

CONSENT AGREEMENT

THIS AGREEMENT is made the *11TH* day of *NOVEMBER*, Two Thousand and Eleven **BETWEEN** the **FAIR TRADING COMMISSION**, a Body Corporate with offices at 52 Grenada Crescent, Kingston 5, in the parish of Saint Andrew (hereinafter referred to as "the Commission") of the **FIRST PART** and the **EMCD GROUP LIMITED**, duly registered under the laws of Jamaica 5 – 6 Beechwood Avenue, Kingston 5, in the parish of Saint Andrew (hereinafter referred to as the "the Respondent") of the **SECOND PART**.

WHEREAS:

1. On September 27, 2010 the Commission received a complaint against the Respondent.
2. The person who brought the complaint (the Informant) asserted that in or about October 2009 the Respondent by way of its member, Jamaica Autoclub, issued an advertisement in brochures to members of the public, stating that persons who became members of its club would receive a 10% discount from participating insurance companies on insurance premiums in addition to their no claim bonuses. The companies listed on the brochure included Globe Insurance Company.
3. The advertisement also stated that, in order to receive the benefit, members should renew their insurance policies at any of the participating companies and brokers – the list of which included Marathon Insurance Brokers.
4. The advertisement was also issued on the Respondent's website on its homepage.
5. Based on the advertisement, in October 2009 the Informant decided to insure her motor vehicle with Globe Insurance Company via its broker, Marathon

Insurance Brokers. At that time, she was advised that if she joined the Respondent club, she would receive a 10% discount.

6. The Informant joined the Respondent club but, on insuring her vehicle, discovered that she received only a 5% discount.
7. The Commission investigated the complaint and concluded that the Respondent's conduct constituted a breach of section 37 of the Fair Competition Act which prohibits businesses from making to the public, representations that are false, misleading or likely to be misleading.
8. The Commission informed the Respondent of the breach.
9. The Respondent recognized that its actions were likely to mislead members of the public and that the offence of Misleading Advertising pursuant to section 37 of the Act is one of absolute liability. Consequently, the Respondent requested that the Commission exercise its discretion to discontinue the investigation and settle the matter in accordance with the *Fair Competition (Notices and Procedures) Regulations 2000*.

IT IS HEREBY AGREED BETWEEN THE PARTIES THAT:

1. Pursuant to Rules 5 and 9 of the *Fair Competition (Notices and Procedures) Regulations 2000*, the Respondent will pay the Commission within thirty (30) days of the date hereof **Sixty-Four Thousand Five Hundred and Twenty Dollars (\$64,520.00)** by way of costs incurred in the investigation of the complaint.
2. Pursuant to Rule 8 of the *Fair Competition (Notices and Procedures) Regulations 2000*, the Respondent shall within thirty (30) days of the date hereof issue a public apology, to be drafted and approved by the staff of the Commission, at the center or top right hand corner of any of the first five pages of the Daily Gleaner newspaper for two consecutive weeks. The wording and

dimensions of the apology shall be according to the exact specifications of the Commission as contained in the Schedule and in accordance with the example attached to this Agreement. A draft of the Public Apology must be submitted to the staff of the Commission for vetting and approval before it is sent to the Press for publication.

3. The Respondent shall not make any public reference to this Agreement without the prior consent of the Commission.
4. The Commission reserves the right to use the facts of this complaint referred to herein, in its public education programme, without recourse to the Respondent.
5. The parties hereto will waive any and all further procedural steps, all rights to seek judicial review or otherwise to challenge or contest the validity of the Agreement. Should the Respondent fail to implement the terms herein agreed, however, the Commission may thereafter withdraw its acceptance of this Agreement and take such actions as it considers appropriate and so notify the Respondent.
6. The Respondent understands and accepts that formal proceedings will be instituted by the Commission if it fails to abide by this Agreement.

SCHEDULE

The Respondent shall, within thirty (30) days of the date hereof, issue a notice at the center or top right hand corner of any of the first five pages of the Daily Gleaner newspaper for two consecutive weeks on Wednesday of each week. The notice shall be entitled 'Public Apology' with a font size of not less than 28 *Times New Roman*. The font size of the text of the notice shall not be less than 18 in *Times New Roman* font-

type and the dimensions of the notice shall not be less than 18 cm by 15½ cm. The name of the Respondent and its member, Jamaica Autoclub, shall be in caps and the 10th to 34th words in the first paragraph shall be in bold print. The words 'Fair Trading Commission' and '10% Discount Insurance Premium Benefit' shall be in italics. A draft of the Public Apology must be submitted to the staff of the Commission for vetting and approval before it is sent to the Press for publication. The notice shall conform to the example which is attached to this Agreement.

EXECUTED UNDER THE COMMON SEAL OF
EMCD GROUP LIMITED



BY DIRECTOR

AND DIRECTOR/SECRETARY

IN THE PRESENCE OF

DIRECTOR/SECRETARY

McLopez
.....)
WITNESS

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) *[Signature]*
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) DIRECTOR

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) *[Signature]*
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) DIRECTOR/SECRETARY

THE FAIR TRADING COMMISSION
BY CHAIRMAN, DERRICK McKOY (DR.)
AND COMMISSIONER,

[Signature]
.....)
WITNESS

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) *[Signature]*
)
) CHAIRMAN
) *[Signature]*
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) COMMISSIONER