2017, but as two days had passed, the MFA had then expired by one day.
 - o. With reference to the allegation that one deal jacket contained a credit application with a fictitious vehicle identification number (“VIN”), City Ford advises that a 2017 Explorer was going to be purchased by City Ford from another Ford dealer at the customer’s request. Before City Ford buys a vehicle from another dealer for a customer, we must confirm that the customer will ultimately be able to pay for the vehicle and that the “transferring out” dealer will sell us that specific vehicle. In order to confirm the customer’s ability to buy, we often need to have the customer apply for credit and that is what was done in this case. It was unclear on the day of this transaction what specific stock # vehicle the customer would be buying and from what dealer. Accordingly, we configured, priced out and applied to Ford Motor Credit to get the customer pre-approved based on the specifics of the vehicle the customer wanted but without knowing which exact vehicle the customer would be buying. Ford Motor Credit’s online application requires the VIN fields component in the credit

application to be completed. Financing pre-approval is a very common practice. We used "1111111111111111" as the sample VIN to clearly indicate that we were looking for credit pre-approval. Ford Credit would never actually fund a customer or dealer finance contract with a sample VIN. They will, however, provide pre-approval with a sample VIN.

- p. With reference to the allegation that City Ford was operating for a period of time without a current AMVIC license, City Ford states that up until this infraction, we have always paid our AMVIC license fee and all quarterly remittances on time. We have never intended not to pay the annual fee and have certainly never intended to operate without an AMVIC license. The infraction resulted from our not receiving the email invoice. We have no record of the renewal notice/invoice. We have since set up a reminder for renewals in our system.
- 8. Having considered City Ford's October 16, 2017 written submissions, by letter to City Ford dated November 1, 2017, the Director levied an administrative penalty of \$15,000 against City Ford. Grounds for the administrative penalty included the alleged violations referred to in the June 14, 2017 letter to City Ford referenced in paragraph 5, above, and City Ford's failure to bring its business practices into compliance with the Fair Trading Act and associated regulations despite repeated notices over three years.
- 9. City Ford appeals both the reasons for and the amount of the administrative penalty.

AMVIC'S EVIDENCE

Ms. Hale on behalf of AMVIC called one witness: Roxanne Spiess ("RS"). RS's evidence included:

- 10. She has been an AMVIC Industry Standards Officer ("ISO") for 3 years.
- 11. ISO's function as an inspector.
- 12. She has been with AMVIC for 6 years, previously serving as compensation fund coordinator.
- 13. She has a background as a financial analyst and accountant.
- 14. An ISO conducts inspections, visits suppliers, provides education on AMVIC policies and practices, and generally helps suppliers become and remain compliant.
- 15. AMVIC has 2 ISO's and one advertising officer.
- 16. "Supplier" includes retail, repairs, and wholesale.
- 17. Businesses selected for inspection are either chosen at random, following complaints, or are new businesses.
- 18. RS first visited City Ford on July 27, 2015 as a random inspection.
- 19. She met with Stephen Charlton, who she believed was the General Manager.
- 20. She discussed advertising concerns, incomplete MFAs and required information not disclosed to the consumer at the time of sale.
- 21. Prior to the inspection at City Ford, she reviewed advertisements placed by City Ford on the internet, on Facebook and on Kijiji.
- 22. Typically, she would look at 10-20 specific vehicles per inspection.
- 23. A findings letter was sent to Stephen Charlton following the July 27, 2015 inspection. In the findings letter, RS identified the following concerns:
 - a. Selling vehicles over their advertised prices - Inconsistencies between advertised prices for specific vehicles and the actual sale prices contrary to section 2 of the Automotive Business Regulation. Of six vehicles reviewed, 5 were sold for over the advertised price. Prices indicated on advertisements need to be "all-in", including all admin fees, tire taxes, levies, etc.
 - b. A bill of sale for a used vehicle did not contain the extended warranty purchased on the vehicle contrary to section 6 of the Fair Trading Act.

