

May 2, 2023

Administrative Review – 23-03-008
Served Personally

Administrative Penalty

1941620 ALBERTA LTD.
o/a STRAIGHTLINE KIA
100 GLENDEER CIRCLE SE
CALGARY, AB
T2H 2V4

Attention: William Elkington, Douglas Goubault, Charles Sanders and Christopher Tonkin

Dear William Elkington, Douglas Goubault, Charles Sanders and Christopher Tonkin:

**Re: 1941620 Alberta Ltd. operating as Straightline Kia
– Provincial Automotive Business Licence No. B2016962**

As the Director of Fair Trading (as delegated) (the “Director”), I am writing to you pursuant to Section 158.1(1) of the *Consumer Protection Act* (“CPA”) to provide you with written notice of the Administrative Penalty issued under that section.

Facts

The evidence before me in relation to this matter consists of the material contained in an Alberta Motor Vehicle Industry Council (“AMVIC”) industry standards department application report (the “Application Report”) prepared by an industry standards officer (“ISO”) and the manager of industry standards. A copy of the Application Report is attached as Schedule “A” to this letter.

Licensee Status

1941620 Alberta Ltd. o/a Straightline Kia (the “Supplier”) holds an automotive business licence and is licensed to carry on the designated business activities of new and used sales, garage, leasing, specialty service and wholesale sales in the Province of Alberta.

History

As a result of a consumer complaint and subsequent investigation, the Supplier voluntarily agreed to enter into an Undertaking on **Aug. 25, 2020**. The conditions outlined in the Undertaking specifically stated:

1. *The Supplier acknowledges and admits that it failed to comply with the provisions of the CPA and ABR and undertakes to the Director that the Supplier will make every effort to ensure that it does not engage in acts or practices similar to those described above.*
2. *The Supplier will undertake to immediately implement a BOS that meets the legislative requirements and will properly complete the BOS to comply with Section 31.2 of the ABR. In addition, the Supplier will ensure that when completing a BOS it is not ambiguous to the material facts and accurately itemizes all fees, charges, trade-in values and inducements.*
3. *The Supplier will undertake to ensure that marketing companies acting on behalf of the Supplier have been registered with AMVIC for any sales events and that their salespeople are appropriately registered before engaging as a designated agent as per Section 20.1 of the ABR.*
4. *The Supplier undertakes that employees, agents or persons acting on its behalf will ensure business records are being properly and accurately maintained as per Section 132 of the CPA and Section 9 of the ABR. To ensure that the Supplier is in full compliance with the CPA and its related regulations, the Supplier agrees to assist AMVIC with an inspection by March 30, 2021.*
5. *The Supplier agrees to reimburse the consumer, JW, in the amount of **\$5,722.50** which represents the unaccounted difference in the selling price that was charged to the consumer. Such payment is to be made payable to JW and provided to AMVIC within **thirty (30) days** from the date of signing this Undertaking.*
6. *The Supplier shall pay the sum of **\$1,000** to AMVIC, an amount that represents a portion of the costs AMVIC has incurred investigating the matters herein. Such payment is to be made to AMVIC within **thirty (30) days** from the date of signing this Undertaking.*

Direct communications with the Supplier and its representatives

1. On Jan. 4, 2018, a routine AMVIC industry standards inspection was completed at the business location of the Supplier. A Findings Letter was emailed to the Supplier on Jan. 5, 2018 outlining the inspection findings. The Findings Letter outlined a number of concerns including but not limited to:
 - a) Advertising issues contrary to requirements found in Section 11 of the Automotive Business Regulation ("ABR").
 - b) During the inspection, 10 deals were reviewed by the ISO and of those 10 deals, two did not reflect all-in pricing contrary to Section 11(2)(l) of the ABR.
 - c) Various issues with the completion of and/or disclosure of Mechanical Fitness Assessments ("MFAs") contrary to Sections 15(1) and 16 of the Vehicle Inspection Regulation ("VIR").
 - d) Bill of sale ("BOS") issues whereby some BOS' did not list the warranty or products sold to the consumer.

