

DISCIPLINE DECISION

REVIEWING PANEL: Sherry Darvish, Discipline Tribunal Chair, Public Member
Nelson Caetano, Registrant
Chris Pinelli, Registrant

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 :

ONTARIO MOTOR VEHICLE)
INDUSTRY COUNCIL)
- and -)
2310884 ONTARIO INC.)
o/a KIA ON HUNT CLUB)
- and -)
CHRISTOFOR JORDAN WAZEN)
)
)
)

This matter proceeded by way of Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. This Reviewing Panel has reviewed and considered written materials from the Parties together with a waiver of the requirement for an oral hearing and hereby makes the following Order:

Date of Decision: February 11, 2025

Findings: **2310884 Ontario Inc. o/a Kia On Hunt Club has breached the following:**

- Sections 4(1), (2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Christofor Jordan Wazen has breached the following:

- Sections 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Order:

1. 2310884 Ontario Inc. o/a Kia On Hunt Club (the “Dealer”) shall pay a fine in the amount of **\$9,000** no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
2. Christofor Jordan Wazen (“Wazen”) shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.
3. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the Automotive Certification Course, no later than ninety (90) calendar days from the date of the Discipline Tribunal’s Order.

Overview

This matter proceeded on the basis of an Agreed Statement of Facts, dated November 6, 2024, a jointly proposed disposition and a waiver of oral hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. The Agreed Statement of Facts states in relevant part as follows:

The allegations contained in paragraphs 21-26 and 34-35 of the Notice of Referral to Discipline (“NORD”) dated June 12, 2024, along with parts of paragraph 9 referring to the paragraphs mentioned above, are hereby withdrawn.

Background:

1. 2310884 Ontario Ltd. o/a Kia On Hunt Club (the “Dealer”) was first registered as a motor vehicle dealer in and around October 2013.
2. Christofor Jordan Wazen (“Wazen”), also known as Chris, was first registered as a salesperson in and around March 2015. At all material times, Wazen has been a General Manager and the Person in Charge of the day-to-day activities of the Dealer.

Ontario Motor Vehicle Industry Council (“OMVIC”) Publications

3. Since the Act was proclaimed in 2010, OMVIC has issued various publications, webinars, guidelines and educational materials reminding deals of their all-in pricing obligations. The dates of said publications are attached hereto as Schedule A. Publications continue to be available on OMVIC’s website.

Prior OMVIC Inspections

4. On or about June 23, 2021, a representative of the Registrar conducted an inspection of the Dealer’s books and records. The Registrar’s representative reminded the Dealer of its all-in pricing obligations pursuant to section 36 of O. Reg. 333/08.

Prior OMVIC Communications

5. On or about October 26, 2022, a representative of the Registrar sent an email to Wazen in response to a consumer complaint, reminding the Dealer of its all-in pricing obligations pursuant to section 36 of O. Reg. 333/08.
6. On or about April 4, 2023, a representative of the Registrar sent an email to Wazen in response to a consumer complaint, reminding the Dealer of its all-in pricing obligations pursuant to section 36 of O. Reg. 333/08.
7. On or about November 2, 2023, a representative of the Registrar sent an email to the Dealer in response to a consumer complaint, reminding the Dealer of its all-in pricing obligations pursuant to section 36 of O. Reg. 333/08.

Dealer's Non-Compliance:

8. On or about August 23, 2023, a representative of the Registrar conducted an inspection of the Dealer's premises. The Registrar's representative reviewed 35 motor vehicle deals and cross-referenced the bills of sale with their corresponding advertisements.
9. In summary, four of the bills of sale indicated a charge of \$70 for a Carfax which was not provided to the consumers, and two of them also indicated that the vehicles were sold \$250.20 over the advertised price. The four bills of sale are particularized below:

a. 2023 Kia Sorento, stock# 7049 (VIN# 5XYRKDLF4PG192892)

10. On or before July 6, 2023, the Dealer published an advertisement for the vehicle, with an advertised price of \$52,083 plus taxes and licensing.
11. On or about July 6, 2023, Wazen, on behalf of the Dealer, sold this new vehicle to a consumer. The bill of sale indicated that the consumer was charged \$70 for a Carfax report; however, the Carfax report was not provided to the consumer. As the transaction involved a new vehicle from the Dealer without a trade-in from the consumer, a Carfax report may not have been necessary. By charging for a product that was not actually provided to the consumer, the Dealer contravened sections 4(1) and 9(3) of the Code of Ethics.
12. On or about November 13, 2023, the Dealer reimbursed the consumer \$70.
13. The basic manufacturer's suggested retail price ("MSRP") of the vehicle was \$49,395. The consumer was charged the following mandatory fees:
 - Paint fee of \$250
 - Freight of \$1,950
 - Admin fee of \$599
 - Air Tax of \$100
 - OMVIC fee of \$10
 - Tire Levy of \$29.20

14. Adding these mandatory fees to the basic MSRP leads to a total of \$52,333.20, which was \$250.20 higher than the advertised price of \$52,083. Factoring in HST, the consumer paid \$282.72 above the sum of the advertised price and HST.