- c. Not providing MFAs - Of 8 used car deal jackets reviewed, 2 did not contain an MFA contrary to section 15(1) of the Vehicle Inspection Regulation.
24. On February 14, 2016, RS conducted a follow-up inspection at City Ford.
25. Some of the same concerns from the July 27, 2015 inspection were still identified. There were new compliance issues identified as well.
26. RS's concerns were communicated to City Ford in a letter dated March 17, 2016. Concerns included:
 - a. Selling vehicles over their advertised prices - Dealer is not adhering to all-in pricing requirements. 3 out of 7 deals reviewed had fees (Documentation Fee, AMVIC levy and Tire levy) added to the purchase price for a sales price total greater than the advertised price contrary to section 2 of the Automotive Business Regulation.
 - b. Not providing MFAs prior to executing Bills of Sale - Of 8 used deals reviewed, 3 had MFAs signed after the Bill of Sale date suggesting that consumers may not have seen the MFA before signing the Bill of Sale contrary to section 15(1) of the Vehicle Inspection Regulation.
 - c. Inflating vehicle purchase prices to show a fake deposit - One deal jacket had a document showing the dealer inflated the original purchase price in order to provide a \$3,000 deposit (down payment) for the consumer contrary to section 6(1) of the Fair Trading Act.
27. Stephen Charlton was cooperative throughout the inspections.
28. On May 29, 2017, a third inspection was completed by RS. During the inspection, RS spoke with Stephen Charlton about the compliance concerns and provided him the AMVIC advertising package (this had already previously been provided to City Ford).
29. On June 14, 2017, an inspection findings letter was emailed to Stephen Charlton. The following compliance concerns were noted:
 - a. City Ford Sales business license had lapsed on May 31, 2017 and had not been renewed.
 - b. William Vida's salesperson license expired on February 28, 2017 and had not been renewed. The Director did not receive notification from City Ford that William Vida was no longer working there. That notification is required pursuant to section 21 of the Automotive Business Regulation once a salesperson ceases to act on behalf of a business. Stephen Charlton had advised RS on May 29, 2017 that William Vida no longer worked for the supplier. However, William Vida still showed on AMVIC's records as a salesperson with City Ford.
 - c. Facebook advertisements did not disclose that City Ford holds an automotive business license under the Fair Trading Act. The vehicles advertised on Facebook did not include the stock numbers of the specific vehicles being advertised as available for sale at the time of the Facebook posts.
 - d. Reviewed a sold 2017 Ford F-150 stock #17F942. The vehicle was advertised on City Ford Sales website for \$79,999. The purchase price on the Bill of Sale was \$79,999 plus a \$449 documentation fee, plus the AMVIC lieu of \$6.25 plus a \$20 tire levy which brought the price of the vehicle to \$80,524.25.
 - e. There were other instances noted where the all-in pricing required by section 11 of the Automotive Business Regulation was not followed: (i) a 2016 Ford F-150 stock #16F1689 advertised for \$26,995 and sold for \$27,025.25; (ii) a 2017 Ford Fusion stock #117FU180 advertised for \$19,795 but sold for \$21,921.25; (iii) a 2016 Ford F-150 stock #16F2171 advertised for \$26,995 but sold for \$27,519; and (iv) a 2017 Ford Escape stock #17ES935 advertised for \$20,795 but sold for \$25,714.25.
 - f. Reviewed a 2013 Ford F-150 stock #16F586A. The MFA was expired past 120 days.
 - g. Reviewed a 2014 Ford F-150 stock #16F2202A. The MFA was completed by the journeyman on March 22, 2017 but the Bill of Sale and MFA were signed by the consumer on March 18, 2017.
 - h. Reviewed a 2016 Chevrolet Impala stock #16F2129A. The MFA expired on May 12, 2017 but was signed by the consumer on May 13, 2017.
 - i. Reviewed a sold 2017 Ford Explorer. The vehicle appeared to have been sold to a

consumer without the vehicle being in stock or available for sale. The consumer's credit application was missing the VIN.