2. On Aug. 18, 2022, a followup AMVIC industry standards inspection was completed on the Supplier. A Findings Letter outlining the inspection findings was completed and sent to the Supplier on Aug. 19, 2022. The Findings Letter identified that the inspection was scheduled as a result of a consumer complaint regarding the Supplier selling over the advertised price and a second consumer complaint alleging the Supplier was advertising demo vehicles that were not available for sale. The Findings Letter outlined a number of concerns including but not limited to:
 - a) During the inspection, 28 deals were reviewed by the ISO and of those 28 deals, 11 did not reflect all-in pricing contrary to Section 11(2)(l) of the ABR.
 - b) Advertising issues contrary to requirements found in Section 11 of the ABR as well as Section 6 of the Cost of Credit Disclosure Regulation ("COC"). The inspection also found that the Supplier was advertising demo vehicles that were not available for sale.
 - c) In three used vehicle sales, a tire levy of \$20 was charged to the consumer, which should only be charged in the purchase of a new vehicle.
3. On Feb. 2, 2023, a followup AMVIC industry standards inspection was completed on the Supplier. This inspection focused specifically on the Supplier's advertising and compliance with all-in pricing legislation. The inspection conducted on Feb. 2, 2023 was therefore not comprehensive in nature and as such, not all documentation or business practices were reviewed. A Findings Letter outlining the inspection findings was completed and sent to the Supplier on Feb. 7, 2023. The Findings Letter outlined the following concern:
 - a) During the inspection, 11 deals were reviewed by the ISO and of those 11 deals, nine did not reflect all-in pricing contrary to Section 11(2)(l) of the ABR.
4. Selling vehicles over the advertised price was found in all three of the AMVIC inspections, based on the Findings Letters provided to the Supplier following each AMVIC industry standards inspection.
5. On March 21, 2023, the proposed Administrative Penalty was served on the Supplier. The proposed Administrative Penalty provided the Supplier an opportunity to make written representations with respect to the matter by April 24, 2023. The Supplier did not provide any written representations in response to the proposed Administrative Penalty.

Applicable Legislation

Automotive Business Regulation

Records

Section 9

In addition to the requirement to create and maintain financial records in accordance with section 132(1) of the Act, every business operator and former business operator must maintain all records and documents created or received while carrying on the activities authorized by the licence for at least 3 years after the records were created or received.

Advertising

Section 11

- (2) A business operator must ensure that every advertisement for an automotive business that promotes the use or purchase of goods or services
- (l) includes in the advertised price for any vehicle the total cost of the vehicle, including, but not limited to, all fees and charges such as the cost of accessories, optional equipment physically attached to the vehicle, transportation charges and any applicable taxes or administration fees, but not including GST or costs and charges associated with financing, and

Bill of sale

Section 31.2

- (1) A business operator engaged in automotive sales must use a bill of sale that includes the following:

- (a) the name and address of the consumer;
- (b) the number of the government-issued identification that the business operator uses to confirm the identity of the consumer;
- (c) the name, business address and licence number of the business operator;
- (d) if a salesperson is acting on behalf of the business operator, the name and registration number of the salesperson;
- (e) the make, model and model year of the vehicle;
- (f) the colour and body type of the vehicle;
- (g) the vehicle identification number of the vehicle;
- (h) the date that the bill of sale is entered into;
- (i) the date that the vehicle is to be delivered to the consumer;
- (j) an itemized list of all applicable fees and charges the consumer is to pay, including, without limitation:
 - (i) charges for transportation of the vehicle;
 - (ii) fees for inspections;
 - (iii) fees for licensing;
 - (iv) charges for warranties;
 - (v) taxes or levies, including GST;
- (k) the timing for payment by the consumer of the fees and charges under clause (j);
- (l) an itemized list of the costs of all extra equipment and options sold to the consumer in connection with the vehicle or installed on the vehicle at the time of sale;
- (m) the total cost of the vehicle, which must include the fees, charges and costs listed under clauses (j) and (l);
- (n) the down payment or deposit paid by the consumer, if any, and the balance remaining to be paid;

