

Findings:

The Dealer has breached the following sections of the Code of Ethics, ON Regulation 333/08:

Disclosure and marketing

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.

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.

DECISION AND REASONS

Introduction

This was a hearing before a panel of the Discipline Tribunal (the "Panel") of the Ontario Motor Vehicle Industry Council ("OMVIC") pursuant to section 17 of the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Schedule B ("MVDA"). OMVIC has a mandate to maintain a fair and informed marketplace by protecting the rights of consumers, enhancing industry professionalism, and ensuring fair, honest, and open competition for registered motor vehicle dealers.

The hearing was convened April 22, 2025 (the "Hearing"). The Hearing was held virtually using video conferencing with the consent of the parties.

The Allegations

The allegations against Anderson Kia, and Ms. Lee Betty Anderson were set out in a Notice of Complaint, dated April 28, 2024. The Notice of Complaint was entered as

Exhibit 1 at the Hearing. The Notice of Complaint is attached to these reasons as Appendix "A".

At the outset of the Hearing, counsel for OMVIC, Mr. Jonathan Hou, advised that discussions with the responding party had resulted in an agreement which they intended to present.

Plea of the Registrants

Ms. Lee Betty Anderson did not attend the Hearing, as the allegations against her were being withdrawn in the Agreed Statement of Facts. Mr. Dale Anderson was in attendance on behalf of 2226960 Ontario Inc O/A Anderson Kia (the "Dealer"). Mr. Anderson was not represented by counsel. The Panel confirmed on the record that Mr. Anderson understood that he had the right to be represented by counsel at the hearing, and that he wished to proceed without counsel. The Dealer was admitting allegations against the Dealer contained in the Notice of Complaint through admissions contained in the Agreed Statement of Facts. A plea inquiry was conducted by the Panel Chair. At the conclusion of that process, the Panel was satisfied that the admissions of the Dealer were voluntary, informed, and unequivocal.

Agreed Statement of Facts

The Agreed Statement of Facts² which had been signed by the Dealer on February 11, 2025, and OMVIC on February 11, 2025, was entered as Exhibit 2 at the Hearing (the "ASF"). The ASF is attached to these reasons as Appendix "B". Mr. Hou, on behalf of OMVIC, took the Panel through the ASF and then Mr. Anderson was given an opportunity to speak to the ASF. The Panel then sought and received advice from its Independent Legal Counsel, Mr. Marrocco, before rising to deliberate on the merits portion of the Hearing.

² Prior to the beginning of the Hearing, the exhibits were delivered to the Panel members electronically in the interests of hearing economy and on consent of the parties.

Decision of the Panel

Upon reconvening, the Panel stated it was accepting the ASF and was satisfied that the evidence and admissions contained in the ASF were sufficient to make findings of breaches against the Dealer as alleged in the Notice of Complaint. The Panel made findings against Anderson Kia accordingly. In reaching its decision the Panel relied exclusively on the evidence contained in the ASF.

The Panel made the following findings:

The Dealer has breached the following sections of the Code of Ethics, ON Regulation 333/08:

Disclosure and marketing

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.

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.

Penalty

The Panel was presented with a Joint Submission on Penalty (the "JSP") which was signed by the parties February 11, 2025 and was entered as Exhibit 3. The terms of the JSP are that:

1. 2226960 Ontario Inc. o/a Anderson Kia (the "Dealer") shall pay a fine in the amount of **\$3,500** no later than ninety (90) calendar days from the date of the Discipline Tribunal's Order.
2. 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.

Mr. Hou, on behalf of OMVIC, stated that the proposed penalty was appropriate in all the circumstances, presenting similar decisions where all-in pricing was not adhered to and breaking down the fines ordered in those matters in terms of quantifying a fine value on a per incidence framework. Among other things, counsel noted that the Dealer had one prior discipline tribunal order for non-compliance with all-in pricing which is an aggravating factor. Mr. Hou took the Panel to an OMVIC letter³ to Anderson Kia concerning a September 2024 visit of an investigator to Anderson Kia. On that visit the reviewed advertised vehicles were compliant with all-in pricing, this Mr. Hou submitted that this was a mitigating factor. Mr. Anderson then took the opportunity to speak of his personal history of compliance managing another dealership undertaking to bring that same managerial diligence to the Dealer.