30. Typically, after two inspections, often an administrative penalty is assessed if the supplier remains non-compliant.
31. Whether or not such an administrative penalty is assessed (and the amount of such penalty) depends on the severity of the non-compliance, whether the supplier is cooperative and the impact on consumers.
32. Sometimes, depending on the above factors, an administrative penalty is assessed after only one inspection.
33. If an administrative penalty is recommended, the ISO prepares an administrative report summarizing their findings and making a recommendation to a manager, typically the Director.
34. At this stage, the supplier is often invited to a meeting with the Director and ISO to discuss the compliance review findings.
35. In this instance, there was no in-person meeting with the Director. RS submitted an Application Report to the Director and City Ford provided a written response.
36. The Application Report was required because after three inspections, City Ford remained non-compliant.

On cross examination by counsel for City Ford, RS stated as follows:

37. She conducted her first inspection of City Ford soon after starting as an ISO in 2015.
38. No consumer complaints led to the inspection of City Ford.
39. The Administrative Penalties Regulation under the Fair Trading Act requires that a notice of an administrative penalty must contain identification of the provision of the Act or regulation that was contravened or not complied with.
40. With respect to William Vida's status of a registered salesperson, S. 16(7) of the Automotive Business Regulation requires the salesperson to send the Director notice of their change in status, but there's also a duty on the supplier (City Ford) under S. 21(2) of the Automotive Business Regulation to notify the Director either before the salesperson ceases to be authorized or within 15 days after the salesperson ceases to be authorized.
41. All additional fees (tire fees, AMVIC fees, administrative or document fees, etc.) are permissible charges but prices posted, quoted or advertised must include all such fees.
42. She disagrees with the Director's conclusion that advertising a vehicle online without a stock number is permissible. Section 11(2)(m) of the Automotive Business Regulation.
43. Notwithstanding a comment she made in a notice to City Ford, the Vehicle Inspection Regulation does not require that suppliers have consumers sign MFAs. That said, it's good practice to do so to evidence that the consumer was, in fact, provided with a copy of the MFA prior to signing a Bill of Sale.
44. With respect to selling a 2016 Ford F-150 on April 8, 2017 for \$1,675 over the advertised price, even if accessories were added to the vehicle (as evidenced by City Ford), those accessory costs should have been noted on the Bill of Sale. This is an issue with record keeping and transparency.
45. The \$24,000 administrative penalty recommendation was determined on the basis of the following:
 - a. Failure to make changes to practices after numerous inspections and recommendations.
 - b. The nature of the breaches.
46. She reviewed 8 used car sales deal jackets. There was no evidence that customers had not seen the MFAs before they signed bills of sale.
47. City Ford is not a repeat offender. They have no previous administrative penalties; no previous Director's orders; no previous undertakings.
48. The expected standard of performance for suppliers is to understand the laws and regulations and comply with them.
49. City Ford had a number of repeated breaches despite repeated warnings.

50. She acknowledged that City Ford is a high volume vehicle retailer, but, from her perspective, when 2 out of 8 transactions she sampled were problematic, that raises concerns about City Ford's ability and/or willingness to comply with the law.
51. Her approach to reviews/audits of City Ford is the same as any other supplier – she wants to see that they abide by the legislation and make their best efforts to do so.
52. With respect to the issue of City Ford advertising on Facebook without any apparent reference to City Ford being an AMVIC licensed dealership, RS was not aware of any compliance efforts by City Ford following the May 2017 inspection report.
53. RS does not know whether City Ford's status as an AMVIC licensed dealership was referenced on the "About" or other pages of City Ford's Facebook page.

On further examination by Ms. Hale, RS confirmed:

54. There is no legislative requirement that consumers sign MFAs.
55. She does not have access to a supplier's complaint history.
56. Any reminder notices with respect to a supplier's registration with AMVIC are sent to the email address(es) on AMVIC's files, which address are provided by the supplier.

CITY FORD'S EVIDENCE

Mr. Engelking, on behalf of City Ford, called three witnesses: Michelle Demers, Mike Vida and Shannon Balkan.