- (o) if the consumer is trading in another vehicle to the business operator in connection with the purchase of the vehicle,
 - (i) information about the vehicle being traded in, and
 - (ii) the value of the trade-in allowance incorporated into the cost of purchase of the vehicle;
 - (p) the balance of any outstanding loan that is incorporated into the cost of purchase of the vehicle;
 - (q) if, in connection with the purchase of the vehicle, the business operator enters into a credit agreement with the consumer or arranges a credit agreement for the consumer, the disclosure statement required under Part 9 of the Act;
 - (r) an itemized list of any items or inducements the business operator agrees to provide with the vehicle at no extra charge;
 - (s) the odometer reading of the vehicle at the time the bill of sale is entered into, if the vehicle has an odometer and the odometer reading is available to the business operator;
 - (t) the maximum odometer reading of the vehicle at the time of delivery to the consumer if the vehicle has an odometer and
 - (i) the odometer reading is not available to the business operator at the time the bill of sale is entered into, or
 - (ii) the vehicle is a new, specifically identified vehicle;
 - (u) any mechanical fitness assessment that has been issued under the Vehicle Inspection Regulation (AR 211/2006);
 - (v) any disclosure statement or documentation respecting a vehicle's previous use, history or condition, including disclosure statements or documentation required under the laws of another jurisdiction;
 - (w) a declaration that the business operator has disclosed to the consumer the information required under section 31.1.
- (2) the business operator must ensure that all restrictions, limitations, and conditions imposed on the consumer under the bill of sale are stated in a clear and comprehensible manner.

Consumer Protection Act
Interpretation of documents
Section 4

If a consumer and a supplier enter into a consumer transaction, or an individual enters into a contract with a licensee and the licensee agrees to supply something to the individual in the normal course of the licensee's business, and

- (a) all or any part of the transaction or contract is evidenced by a document provided by the supplier or licensee, and
- (b) a provision of the document is ambiguous,

the provision must be interpreted against the supplier or licensee, as the case may be.

Duty to maintain records

Section 132

- (1) Every licensee and former licensee must create and maintain
 - (a) complete and accurate financial records of its operations in Alberta for at least 3 years after the records are made, and
 - (b) other records and documents described in the regulations for the period specified in the regulations.

Administrative Penalties

Notice of administrative penalty

Section 158.1

- (1) If the Director is of the opinion that a person
 - (a) has contravened a provision of this Act or the regulations, or
 - (b) has failed to comply with a term or condition of a licence issued under this Act or the regulations,the Director may, by notice in writing given to the person, require the person to pay to the Crown an administrative penalty in the amount set out in the notice.
- (2) Where a contravention or a failure to comply continues for more than one day, the amount set out in the notice of administrative penalty under subsection (1) may include a daily amount for each day or part of a day on which the contravention or non-compliance occurs or continues.
- (3) The amount of an administrative penalty, including any daily amounts referred to in subsection (2), must not exceed \$100 000.
- (4) Subject to subsection (5), a notice of administrative penalty shall not be given more than 3 years after the day on which the contravention or non-compliance occurred.
- (5) Where the contravention or non-compliance occurred in the course of a consumer transaction or an attempt to enter into a consumer transaction, a notice of administrative penalty may be given within 3 years after the day on which the consumer first knew or ought to have known of the contravention or non-compliance but not more than 8 years after the day on which the contravention or non-compliance occurred.

Right to make representations

Section 158.2

Before imposing an administrative penalty in an amount of \$500 or more, the Director shall

- (a) advise the person, in writing, of the Director's intent to impose the administrative penalty and the reasons for it, and
- (b) provide the person with an opportunity to make representations to the Director.

Non-compliance with orders, etc.

Section 163 Any person who

- (a) fails to comply with an order of the Director under section 129, 151(3) or 157, unless the order has been stayed,
- (b) repealed 2005 c9 s58,
- (c) furnishes false information or misrepresents any fact or circumstance to an inspector or to the Director, or
- (d) fails to comply with an undertaking under this Act contravenes this Act and is guilty of an offence.**

Vicarious liability

Section 166

- For the purposes of this Act, an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred
- (a) in the course of the employee's employment with the person, or
 - (b) in the course of the agent's exercising the powers or performing the duties on behalf of the person under their agency relationship.