Penalty Decision and Reasons

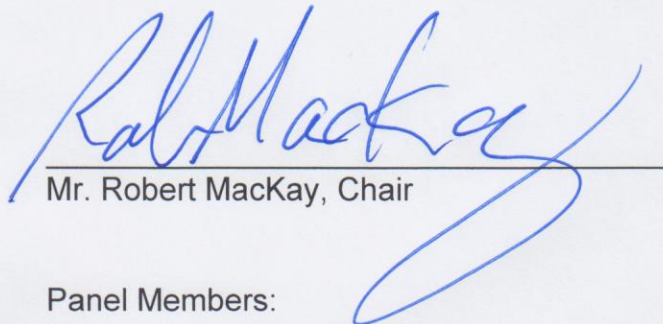
The Panel was satisfied that the parties had come to an appropriate resolution which contemplated the relevant objective on penalty including public protection, remediation/rehabilitation and specific deterrence for the Dealer, and general deterrence to others in the profession. The Panel noted that the Dealer saved all the parties the delay and expense that would have otherwise been incurred in deciding the allegations at a contested hearing. The Panel also had no concern that the proposed penalty in the JSP could undermine the publicly perceived integrity of the Tribunal.

The Panel therefore made the following orders, consistent with the JSP, before the conclusion of the hearing:

1. 2226960 Ontario Inc. o/a Anderson Kia shall pay a fine in the amount of \$3,500 no later than ninety (90) calendar days from the date of this Order, and
2. 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 this Order.

³ OMVIC Book of Document page 90. Exhibit 4.

I, Robert MacKay, sign this decision and reasons for the decision as Chair of this discipline Panel and on behalf of the members of the discipline Panel as listed below.



Mr. Robert MacKay, Chair

Date: April 27, 2025

Panel Members:

Mr. Nelson Caetano
Mr. Robert MacKay
Mr. Joe Malfara

Appendix "A"

IN THE MATTER OF THE VIOLATION OF THE CODE OF ETHICS and Standards of Business Practice

TO: 2226960 Ontario Inc. o/a Anderson Kia
1231 Dundas St
Woodstock, ON
N4S 7V9

AND TO: Lee Betty Anderson
204 Evans St
Flesherton, ON
N0C 1E0

NOTICE OF COMPLAINT

Take notice that pursuant to section 17 of the Motor Vehicle Dealers Act, 2002, ("the Act"), the Registrar is issuing a Notice of Complaint against 2226960 Ontario Inc. o/a Anderson Kia, for violating the Code of Ethics, as set out in Ontario Regulation 332/08.

REASONS

Section 17 of the Act establishes a Discipline Committee and empowers the Discipline Committee to deal with breaches of the Code of Ethics. The Code of Ethics applies to all Dealers and Salespeople registered under the *Motor Vehicle Dealers Act, 2002*. Any Registrants that disregard or violate the Code of Ethics are subject to having their conduct reviewed by the Discipline Committee. The Code of Ethics requires that all Registrants conduct business with Integrity, Accountability, Compliance, Respect and Professionalism as well as ensuring that minimum requirements are met when it comes to Disclosure in Marketing and the Disclosure of Information in Contracts of Sale and Lease. 2226960 Ontario Inc. o/a Anderson Kia have violated one or more of the principles of the Code of Ethics and should therefore have their conduct reviewed by the Discipline Committee.

PARTICULARS

The reasons for this notice are:

Background:

1. 2226960 Ontario Inc. o/a Anderson Kia (the "Dealer") was first registered as a motor vehicle dealer in and around January 2010.
2. Lee Betty Anderson ("Anderson") was first registered as a salesperson in and around August 1996. At all material times, Anderson was an Officer as well as the Person in Charge of the day-to-day activities of the Dealer.

3. On or about December 21, 2023, an authorized individual (the "Authorized Individual") submitted a "Business Change Notice – Individuals / Amalgamation" form on behalf of the Dealer, indicating that Anderson was being removed as the Person in Charge and would not be continuing with the Dealer in any other capacity.