Michelle Demers evidence included:

57. She is City Ford's Controller.
58. She's been there for 28 years.
59. She runs the accounting office including accounts payable, accounts receivable and deal processing.
60. She is responsible for licensure of the business, including AMVIC registrations.
61. Prior to 2017, there had never been any lapses in City Ford's licenses.
62. In 2017, there was an oversight. City Ford did not get the reminder email from AMVIC, so the license renewal was not processed prior to the previous year's expiry.
63. After being notified of the lapse, we looked for the AMVIC email but couldn't find it.
64. In any event, we paid the 2017-2018 fee and renewed the license immediately after being notified by AMVIC that it had lapsed.
65. We knew what the renewal date was. It's the same each year. We've put safeguards in place now (May 2019 folder reminding her of the things that need to be done then) to ensure the renewal occurs in advance of expiry. We did not have those safeguards in place in 2017 prior to the late renewal.
66. The amount of the AMVIC renewal fee was \$350, an insignificant amount. It was simply an oversight.

Mike Vida's evidence included:

67. He has been with City Ford for 28 years, 26 of which as General Manager.
68. He has been part of the ownership group of the company since 2003.
69. City Ford has been a franchise Ford dealer since 1985.
70. In each of the last 28 years, City Ford has been among the top producing Ford dealers in Canada.
71. City Ford sells approximately the same number of used vehicles per year as new ones.
72. He brought and has continually evolved heightened discipline and policies/procedures

into City Ford.

73. He has auto technology training and a business degree from the State University of New York (1984).
74. He has taken various courses through Ford of Canada.
75. Consumer complaints at City Ford are dealt with by various people, from the receptionist through to various managers, depending on the nature of the issue and who is most appropriate to address it.
76. He typically knows about every complaint, whether or not he's handling it personally.
77. Complaints get addressed immediately, not always to the satisfaction of the consumer.
78. City Ford has a good relationship with AMVIC.
79. There are a broad range of dealers in Alberta – some good, some bad.
80. He thought the creation of AMVIC was a great idea.
81. AMVIC would/should focus on the unscrupulous dealers in the market and level the playing field.
82. In the past, City Ford has been involved in advising AMVIC on policies and practices.
83. He is aware of AMVIC inspections of City Ford in 2015, 2016 and 2017.
84. None of AMVIC's communications were sent to him personally, but he is aware that some letters were received by City Ford.
85. He is aware of a letter written to City Ford's Stephen Charlton following a July 27, 2015 inspection of City Ford by AMVIC's RS.
86. He thought it was an awareness meeting, an opportunity for process improvement, including adjustments to policies and practices.
87. He recalls holding a management team meeting to discuss the issues AMVIC raised.
88. At the time, there was no hint of any prosecution, administrative penalty or other consequences by AMVIC.
89. RS's March 17, 2016 letter following a February 24, 2016 inspection of City Ford got to him eventually.
90. Again, there was no indication of any penalties pending or contemplated.
91. He thought City Ford had appropriately tightened things up to address AMVIC's issues/concerns.
92. He also received a copy of AMVIC's June 14, 2017 letter.
93. He had further discussions with other members of City Ford's management team.
94. Further steps were taken to tighten up policies and procedures.
95. AMVIC's November 1, 2017 letter was the first indication to City Ford that there would be any sort of administrative penalty or other enforcement action.
96. With regard to the allegation that City Ford employed an unregistered salesperson, William Vida ("WV"), WV is Mike Vida's son.
97. WV had been a salesperson and a service advisor at City Ford.
98. Mike Vida says no notification was given to AMVIC about WV's salesperson license expiry because City Ford was not terminating WV's employment. We knew he was coming back in some capacity.
99. With respect to the issue of no stock number being included in an advertisement for a Ford Explorer, that advertisement was simply an invitation to come look at any explorer, not any specific vehicle in inventory. There was nothing in the advertisement about price or other details about any specific vehicle.
100. With respect to the issue about all-in pricing and Stock #16F2171, that vehicle had accessories added to it which accounted for the sale-price being above the advertised price. Mike Vida can't explain why the accessories were not detailed on the bill of sale or the delivery allowance worksheet. Mike Vida noted that the customer never sees the delivery allowance worksheet – it's an internal document only.
101. Excluding the extras and the charges for those extras, Mike Vida says Stock #16F2171 was actually sold below the advertised price.
102. With respect to Stock #17FU180, Mike Vida says that was a mistake by City Ford. The salesperson was unaware that this vehicle was still being advertised online for sale as it had been advertised in print the day before (March 17, 2017) in the

