

**DISCIPLINE COMMITTEE OF THE ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL**

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

**BETWEEN:**

**REGISTRAR, MOTOR VEHICLE DEALERS ACT, 2002**

**- and -**

**2226960 ONTARIO INC o/a ANDERSON KIA**

**- and -**

**LEE ANDERSON**

**AGREED STATEMENT OF FACTS AND PENALTY**

2226960 Ontario Inc o/a Anderson Kia has breached the following:

Section 4, and 7 of the Code of Ethics, Regulation 332/08

Lee Anderson has breached the following:

Section 6 of the Code of Ethics, Regulation 332/08

2226960 Ontario Inc o/a Anderson Kia and Lee Anderson have breached the following:

Section 9 of the Code of Ethics, Regulation 332/08

**Background**

1. 2226960 Ontario Inc o/a Anderson Kia (the "Dealer") was first registered as a motor vehicle dealer in around January 2010. Lee Anderson ("Anderson") was first registered as a motor vehicle sales person in around August 1996. Since becoming registered, Anderson has been the sole officer, as well as a person in charge of the day to day activities of the Dealer.
2. On or about March 10, 2010, Anderson successfully completed Automotive Certification course (the "Course"). Included in the Course materials is dealers requirement to advertise all-inclusive vehicle prices ("all-in pricing").



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**OMVIC registrant education re: all-in pricing**

1. Since the Act was proclaimed, OMVIC has issued the following publications and webinars reminding dealers of their all-in pricing obligations, all of which continue to be available on OMVIC's website:

	Dealer Standard		Bulletin		Webinar
A	Winter 2008	U	January 2010	BB	April 2015
B	Spring 2010	V	April 2010	CC	April 2017
C	Spring 2011	W	February 2012		
D	Winter 2013	X	August 2012		
E	Spring 2013	Y	April 2014		
F	Summer 2013	Z	June 2014		
G	2014: Issue 1	AA	April 2015		
H	2014: Issue 2				
I	2014: Issue 3				
J	2014: Issue 2				
K	2015: Issue 3				
L	2015: Issue 4				
M	2016: Issue 1				
N	2016: Issue 2				
O	2016: Issue 3				
P	2016: Issue 4				
Q	2017: Issue 2				
R	2017: Issue 3				
S	2018: Issue 2				
T	2019: Issue 2				

**Direct correspondence with Dealer:**

2. During an inspection on or about June 5, 2014, the Dealer was reminded of its all-in pricing obligations.

  
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**Dealer's current non-compliance**

3. During an inspection on or about November 20, 2019, a representative of the Registrar found the Dealer had sold the following 2 vehicles, above their advertised prices:
  - a. On or about October 30, 2019, the Dealer sold a 2012 Kia Optima (Stock# 20028A). The Dealer added a \$199 administration fee, as well as the \$10 OMVIC fee to the vehicle's advertised price of \$9,995. As such, the Dealer's advertised price was not all inclusive. This is contrary to section 36(7) of Regulation 333/08, as well as sections 4 and 9 of the Code of Ethics. The Dealer made unsuccessful attempts to contact the purchaser regarding this.
  - b. On or about November 11, 2019, the Dealer sold a 2017 Kia Sportage (Stock# 20088A). The Dealer added a \$199 administration fee to the vehicle's advertised price of \$18,995. Initially, this appeared to be contrary to the "all-in pricing" scheme required by Ontario Regulation 333/08. The consumer has since confirmed that they agreed to the administration fee, which formed a part of the vehicle price negotiations, and which included an additional winter tire package. While the purchaser was apparently aware of the additional fee, the bill of sale failed to itemize the tire package and its retail value. This is contrary 40(2) of Regulation 333/08, as well as sections 4, 7 and 9 of the Code of Ethics.
4. As a person in charge of the Dealer, Anderson has failed to ensure that the Dealer conducts its business in compliance with the Act and Code of Ethics and thus has personally contravened sections 6 and 9 of the Code of Ethics.