Analysis – Did the Supplier fail to comply with the provisions of the CPA and ABR?

A routine AMVIC industry standards inspection was completed on Jan. 4, 2018. The inspection findings were discussed with the Supplier and the Findings Letter was emailed to the business on Jan. 5, 2018. The 2018 inspection findings identified a number of breaches. The Supplier had advertising issues, BOS issues, MFA issues and was found to be selling vehicles over the advertised price.

A second AMVIC industry standards inspection was completed on Aug. 18, 2022. A Findings Letter outlining the inspection findings was sent to the Supplier on Aug. 19, 2022. The Findings Letter identified that this inspection was scheduled as a result of two consumer complaints. The findings of the inspection confirmed the Supplier was engaging in the business practices the consumer complaints had claimed, which included selling vehicles over the advertised price. The inspection completed found similar and additional breaches to the inspection completed in 2018. After each inspection the Supplier was provided with information and education regarding the legislative requirement of adhering to the advertised price when selling vehicles as required by Section 11(2)(l) of the ABR.

On Feb. 2, 2023 a third AMVIC industry standards inspection was completed on the Supplier. This inspection focused solely on the Supplier's advertising and compliance with all-in pricing legislation. The inspection conducted on Feb. 2, 2023 was therefore not comprehensive in nature and as such, not all documentation or business practices were reviewed, in comparison to the two previous comprehensive inspections conducted in 2018 and 2022, in determining this Administrative Penalty. A Findings Letter outlining the inspection findings was completed and sent to the Supplier on Feb. 7, 2023. The ISO identified that the Supplier has continued to sell vehicles over the advertised price contrary to Section 11(2)(l) of the ABR. Based on the facts outlined in the Application Report and supporting documents (see Schedule "A"), I will be considering the alleged breaches from the 2023 AMVIC industry standards inspection.

A. Selling Above Advertised Price (11(2)(l) ABR)

During the Feb. 2, 2023 inspection, the ISO reviewed nine used vehicle and two new vehicle deal jackets. Of the 11 deal jackets reviewed by the ISO, nine of the vehicles were sold over the advertised price contrary to Section 11(2)(l) of the ABR. Prices advertised must include all fees the seller intends to charge. The only fee that can be added to the advertised price is the goods and services tax ("GST") and costs associated with financing as per Section 11(2)(l) of the ABR. Pre-installed products such as batteries and anti-theft must be included in the advertised price. Destination fees, documentation fees, the AMVIC levy and tire recycling levy must be included in the advertised price. In these nine consumer transactions the Supplier derived an economic benefit of **\$8,680** at the cost of the consumers:

- Stock No. 2023-226 was sold over the advertised price by \$274.25;
- Stock No. 2023-252 was sold over the advertised price by \$2,824.25;
- Stock No. 2950 was sold over the advertised price by \$605.25;
- Stock No. 2992C was sold over the advertised price by \$6.25;
- Stock No. 2920 was sold over the advertised price by \$505.25;
- Stock No. 2991 was sold over the advertised price by \$3,150;
- Stock No. 2023-199A was sold over the advertised price by \$104.25;
- Stock No. 5084 was sold over the advertised price by \$605.25; and
- Stock No. 2980 was sold over the advertised price by \$605.25.

In review of the Application Report and supporting documentation (see Schedule "A"), while the Feb. 7, 2023 Findings Letter does not list Stock No. 5084 as sold over the advertised price, the ISO included it as being sold over the advertised price. The explanation regarding the discrepancies found in the documentation and BOS can be found in Section B, Bill of Sale Issues, below. Based on all the supporting documentation regarding Stock No. 5084 (see Schedule "A"; Exhibit 12), the Director also finds the Supplier sold Stock No. 5084 over the advertised price.

Based on the small sample size of 11 deal jackets reviewed by the ISO and before me as evidence, the Supplier has derived an economic benefit by charging consumers over the advertised price. During the 2023 inspection, the Supplier was found to be selling vehicles over the advertised price in 82 per cent of the deal jackets reviewed by the ISO. This high percentage is a concern to the Director. This is also concerning as the Supplier has been provided more than ample opportunity and education to rectify this business practice, however continues to engage in this practice and derive an economic benefit at the cost of consumers.