Edmonton Sun with the notice that the sale price was ending that same day. The vehicle was also, however, advertised online with a sale ending date of March 31, 2017. The date on the bill of sale was March 18, 2017. There was a lack of communication or an oversight involving the salesperson. City Ford has since set up programs to ensure that conflicting sales start and end dates on various advertising media can not occur in the future.

In response to cross-examination by Ms. Hale. Mr. Vida stated as follows:

103. With respect to Stock #17F942 advertised for \$79,999 and sold for \$92,060 (inclusive of extended warranty and other extras), the AMVIC fee, tire levy, and documentation fees should have been included in the base all-in price. Mike Vida acknowledges that was a mistake by City Ford.
104. With respect to Stock #16F2171, Mike Vida states that the sale price was higher than the advertised price because of accessories purchased at the time of sale, but acknowledges that the accessories should have been noted on the bill of sale to avoid confusion. He says that was a mistake.
105. City Ford is a significant and sophisticated business, selling 12,000+ vehicles over the last three years.
106. Mike Vida disputes Ms. Hale's suggestion that on a review of 12 vehicles, one-half of them had problems with MFAs.
107. On one MFA for Stock #16E2129A, the date below the consumer's name is erased or whited out. Mike Vida cannot explain why.
108. City Ford spends a lot of money on advertising and generally has very few issues.

Shannon Balkan's evidence included:

109. She is the General Sales Manager at City Ford.
110. She's been with City Ford for 30+ years.
111. Her responsibilities include inventory, sales staff and marketing.
112. City Ford constantly adapts to new or changing industry rules.
113. She is aware of the various AMVIC inspection reports.
114. City Ford tried to address the issues AMVIC raised by implementing new policies and practices.
115. For example, there were policies on MFA requirements (September 25, 2017), advertising, mileage records and all-in pricing requirements (October 23, 2017), additional MFA requirements (October 24, 2017), and various other related but undated MFA policies/practices.
116. She believes City Ford to be in compliance with all of AMVIC's rules today.

In response to Ms. Hale's cross-examination, Ms. Balkan acknowledged:

117. AMVIC's requirements for an MFA on all used vehicles offered for sale are not new rules.
118. AMVIC's advertising rules requiring noting dealers AMVIC licensure are not new.
119. The law respecting all-in pricing is not new.

AMVIC'S ARGUMENTS

In summarizing AMVIC's position, Ms. Hale stated:

120. City Ford had more than enough time to get things right.
121. The penalty imposed is substantive.
122. The ISO recommended a penalty of \$24,000. The Director imposed a penalty of \$15,000 after reviewing City Ford's written submissions.