OMVIC Publications:

4. Since the Act was proclaimed in 2010, OMVIC has issued various publications, webinars, guidelines and educational materials reminding registrants 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 Inspection:

5. On or about June 5, 2014, a representative of the Registrar conducted an inspection of the Dealer's premises. The Registrar's representative reminded Anderson about the Dealer's all-in pricing obligations under section 36 of O. Reg. 333/08.

Prior Communications from OMVIC:

6. On or about June 24, 2020, in response to a consumer complaint, a representative of the Registrar sent an e-mail to Anderson, reminding her to ensure that prices in advertisements are accurate.

Prior Notice of Complaint:

7. On or about November 20, 2019, a representative of the Registrar conducted an inspection of the Dealer's premises. The Registrar's representative reviewed five deals and found non-compliance with section 36(7) of O. Reg. 333/08.
8. On or about August 28, 2020, the Discipline Committee found that the Dealer and Anderson contravened the Code of Ethics. In particular, there were five advertisements published by the Dealer which failed to comply with the all-in pricing obligations pursuant to section 36(7) of O. Reg. 333/08. The Dealer was ordered to pay a fine in the amount of \$4,000, to ensure that all sales staff reviewed the OMVIC advertising webinar, and to offer all current and future sales staff the opportunity to complete the Automotive Certification Course. Anderson was ordered to successfully complete the MVDA Key Elements Course.
9. On or about November 19, 2020, the Authorized Individual sent an e-mail to a representative of the Registrar, providing proof of compliance with the Discipline Committee's orders.

Dealer's Non-compliance:

10. On or before September 28, 2023, the Dealer published an advertisement for a green 2016 Kia Soul EX, stock# 24011B (VIN# KNDJP3A5XG7860193) with an advertised price of \$17,995 plus taxes and licensing.
11. On or about the same date, an OMVIC Representative made inquiries about the vehicle, while posing as a member of the public.
12. A salesperson, acting on behalf of the Dealer, provided the OMVIC Representative with a worksheet for the vehicle. The following additional charges were added to the price of the vehicle:
 - a. "Fees" of \$698.43
 - b. "Protection" fee of \$399

13. The salesperson explained that the "Fees" of \$698.43 was composed of an Admin fee of \$599, with the remainder being a PPSA fee. The "Protection" fee of \$399 was a tire warranty and key fob replacement warranty.
14. The OMVIC Representative inquired about the option of not taking the "Protection". The salesperson replied by saying that they did not remove it from any deals because used cars were hard to find.
15. As such, the Dealer's advertised vehicle price was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.

Anderson's Non-compliance:

16. Anderson 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.

Please provide a written Statement of Response to the particulars set out above, to OMVIC within 15 days of service of this notice.

The Discipline Committee can order one or more of the following:

- Dismiss the file;
- Order a fine up to \$25,000;
- Require the registrant to take further educational courses
- If the Registrant is a motor vehicle dealer, require the motor vehicle dealer to fund educational courses for salespersons employed by the dealer or to arrange and fund such educational courses.
- Award Costs

Decisions of the Discipline Committee will be published. Hearings before the Discipline Committee will be recorded.

APPLICATION OF THE STATUTORY POWERS PROCEDURE ACT

The *Statutory Powers Procedure Act*, (R.S.O. 1990, Chapter S.22), as amended, applies to the hearing to be held by this Discipline Committee. A party to a proceeding may be represented by counsel or an agent.

The Registrar states that the good character, propriety of conduct or competence of the Dealer shall be an issue in any hearing before the Discipline Committee and OMVIC has, therefore, furnished herein reasonable information of allegations with respect thereto.

The Rules of Practice of the Discipline Committee will apply, copy attached. A Notice of Hearing and Book of Disclosure will be provided in accordance with the Rules of Practice of the Discipline Committee.

Take note that as per the attached Rules of Practice, failure to attend a hearing before the Discipline Committee will result in a decision being determined ex parte, in your absence.

APPLICATION OF THE RULES OF PRACTICE OF THE DISCIPLINE COMMITTEE

This is to serve notice that the Registrar shall make application for its cost 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, Standards of Business Practice.