The Director finds that on a balance of probabilities, the Supplier has breached Section 11(2)(l) of the ABR.

B. Bill of Sale Issues (31.2 ABR)

On Oct. 31, 2018, legislation was put into effect with regards to BOS requirements. Between Sept. 25, 2018 and Nov. 6, 2018 AMVIC sent out a number of industry bulletins, updated the AMVIC website with information regarding the legislative amendments, sent multiple bulletins to inform the industry and the

public regarding the changes, updated social media regularly, sent out a special edition of the IMPACT newsletter to the industry regarding the legislative changes and all AMVIC employees had an email signature attached to staff emails regarding the legislative changes. These are just a few of the initiatives that AMVIC took to ensure all licensees were advised of the legislative changes that were coming into effect on Oct. 31, 2018 regarding the BOS.

The 2018 inspection was completed on the Supplier prior to the legislative changes. The Supplier was educated regarding the BOS requirements during the 2022 industry standards inspection. The Findings Letter provided to the Supplier as a result of the 2022 industry standards inspection provides the Supplier with the legislation they must comply with in the completion of their BOS. The Supplier was further educated in regards to BOS requirements as part of the voluntary Undertaking they entered into on Aug. 25, 2020.

In reviewing the Application Report (see Schedule "A") it is noted by the ISO that they had difficulty understanding the breakdown and calculations on the BOS' relating to Stock No. 2023-226 (see Schedule "A"; Exhibit 5) and Stock No. 2023-252 (see Schedule "A"; Exhibit 6). During the inspection, based on the documents in the vehicle sales folder, a representative from the Supplier was asked to provide an explanation as to the breakdown as there appeared to be discrepancies in the amounts calculated. The Supplier's representative could not provide an explanation for the discrepancies. The ISO prepared calculations based on her findings (see Schedule "A"; Exhibit 4). In addition to going over the advertised price in both instances, the ISO has determined the consumers were also overcharged \$100 in Exhibit 5 and \$300 in Exhibit 6. In the opinion of the Director this is a concern as the Supplier previously entered into an Undertaking confirming that they would undertake to accurately maintain business records.

In reviewing the documentation relating to the most recent inspection conducted on Feb. 2, 2023, it is noted that the Supplier continues to be non-compliant with the rather straight forward BOS legislation. In the sale of Stock No. 5084 (see Schedule "A"; Exhibit 4) the ISO remarked that this deal involved a vehicle that was previously purchased by the consumer that had been written off. The Supplier requested the full warranty refunds and then used the refunds as a down payment towards the purchase of Stock No. 5084. In reviewing the "Deal Summary", it would appear the Supplier received \$9,980 related to the warranty cancellation refunds and reflected it as a cash down on the BOS, however the BOS only shows \$8,000. The sale price increased by \$10,000 related to the balance of the lien payout for the consumer's previous vehicle that had been written off, which is contrary to Section 31.2(l) of the ABR and not an accurate financial record.

Based on the evidence before me only in relation to the Feb. 2, 2023 inspection, on a balance of probabilities, I find the Supplier has breached Section 31.2 of the ABR.

C. Maintain Records (132 CPA and 9 ABR)

The Director does want to address an overarching issue. Specifically, the Findings Letters revealed to the Director that the Supplier has issues with record keeping. It is imperative that the Supplier creates and maintains accurate records. Creating and maintaining accurate records is the best way for the Supplier to ensure the consumer is fully aware of all the details and required information during their

transaction and is also the best way for the Supplier to demonstrate they are complying with the legislative requirements.

Issues that the Director found in the Findings Letters include the completion of and/or disclosure of MFAs and issues with the completion of the BOS. Even a representative from the Supplier could not provide an explanation to the ISO for the discrepancies in relation to some of the exhibits during the most recent inspection. The legislation is very clear, that being negligent in keeping records is not only an offence under the CPA but in addition, if a provision of the document is ambiguous, the provision must be interpreted against the Supplier in accordance with Section 4 of the CPA. The Supplier is vicariously liable for all records created and maintained by an employee or agent acting on behalf of the Supplier in the course of completing the Supplier's delegated business activities.