15. As such, the Dealer's advertised price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, and therefore, a violation of sections 4(2) and 9(3) of the Code of Ethics.

16. On or about November 21, 2023, the Dealer reimbursed the consumer \$282.50.

b. 2023 Kia Niro EV, stock #7054 (VIN# KNDCR3L14P5063267)

17. On or about July 25, 2023, the Dealer sold this new vehicle to a consumer. The bill of sale indicated that the consumer was charged \$70 for a Carfax report; however, the Carfax report was not provided to the consumer. As the transaction involved a new vehicle from the Dealer without a trade-in from the consumer, a Carfax report may not have been necessary. By charging for a product that was not actually provided to the consumer, the Dealer contravened sections 4(1) and 9(3) of the Code of Ethics.

18. On or about November 13, 2023, the Dealer reimbursed the consumer \$70.

c. 2023 Kia Sportage, stock# 7056 (VIN# KNDPVCAG4P7086802)

19. On or about July 25, 2023, the Dealer sold this new vehicle to a consumer. The bill of sale indicated that the consumer was charged \$70 for a Carfax report; however, the Carfax report was not provided to the consumer. As the transaction involved a new vehicle from the Dealer without a trade-in from the consumer, a Carfax report may not have been necessary. By charging for a product that was not actually provided to the consumer, the Dealer contravened sections 4(1) and 9(3) of the Code of Ethics.

20. On or about November 13, 2023, the Dealer reimbursed the consumer \$70.

d. 2023 Kia Sorento, stock# 7069 (VIN# KNDRJDLH0P5178128)

21. On or before July 13, 2023, the Dealer published an advertisement for the vehicle, with an advertised price of \$50,483 plus taxes and licensing.

22. On or about July 13, 2023, Wazen, on behalf of the Dealer, sold this new vehicle to a consumer. The RBOS indicated that the consumer was charged \$70 for a Carfax report; however, the Carfax report was not provided to the consumer. As the transaction involved a new vehicle from the Dealer without a trade-in from the consumer, a Carfax report may not have been necessary. By charging for a product that was not actually provided to the consumer, the Dealer contravened sections 4(1) and 9(3) of the Code of Ethics.

23. On or about November 13, 2023, the Dealer reimbursed the consumer \$70.

24. The basic MSRP of the vehicle was \$47,795, and the consumer was charged the following mandatory fees:

- Paint fee of \$250

- Freight of \$1,950
- Admin fee of \$599
- Air Tax of \$100
- OMVIC fee of \$10
- Tire Levy of \$29.20

25. Adding these mandatory fees to the basic MSRP leads to a total of \$50,733.20, which was \$250.20 higher than the advertised price. Factoring in HST, the consumer paid \$282.72 above the sum of the advertised price and HST.

26. As such, the Dealer's advertised price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, and therefore, a violation of sections 4(2) and 9(3) of the Code of Ethics.

27. On or about November 21, 2023, the Dealer reimbursed the consumer \$282.50.

Wazen's Non-Compliance:

28. By acting as a salesperson in some of the transactions described above, and as the General Manager and Person in Charge of the Dealer's day-to-day activities, Wazen failed to ensure that the Dealer conducted its business in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.

29. As particularized above, the Dealer has violated the following section of the Code of Ethics:

Disclosure and marketing

s. 4(1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.

s. 4(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

30. As particularized above, the Dealer and Wazen have violated the following section of the Code of Ethics:

Professionalism

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

31. As particularized above, Wazen has violated the following section of the Code of Ethics:

Accountability

s. 6(2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to

contravene this Regulation or any applicable law with respect to trading in motor vehicles.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts and written submissions provided by the Parties, the Reviewing Panel is satisfied that the evidence contained in the Agreed Statement of Facts substantiates the allegations that: (1) the Dealer has breached subsections 4(1), 4(2) and 9(3) of the OMVIC Code of Ethics; (2) Wazen has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the parties' proposed resolution for the reasons below.

Reasons for Decision

The Reviewing Panel received and considered comprehensive written materials from the parties and was left satisfied that the proposed resolution has no risk of being contrary to the public interest. The outcome is clearly connected to the admitted breaches of the Code of Ethics and consistent with other outcomes ordered in this Tribunal in similar cases. In such circumstances, disposition under Rule 1.07 is appropriate and ordered accordingly.

Ontario Motor Vehicle Industry Council
Discipline Tribunal

Dated: February 11, 2025

S. Darvish

Sherry Darvish, Discipline Tribunal Chair,
Public member
On behalf of:

Nelson Caetano, Registrant
Chris Pinelli, Registrant