123. Evidence showed a failure to comply with the legislation in 3 key areas:
 - a. Advertising
 - b. Mechanical fitness assessments (incomplete or expiring)
 - c. Failure to properly maintain records
124. City Ford was given opportunities to correct their shortcomings.
125. There were 3 separate inspections over 3 years.
126. City Ford failed to implement substantive changes.
127. City Ford showed a callous disregard for the authority of the regulator.
128. There was harm to consumers.
129. That tarnishes the reputation of the industry.
130. The proposed administrative penalty was warranted and is not out of line with precedents.
131. City Ford failed to comply with the law over a significant period of time.
132. City Ford was given notices about non-compliance with all-in pricing rules in each of 2015, 2016 and 2017.
133. City Ford is a sophisticated licensee and the MFA, all-in pricing and advertising rules were in place well before 2015.
134. Section 12(o) of the Automotive Business Regulation is general in nature. It simply confers authority on AMVIC to consider any other legislation beyond the regulations under the Fair Trading Act that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles. There is no need to make specific reference to Section 12(o) of the Automotive Business Regulation in AMVIC's communication with dealers.
135. There is a requirement to provide MFAs to consumers in advance of a used vehicle purchase.
136. The AMVIC inspector clearly put City Ford on Notice of the various issues and gave them ample time to comply.
137. City Ford is a high volume dealer and the inspector looked at a comparatively small number of deals and found several issues.
138. The small sample reviewed revealed unsatisfactory results.
139. We heard repeated from Mike Vida and Mr. Engelking that the issues discovered by the inspector were "minor", "technical", or the result of a "mistake".
140. These excuses are not acceptable.
141. The purpose of the legislation is consumer protection. All-in pricing is intended to avoid over-charging scenarios. MFAs are intended to give consumers full disclosure about the condition of used vehicles prior to purchase.
142. These are not AMVIC's rules. AMVIC only enforces the legislation in a regulated industry.
143. There is no reason why a sophisticated licensee should not be able to comply.
144. Tightening up policies and practices is not demonstrated in the evidence.
145. One instance of non-compliance likely would not ground an administrative penalty, but the repeated evidence of breaches over several inspections over several years is of significant concern to the Director.
146. The Director has accepted a number of the Appellants arguments.
147. The Director fairly assessed the facts and allegations and concluded some were valid and some were not.
148. The Administrative Penalty proposed is consistent with other penalties in similar circumstances.
149. City Ford was given 2 chances to comply with ANMIC's inspection findings and to correct their practices.
150. Failing to penalize City Ford in these circumstances would impact the reputation of the industry, the message being that failing to comply is okay and no penalties will follow.

CITY FORD'S ARGUMENTS

In summarizing City Ford's position, Mr. Engelking stated:

151. The objective of AMVIC is consumer protection.
152. There were no complaints against City Ford that initiated the investigation and resulting administrative penalty in this case.
153. While there were technical violations, there was no prejudice to any consumer.
154. There are no moral turpitude components here. City Ford has a good reputation.
155. Given the size/volume of vehicles City Ford sells every year, the violations alleged are miniscule on a comparative basis.
156. Some allegations are not violations at all upon careful examination.
157. Any violations were inadvertent – not purposeful.
158. The standard of care/performance is not perfection.
159. None of the violations justify an administrative penalty.
160. City Ford respects the role of AMVIC and is not flouting AMVIC's authority.
161. City Ford has taken steps to comply with the legislation.
162. City Ford's failure to renew its license was inadvertent.
163. There was one instance of an expired MFA out of thousands of used car sales. This is certainly not worthy of punishment.
164. MFAs are requirements under the Vehicle Inspection Regulation. The Director can only deal with the Fair Trading Act and the regulations under the Fair Trading Act. If the Director is alleging a violation under S. 12(o) of the Automotive Business Regulation, the Director must state that clearly. The Director did not state that clearly or at all.
165. Section 1(b) of the Administrative Penalty Regulation states that the Director must specify the regulations relied upon.
166. Two technical violations respecting all-in pricing requirements were a result of miscommunication.
167. With respect to references to City Ford being an AMVIC licensed dealer on its Facebook page, there was no contemporaneous evidence of what was on the "About" section of City Ford's Facebook page.
168. All other advertising that City Ford did showed that City Ford was AMVIC licensed.
169. Allegations regarding advertising a Ford Explorer without a stock number as part of "National Explorer Day" were explained and accepted by the Director as a general invitation to come see Explorers, not to purchase any particular vehicle in inventory.
170. Allegations regarding using a fictitious vehicle identification number to prequalify a consumer for a car loan were explained to and accepted by the Director as a lawful practice.
171. The first two letters sent by the AMVIC inspector were innocuous. They did not lead to the apprehension of any action or administrative penalty.
172. Page 8 of the November 21, 2017 Director's letter only reference the June 13, 2017 investigation letter and issues therein. Any penalty should be proportionate to that.
173. The Director cannot impose a penalty under the Vehicle Inspection Regulation without also referring to Section 12(o) of the Automotive Business Regulation. That leaves out the MFA issues entirely.
174. In the Application Report – Inspections dated July 7, 2017, William Vida's salesperson license is said to have lapsed. William Vida took a leave from the dealership for a period of time, but his employment wasn't terminated, he was expected back and there was no need to advise AMVIC that his salesperson license had lapsed.
175. With respect to allegations that City Ford breached Section 11(1)(2) of the Automotive Business Regulation by not identifying itself as an AMVIC licensed dealer in its Facebook advertising, there is no evidence of that. The Director only produced part of City Ford's Facebook posts and not other parts of its profile on Facebook.
176. With reference to alleged breaches of Section 11(1)(2)(l) of the Automotive Business Regulation (all-in pricing), a breakdown in communication led to the issues and, in any event, they were minor in nature.