DATED at Toronto, this 28th day of April, 2024

Maureen Harquail

Registrar

Motor Vehicle Dealers Act, 2002

Appendix "B"
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

BETWEEN:

ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL

- and -

2226960 ONTARIO INC o/a ANDERSON KIA

AGREED STATEMENT OF FACTS

2226960 Ontario Inc. o/a Anderson Kia (the "Dealer") has breached the following:

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

The allegations against Lee Betty Anderson contained in paragraphs 2, 3, 5, 6, 8, and 16 of the Notice of Complaint ("NOC") dated April 28, 2024 are hereby withdrawn.

Amendment:

1. The NOC is amended to reflect that the Ontario Motor Vehicle Industry Council ("OMVIC") replaces the Registrar, *Motor Vehicle Dealers Act, 2002* as a party to this proceeding.

Background:

2. 2226960 Ontario Inc. o/a Anderson Kia (the "Dealer") was first registered as a motor vehicle dealer in and around January 2010.

OMVIC Publications:

3. Since the *Motor Vehicle Dealers Act, 2002* (the "Act") was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding registrants of their all-in pricing obligations. The dates of said publications are attached hereto as Schedule "A". Educational materials continue to be available on OMVIC's website.

Prior OMVIC Inspection:

4. On or about June 5, 2014, a representative of the Registrar conducted an inspection of the Dealer's premises. The Registrar's representative reminded the Dealer about its all-in pricing obligations under section 36 of O. Reg. 333/08.

Prior OMVIC Communications:

5. On or about June 24, 2020, in response to a consumer complaint, a representative of the Registrar sent an e-mail to the Dealer, reminding the Dealer to ensure that prices in advertisements are accurate.

Prior Discipline Committee Order:

6. On or about November 20, 2019, a representative of the Registrar conducted an inspection of the Dealer's premises. The Registrar's representative reviewed five deals and found non-compliance with section 36(7) of O. Reg. 333/08.
7. On or about August 28, 2020, the Discipline Committee found that the Dealer contravened the Code of Ethics. In particular, there were two advertisements published by the Dealer which failed to comply with the all-in pricing obligations pursuant to section 36(7) of O. Reg. 333/08. The Dealer was ordered to pay a fine in the amount of \$4,000, to ensure that all sales staff reviewed the OMVIC advertising webinar, and to offer all current and future sales staff the opportunity to complete the Automotive Certification Course.
8. On or about November 19, 2020, the Dealer sent an e-mail to a representative of the Registrar, providing proof of compliance with the Discipline Committee's orders.

Dealer's Non-Compliance:

9. On or before September 28, 2023, the Dealer published an advertisement for a green 2016 Kia Soul EX, stock# 24011B (VIN# *860193) with an advertised price of \$17,995 plus taxes and licensing.
10. On or about the same date, an OMVIC Representative made inquiries about the vehicle, while posing as a member of the public.
11. A salesperson, acting on behalf of the Dealer, provided the OMVIC Representative with a worksheet for the vehicle. The following additional charges were added to the price of the vehicle:
 - c. "Fees" of \$698.43
 - d. "Protection" fee of \$399
12. The salesperson explained that the "Fees" of \$698.43 was composed of an Admin fee of \$599, with the remainder being a PPSA fee. The "Protection" fee of \$399 was a tire warranty and key fob replacement warranty.

13. The OMVIC Representative inquired about the option of not taking the "Protection". The salesperson replied by saying that they did not remove it from any deals because used cars were hard to find.

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

DISPOSITIONS

15. As particularized above, the Dealer has violated the following sections of the Code of Ethics:

Disclosure and marketing

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.

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.

By signature below, I acknowledge, understand and agree to the facts and dispositions outlined herein, and that I acknowledge and understand my right to obtain independent legal advice in this matter.

DATED AT _____ THIS _____ DAY OF _____, 2024

Print Name: I have the authority to bind the Dealer

Signature: I have the authority to bind the Dealer

By signature below OMVIC acknowledges, understands and agrees with the facts and dispositions outlined herein.

DATED AT _____ THIS _____ DAY OF _____, 2024

Yi Jiang (Jonathan) Hou
Legal Counsel
Ontario Motor Vehicle Industry Council