



Investigation File No.: C-22-10-153  
Hearing File No.: H-24-01-002

**UNDERTAKING**

**IN THE MATTER OF THE *MOTOR DEALER ACT*, RSBC 1996, c 316 and the  
*BUSINESS PRACTICES AND CONSUMER PROTECTION ACT*, SBC 2004, c 2**

**BETWEEN:**

Applewood Kia  
(DL# 10659)

(the "Respondent")

**AND:**

The Registrar of Motor Dealers

**WHEREAS:**

1. The Respondent is a Motor Dealer as defined in the *Motor Dealer Act* ("the **MDA**"), incorporated in accordance with the laws of British Columbia operating under the name, Applewood, and registered with the Vehicle Sales Authority of BC ("**VSA**") under Motor Dealer Licence No. 10659.
2. The Registrar of Motor Dealers is the Registrar as defined in the MDA, ("the **Registrar**"), and is responsible for the administration and enforcement of the MDA, its regulations, and the prescribed provisions of the *Business Practices and Consumer Protection Act* ("the **BPCPA**").
3. The Respondent is the subject of an investigation launched by the VSA in response to a complaint made by consumers, Christopher and Chantelle Clarke ("**the Clarkes**"). The complaint and investigation findings are outlined in VSA File No. C-22-10-153 and the investigation report of VSA investigations officer, Jared Collier ("**IO Collier**") dated August 8, 2023.

**AND WHEREAS:**

4. On March 19, 2022, the Clarkes purchased a 2022 Kia Sorento ("the **Sorento**") from the Respondent for a price agreed upon by the parties.  
Withheld in accordance with Section 22(3)(f) of FOIPPA
5. When the Respondent applied for financing on behalf of the Clarkes, it declared to the lender that they would include a \$ [REDACTED] down payment towards their purchase of the Sorento. The Clarkes have stated that they never intended or discussed with the Respondent putting such an amount as a down payment.
6. The Purchase Agreement prepared by the Respondent and provided to the Clarkes failed to state the date of purchase, included an additional \$ [REDACTED] charge for "accessories" without  
Withheld in accordance with Section 22(3)(f) of FOIPPA

describing what those were and it further included a combined charge of \$ [REDACTED] for "Freight & AC" without indicating how that amount was divided between "freight" and "AC".

7. As part of the investigation, the Respondent confirmed that its declaration to the lender that the Clarkes had made a down payment when in fact they had not may have been made to make the loan application more appealing to the lender and therefore more likely to be approved. The Respondent could not provide an answer regarding which accessories if any were purchased by the Clarkes for \$ [REDACTED] Withheld in accordance with Section 22(3)(f) of FOIPPA
8. The Registrar asserts the Respondent has contravened the following legislation:
  - a. Section 5(1) of the BPCPA by engaging in a deceptive act or practice in respect of a consumer transaction by falsely representing to a lender on the Clarkes' behalf that the Clarkes had included a \$ [REDACTED] down payment as part of their purchase of the Sorento when they knew it not to be the case; Withheld in accordance with Section 22(3)(f) of FOIPPA
  - b. Section 21(1)(b) of the *Motor Dealer Act Regulation* ("MDAR"), for failing to include the date of purchase on the Purchase Agreement;
  - c. Section 21(1)(g) of the MDAR for failing to include in the Purchase Agreement particulars of the accessories added to the Sorento;
  - d. Section 21(1)(l) of the MDAR for failing to include in the Purchase Agreement an itemized list of the cost of any other charges for which the Clarkes were responsible, namely, the "Freight and AC" charge.

**NOW THEREFORE** the Respondent undertakes, acknowledges, and agrees with the Registrar:

1. To comply with the MDA, MDAR, BPCPA, and the sections thereunder;
2. To pay an Administrative Penalty in the amount of **\$25,000.00** in relation to the subject matter of this Undertaking as per the Notice of Administrative Penalty which will be provided to the Respondent upon receipt of the fully executed and filed Undertaking;
3. To reimburse the Registrar a total of **\$657.02** representing 100% of the investigation costs incurred to date in relation to the subject matter of this Undertaking within thirty (30) days of the Registrar signing this Undertaking;
4. That this Undertaking is binding on the Respondent until such time as it is either terminated in writing by the Registrar or terminated by Order of the Supreme Court of British Columbia;
5. That in addition to rendering the Respondent liable to further penalties and proceedings as provided for under the BPCPA, it is an offense under the BPCPA to fail to comply with any part of this Undertaking that has not been previously terminated;
6. That the Registrar may, upon breach of any part of this Undertaking by the Respondent, declare the Undertaking to be at an end and may institute such proceedings and take such action under the BPCPA, or the Act as considered necessary; and
7. That any communication with the Registrar in connection with this Undertaking shall be made to the following address:

Registrar of Motor Dealers  
Vehicle Sales Authority of B.C.  
#280 – 8029 199<sup>th</sup> Street  
Langley, BC V2Y 0E2

And in the case of the Respondent Motor Dealer, to the following address:

Applewood Kia  
16299 Fraser Highway,  
Surrey, BC V4N 0G1

unless another address for delivery is given to the other party, in writing, by either the Registrar or the Motor Dealer.

The Respondent acknowledges and warrants that they have had an opportunity to seek legal advice as to the terms of this Undertaking.

APPLEWOOD KIA (MOTOR DEALER# 10659)

Per:



Withheld in accordance with  
Section 22(3)(b) of FOIPPA

Signature

JEREMY DALY  
Name of Authorized Signatory

) ACCEPTED by the Registrar of Motor Dealers this  
\_\_\_\_\_ 10th \_\_\_\_\_ day of \_\_\_\_\_ January \_\_\_\_\_ 2023.

) "Original signed"

) \_\_\_\_\_  
Kenneth Affleck, K.C.  
Registrar of Motor Dealer