177. With respect to the allegation that a Ford Explorer was advertised for sale without a Stock Number contrary to S. 11(1)(2)(m) of the Automotive Business Regulation, the Director has already acknowledged that there's no issue here as City Ford was only promoting Explorers generally as part of National Explorer Day and wasn't advertising any one particular vehicle for sale.
178. With reference to Section 5(1) of the Automotive Business Regulation, City Ford acknowledges that it let its AMVIC license lapse through inadvertence only and corrected that situation immediately upon being notified that the license had lapsed.
179. Allegations under Section 9 of the Automotive Business Regulation are a non-issue.
180. Given the Director's failure to reference Section 12(1)(o) of the Automotive Business Regulation in any of its communications to City Ford, the Director cannot sustain its allegations under Sections 15(1) and 16 of the Vehicle Inspection Regulation.
181. The all-in pricing issues were explained and City Ford acknowledged that it missed renewing its AMVIC license.
182. City Ford tries diligently to comply.
183. In the circumstances, no penalties are warranted.
184. If the objective of AMVIC is to educate dealers to facilitate compliance, the steps City Ford has taken to adjust its policies and practices is evidence that they've taken compliance seriously.
185. There was no economic benefit to City Ford from any of these issues. AMVIC fees and the tire levies go to others.
186. Accordingly, that should be taken into account in assessing an Administrative Penalty pursuant to Section 2(a-f) of the Administrative Penalty Regulation.
187. No Administrative Penalty is warranted at all given there was no moral turpitude, no economic benefit and no consumer complaints driving the investigation.
188. If any Administrative Penalty is assessed, such penalty should be at the lowest end of the scale.

ANALYSIS AND CONCLUSIONS

Having considered the evidence and submission of the parties, this appeal board concludes as follows:

189. The provisions of the Fair Trading Act and associated regulations that the Director alleges were breached by City Ford and this appeal board's conclusions with respect to each allegation follow:

- a. Failure to comply with the all-in pricing requirements of Section 11(2)(I) of the Automotive Business Regulation.**

This appeal Board finds that City Ford did breach the all-in pricing requirements in respect to transactions involving the following stock numbers: 17F942, 16F1689, 17FU180 and 17ES935.

City Ford explained that the over-charging was the result of mistakes or breakdowns in communication from one department to another. These explanations are neither compelling nor do they excuse the violations.

With reference to the Costco discount of \$1,000, this appeal board favors AMVIC's position that advertised prices should reflect the sale price available to all consumers, not just those with Costco membership. A business operator is free to show that a \$1,000 discount from the posted sale price is available to Costco members, but the posted price should show the price available to all consumers.

b. Failure provide current MFAs to consumer before entering into a contract to sell a motor vehicle contrary to Sections 15 and 16 of the Vehicle Inspection Regulation.

This appeal board finds that City Ford did fail to provide MFAs as required by the Vehicle Inspection Regulation in respect to transaction involving the following stock numbers: 16F586A and 16F2202A.

City Ford argues that one MFA was expired by just 9 days and in the other instance, the consumer insisted on purchasing the vehicle without first reviewing an MFA. In either case, the Vehicle Inspection Regulation is clear that a dealer has an obligation to give the buyer a current MFA before the buyer enters into a contract for sale. City Ford's reasons for failing to do so do not excuse their violations.