By failing to comply with the following section of the Act:

Regulation 333/08:

**36. Advertising:**

*(7) If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,*

*(a) the amount that a buyer would be required to pay for the vehicle; and*

*(b) subject to subsections (9) and (10), all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.*

**40. Contracts for sales of used motor vehicles**

**(2) A registered motor vehicle dealer shall ensure that any contract that the dealer enters into to sell a used motor vehicle to a purchaser who is not another registered motor vehicle dealer includes, in a clear, comprehensible and prominent manner, the following:**



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1. The matters required under paragraphs 1 to 3, 5 to 10, 14 to 19 and 21 to 27 of subsection 39 (2).

*39. Contracts for sales of new motor vehicles*

(2) A registered motor vehicle dealer shall ensure that any contract that the dealer enters into to sell a new motor vehicle to a purchaser who is not another registered motor vehicle dealer includes, in a clear, comprehensible and prominent manner, the following:

15. An itemized list of items or inducements, including guarantees or extended warranties, service plans or rights under sales policies if the dealer has agreed to provide the items or inducements to the purchaser and there is no extra charge to the purchaser for them beyond the total sale price of the motor vehicle under the contract, and the list shall show a fair and accurate description and the retail value, if any, of each of the items or inducements.

It is thereby agreed that the Dealer has breached section 4(2) of the Code of Ethics, as set out in regulation 332/08:

*Disclosure and marketing:*

*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.*

*Compliance*

*7(1) 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.*

It is thereby agreed that Anderson has breached section 6(2) of the Code of Ethics, as set out in Regulation 332/08;

*Accountability:*

*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.*

It is thereby agreed that the Dealer and Anderson have breached section 9(1) of the Code of Ethics, as set out in Regulation 332/08:

*Professionalism*

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

**JOINT SUBMISSION ON PENALTY:**

1. The Dealer agrees to pay a fine in the amount of \$4,000 no later than **November 30, 2020.**

  
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2. Anderson Kia agrees to successfully complete the MVDA Key Elements Course Automotive no later than November 30, 2020.
3. The Dealer agrees to ensure all sales staff employed by the Dealer have reviewed the August 2017 OMVIC advertising webinar. The Dealer will provide OMVIC with written confirmation from said staff that this has occurred, no later than November 30, 2020.
4. The Dealer agrees to offer all current and future sales staff the opportunity to complete the Course. Current sales staff will be offered the Course no later than November 30, 2020. 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.
5. The Dealer and Anderson agree to comply with the Act and Standards of Business Practice, as may be amended from time to time.

**By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.**

DATED AT WOODSTOCK THIS 19<sup>TH</sup> DAY OF AUGUST, 2020

LEE ANDERSON

(please print)

[Handwritten Signature]

(signature)

I have authority to bind the corporation:  
2226960 Ontario Inc o/a Anderson Kia

**By signature below, I acknowledge that I have read and understand the penalty outlined herein and agree to the said terms and/or conditions and that I exercised my right to be represented by Counsel or agent in this matter. I understand, acknowledge and consent**

[Handwritten Initials]  
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to waive the requirement for a hearing and to request an Order from the Chair of the Discipline Committee that includes this Agreed Statement of Facts and Penalty as a final settlement of this matter.

DATED AT WOODSTOCK THIS 19<sup>TH</sup> DAY OF AUGUST, 2020

LEE ANDERSON

(please print)

[Signature]

(signature)  
Lee Anderson

By signature below the Registrar agrees, acknowledges, understands and consents to the final settlement of this matter by way of this Agreed Statement of Facts and Penalty.

DATED AT Toronto THIS 26<sup>TH</sup> DAY OF August, 2020

[Signature]

John Carmichael  
Registrar, *Motor Vehicle Dealers Act, 2002*

Pursuant to Rule 1.07, I accept this Agreed Statement of Facts and Penalty from the Parties identified above:

DATED AT Ancaster THIS 28 DAY OF August, 2020

[Signature]

Paul Burroughs  
Chair, Discipline Committee of the

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Ontario Motor Vehicle Industry Council

  
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