A recent Service Alberta Appeal Board rendered a decision (attached as Scheduled "B") regarding the importance of record keeping as a member of a regulated industry. Paragraph 152 of the Service Alberta Appeal Board decision states:

The Board finds that there is a need for general deterrence as well, such that other members of the industry understand that failure to keep proper records is an extremely serious contravention of the act, and a business practise that puts the public at risk.

Based on the totality of all of the issues and concerns with the Supplier's paperwork on a balance of probabilities, the Director does find that the Supplier is in contravention of Section 132 of the CPA and Section 9 of the ABR.

D. Breach of Undertaking (163(d) CPA)

As a result of a consumer complaint and subsequent investigation, the Supplier voluntarily agreed to enter into an Undertaking on **Aug. 25, 2020**. The conditions outlined in the Undertaking specifically stated:

- 1. The Supplier acknowledges and admits that it failed to comply with the provisions of the CPA and ABR and undertakes to the Director that the Supplier will make every effort to ensure that it does not engage in acts or practices similar to those described above.***
- 2. The Supplier will undertake to immediately implement a BOS that meets the legislative requirements and will properly complete the BOS to comply with Section 31.2 of the ABR. In addition, the Supplier will ensure that when completing a BOS it is not ambiguous to the material facts and accurately itemizes all fees, charges, trade-in values and inducements.***
- 3. The Supplier will undertake to ensure that marketing companies acting on behalf of the Supplier have been registered with AMVIC for any sales events and that their salespeople are appropriately registered before engaging as a designated agent as per Section 20.1 of the ABR.***
- 4. The Supplier undertakes that employees, agents or persons acting on its behalf will ensure business records are being properly and accurately maintained as per Section 132 of the CPA***

and Section 9 of the ABR. To ensure that the Supplier is in full compliance with the CPA and its related regulations, the Supplier agrees to assist AMVIC with an inspection by March 30, 2021.

5. *The Supplier agrees to reimburse the consumer, JW, in the amount of **\$5,722.50** which represents the unaccounted difference in the selling price that was charged to the consumer. Such payment is to be made payable to JW and provided to AMVIC within **thirty (30) days** from the date of signing this Undertaking.*
6. *The Supplier shall pay the sum of **\$1,000** to AMVIC, an amount that represents a portion of the costs AMVIC has incurred investigating the matters herein. Such payment is to be made to AMVIC within **thirty (30) days** from the date of signing this Undertaking.*

The Supplier continues to not complete some of their BOS' properly as per legislative requirements and in some instances their documents are not complete and accurate. If a provision of the Supplier's documents are ambiguous, the provision must be interpreted against the Supplier in accordance with Section 4 of the CPA. Through their actions, the Supplier has breached their agreed upon Undertaking conditions which they voluntarily agreed to abide by on Aug. 25, 2020 and has therefore contravened Section 163(d) of the CPA.

E. Other Considerations

In addition to the individual education AMVIC provided the Supplier in the form of the Findings Letters provided after each AMVIC industry standards inspection, AMVIC has issued industry bulletins and newsletters over the past two years explaining advertising regulations to educate the automotive industry as a whole. As a licensed member of the automotive industry, the Supplier would have received the AMVIC industry bulletins and newsletters and in the opinion of the Director, is expected to have reviewed these education bulletins and newsletters to ensure their business practices are in compliance.

There exists an onus on the Supplier to do their due diligence and ensure they are complying with the legislation that governs the regulated industry they have chosen to be a member of. The Supreme Court of British Columbia in *Windmill Auto Sales & Detailing Ltd. v. Registrar of Motor Dealers, 2014 BCSC 903* addressed the issue of the onus and responsibility the Supplier has when operating within a regulated industry. The court at paragraph 59 stated:

"In my view, it is incumbent upon a party that operates within a regulated industry to develop at least a basic understanding of the regulatory regime, including its obligations under the regime, as well as the obligations, and the authority, of the regulator."