City Ford argues that the Director has no authority to issue an administrative penalty under the Vehicle Inspection Regulation or regulations under any act other than the Fair Trading Act. City Ford states that pursuant to S. 158.1 of the Fair Trading Act, the Director only has jurisdiction to impose an administrative penalty under the Fair Trading Act and associated regulations. The requirement to provide current MFAs prior to sale is under the Vehicle Inspection Regulation. The Vehicle Inspection Regulation falls under the Highway Traffic Act.

This appeal board takes notice that Section 12(o) of the Automotive Business Regulation requires every business operator to comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles. This appeal board agrees with AMVIC's submission that there was no need for the Director to make specific reference to Section 12(o) of the Automotive Business Regulation in its communications with City Ford in this instance. Section 12(o) of the Automotive Business Regulation confers on the Director the authority to assess business operators' compliance with any legislation dealing with the selling of vehicles. The Director made specific reference in its communications to City Ford about alleged breaches of Section 15 and 16 of the Vehicle Inspection Regulation. That level of specificity satisfied the Director's obligations to give notice to City Ford pursuant to Section 1(b) of the Administrative Penalties(Fair Trading Act) Regulation.

c. Failing to engage in a designated business without a license contrary to Section 104(1) of the Fair Trading Act.

This appeal board finds that City Ford's AMVIC license expired on May 31, 2017 and was not renewed until June 15, 2017 contrary to Section 104(1) of the Fair Trading Act. City Ford's reasons for allowing its license to lapse were not compelling.

d. Failing to ensure that the business operator's advertising indicates in a conspicuous manner that the business operator holds an automotive business license contrary to Section 11(1)(b) of the Automotive Business Regulation.

This appeal board finds that there was insufficient evidence to conclude that City Ford breached the provisions of Section 11(1)(b) of the Automotive Business Regulation.

e. Failing to ensure that advertisements include the stock number of the

specific vehicle that is advertised as being available for sale contrary to Section 11(2)(m) of the Automotive Business Regulation.

This appeal Board finds that there was insufficient evidence to conclude that City Ford breached the provisions of Section 11(2)(m) of the Automotive Business Regulation.

f. Failing to notify the Director that a salesperson (William Vida) was no longer authorized to act on behalf of City Ford contrary to Section 16(7) of the Automotive Business Regulation.

This appeal board finds that there was insufficient evidence to conclude that City Ford breached the provisions of Section 16(7) of the Automotive Business Regulation.

In any event, that provision imposes an obligation on the salesperson, not the business operator. Furthermore, there was no evidence that City Ford allowed William Vida to act as a salesperson while not licensed to do so nor that City Ford ceased to authorize William Vida to act on its behalf (which would trigger an obligation on the business operator to notify the Director pursuant to Section 21(1) of the Automotive Business Regulation.

g. Using a fictitious VIN number to apply for credit on behalf of a consumer contrary to Section 132(1) of the Fair Trading Act.

This appeal board finds that there was insufficient evidence to conclude that City Ford breached the provisions of Section 132(1) of the Fair Trading Act.

DECISION

For the above reasons and considering:

1. The repeated breaches by City Ford of the all-in pricing and MFA requirements between 2015 and 2017 despite repeated notices to adjust their practices;
2. City Ford's representations in its October 16, 2017 letter that it is committed to compliance going forward;
3. The nature and amount of administrative penalties issued by AMVIC to other business operators in similar circumstances;

The November 1, 2017 decision of the Director to issue an administrative penalty in the sum of \$15,000 to City Ford is varied. In place of the \$15,000 administrative penalty imposed by the Director, City Ford is directed to pay an administrative penalty of \$10,000. Payment is to be made to the "Government of Alberta" and submitted to AMVIC within 30 days of receipt of this decision. No costs are awarded to either party.

ISSUED and DATED at the City of Edmonton in the Province of Alberta this 9th day of July, 2018 by the Appeal Board constituted to hear the above referenced matter pursuant to section 179 of the Fair Trading Act and the Appeal Board Regulation thereunder.

Paul Alpern
Caren Mueller
Nick Tywoniuk