The Supplier's business practices discussed above leverages the Supplier's knowledge and position, and does not foster a level playing field between the consumer and the Supplier, leading to financial harm to consumers. It further concerns the Director that the Supplier has continued to breach rather straightforward legislation to the financial detriment of consumers, despite the education provided by AMVIC.

The aggravating factors in this matter include the resulting financial impact adversely affecting the consumers due to paying over the advertised price, in only nine transactions the Supplier derived an economic benefit of **\$8,680**, breaching their agreed upon Undertaking and continued non-compliance with the rather straightforward requirements of the legislation despite education provided to the Supplier.

This Administrative Penalty is taking into account the number and seriousness of the contraventions of the legislation found during the third inspection; and the aggravating factors listed above.

The amount of the Administrative Penalty cannot be viewed as a cost of doing business but rather as a deterrent for continuing to engage in non-compliant business practices.

Action

In accordance with Section 158.1(a) of the CPA and based on the above facts, I am requiring that 1941620 Alberta Ltd. operating as Straightline Kia pay an Administrative Penalty. This is based on my opinion that 1941620 Alberta Ltd. operating as Straightline Kia contravened Sections 132 and 163(d) of the CPA and Sections 9, 11(2)(l), and 31.2(1) of the ABR.

Taking into consideration all the evidence currently before the Director, the amount of the Administrative Penalty is **\$25,000**.

The amount takes into consideration the factors outlined in Section 2 of the Administrative Penalties (*Consumer Protection Act*) Regulation, AR 135/2013 and the principles referenced in *R v Cotton Felts Ltd., (1982), 2 C.C.C (3d) 287 (Ont. C.A.)* as being applicable to fines levied under regulatory legislation related to public welfare including consumer protection legislation. In particular the Director took into account:

1. The financial harm on the persons adversely affected by the contraventions or failure to comply;
2. The seriousness of the contraventions or failure to comply;
3. The previous history of enforcement and non-compliance;
4. The economic benefit derived from the contraventions or failure to comply;
5. The degree of willfulness or negligence in the contravention or failure to comply;
6. The maximum penalty under Section 158.1(3) of the CPA of \$100,000; and
7. The deterrent effect of the penalty.

The amount of the Administrative Penalty is \$25,000.

Pursuant to Section 3 of the Administrative Penalties (*Consumer Protection Act*) Regulation, you are required to submit payment within **thirty (30) days** of the date of service of this notice. Failure to pay the Administrative Penalty will result in a review of the licence status. Payment may be made payable to the **“Government of Alberta” and sent to AMVIC** at:

Edmonton, AB T6A 0L4.

If payment has not been received in this time period, the Notice may be filed in the Court of King's Bench and enforced as a judgement of that Court pursuant to Section 158.4 of the CPA and further disciplinary action will be considered.

Section 179 of the CPA allows a person who has been served a notice of Administrative Penalty to appeal the penalty. To appeal the penalty, the person must serve the Minister of Service Alberta and Red Tape Reduction

Minister of Service Alberta and Red Tape Reduction
103 Legislature Building
10800 - 97 Avenue NW
Edmonton, AB
Canada T5K 2B6

with a notice of appeal within **thirty (30) days** after receiving the notice of Administrative Penalty. The appeal notice must contain your name, your address for service, details of the decision being appealed and your reasons for appealing.

Pursuant to Section 180(4) of the CPA, service of a notice of appeal operates to stay the Administrative Penalty until the appeal board renders its decision on the appeal or the appeal is withdrawn.

Under Section 4 of the Administrative Penalties (*Consumer Protection Act*) Regulation, the fee for appealing an Administrative Penalty is the lesser of \$1,000 or half the amount of the penalty. As such, the fee for an appeal of this Administrative Penalty, should you choose to file one, would be \$1,000. Should you choose to appeal this Administrative Penalty, you must send the appeal fee to the Minister of Service Alberta and Red Tape Reduction at the above noted address, made payable to the "Government of Alberta".

Yours truly,

"original signed by"

Alberta Motor Vehicle Industry Council (AMVIC)
Gerald Gervais, Registrar
Director of Fair Trading (as Delegated)

GG/kl
Encl.

cc: Evelyn L-J., Manager of Industry Standards, AMVIC