

In re:
KOONS OF REISTERSTOWN ROAD, INC.
t/a KOONS KIA
9610 Reisterstown Road
Owings Mills, MD 21117

* IN THE
* CONSUMER PROTECTION
* DIVISION
* OFFICE OF THE
* ATTORNEY GENERAL

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ASSURANCE OF DISCONTINUANCE

This Assurance of Discontinuance (“Assurance”) is made and entered into by the Office of the Attorney General, Consumer Protection Division (the “Division”) and Koons of Reisterstown Road, Inc., trading as Koons Kia (“Koons Kia”). The Division and Koons Kia agree as follows:

1. The Division is responsible for enforcement of Maryland consumer protection laws, including the Maryland Consumer Protection Act (“CPA”), Md. Code Ann., Com. Law §§ 13-101 through 13-501.

2. Koons of Reisterstown Road, Inc. is a Maryland corporation that operates an automobile dealership under the name of Koons Kia offering and selling Kia vehicles to consumers.

THE DIVISION’S ALLEGATIONS

3. Maryland law requires automobile dealerships that advertise vehicles for sale to include in the advertised price the full delivered cash price that a customer must pay, except for taxes and title fees. Further, for new vehicles, that advertised price must also include any dealer processing charge and freight charge, unless the dealership clearly and conspicuously discloses the amount of these charges in the advertisement.

4. The Consumer Protection Act makes it an unfair, deceptive or abusive trade practice to make statements that are capable of misleading consumers or to fail to disclose material facts, the omission of which deceives or tends to deceive consumers.

5. The Division Alleges that Koons Kia charged consumers a purchase price over the advertised price.

6. The Division further alleges that Koons Kia collected additional charges for freight even though the charges were already included in its advertised price.

7. The Division further alleges that Koon's Kia's practice of charging more than the advertised price is an unfair and deceptive trade practice that is prohibited by the Consumer Protection Act.

8. The Division finally alleges that Koon's Kia's practice of charging consumers an additional fee for freight when those charges were already included in the advertised price of the vehicle is an unfair and deceptive trade practice that is prohibited by the Consumer Protection Act.

KOON'S KIA'S DENIALS

9. Koons Kia asserts that, at all times relevant to the Division's inquiry, Koon's Kia's advertising practices complied with all applicable laws in Maryland. Koons Kia denies that the Manufacturer's Suggested Retail Price ("MSRP") was its advertised price and that it violated any provision of the Consumer Protection Act.

10. Koons Kia agrees to the terms of this Assurance, without trial of any issue of fact or law, for the purpose of resolving its dispute with the Division regarding the above allegations. Nothing in this Assurance shall constitute an admission of liability.

DEFINITION

11. “Advertise,” “advertised,” and “advertisement” as used in this Assurance shall include any graphic, electronic, written, recorded, oral or other type of promotion or offer of a vehicle for sale.

12. The “advertised price” as used in this Assurance is the price a vehicle is advertised for sale. The advertised price will be the Manufacturer’s Suggested Retail Price (“MSRP”) if the MSRP is displayed as the advertised price absent a different dealer selling price. Advertised price includes any vehicle price provided in any advertisement, web site, or vehicle window sticker.

CEASE AND DESIST PROVISIONS

13. The provisions of this Assurance shall apply to Koons Kia and its officers, employees, and agents.

14. The provisions of this Assurance shall apply to Koons Kia’s advertisement of vehicles to consumers residing in Maryland or to consumers from its dealership located in Maryland.

15. Koons Kia shall not make a representation to consumers that has the capacity, tendency or effect of misleading consumers.

16. Koons Kia shall not fail to state a material fact, the omission of which deceives or tends to deceive consumers.

17. Koons Kia shall not advertise the price of a vehicle for sale unless that advertised price is the full delivered cash price, which the customer shall pay, except for taxes and title fees.

18. Koons Kia shall not charge consumers any dealer processing charge or freight charge in addition to the advertised price unless the charge is disclosed in accordance with

Maryland law in the advertisement.

19. Koons Kia shall not charge consumers any freight charge that is already included in the advertised price of a vehicle for sale.

RESTITUTION

20. Within thirty (30) days from the date of this Assurance Koons Kia shall pay the Division restitution equal to the amount consumers paid it in connection with their purchase of vehicles of: (1) all fees and other amounts charged—other than for taxes and title fees, and any dealer processing fee—that were not included in the advertised price of the vehicle; and (2) fees for freight when such fees were already included in the advertised price of the vehicle (hereinafter the “Restitution Amount”).

21. The Division shall distribute the Restitution Amount to consumers included on the list provided by Koons Kia who were impacted by Koons Kia’s practices alleged herein.

22. Within thirty (30) days of the date of this Assurance, Koons Kia shall provide the Division with a list of Maryland consumers who paid the fees and other amounts that comprise the Restitution Amount and who are entitled to receive a restitution payment under the terms of this Assurance (the “Consumer List”). For each consumer whose name is contained in the Consumer List, Koons Kia shall provide the following information in the form of an Excel spreadsheet, with each item below contained in a separate field:

- (i) the consumer’s name;
- (ii) the consumer’s last known street address;
- (iii) the consumer’s last known city, state and zip code;
- (iv) the consumer’s phone number(s);

- (v) the consumer's email address(es);
- (vi) the consumer's Social Security number;
- (vii) the advertised price of the vehicle, including any manufacturer's suggested retail price (MSRP) if there was not a different dealer sale price advertised;
- (viii) the amount of all fees and other amounts, other than taxes, title fees, and dealer processing charges, that the consumer paid that were not included in an advertised price of the vehicle; and
- (ix) the amount of freight fees that the consumer paid if such fees were already included in the advertised price.

23. The Division shall perform a claims process that will be conducted by a person or persons (hereinafter the "Claims Administrator") to identify and pay restitution to eligible consumers.

24. The Claims Administrator may be an employee of the Division or an independent claims processor.

25. The claims process shall consist of identifying and locating each consumer who is eligible to receive restitution pursuant to this Assurance, gathering all information necessary to determine the amounts of restitution due to each consumer eligible to receive restitution, and the mailing of restitution payments to all such consumers and any other mailings that assist the claims process.

26. If it is possible to determine a consumer's entitlement to relief from sources other than the consumer, that relief shall be provided to the consumer without the necessity of the consumer submitting information in the claims process.

27. The Claims Administrator shall perform the above duties under the supervision and control of the Division.

28. Koons Kia shall give the Claims Administrator complete access to all records, data, and personnel necessary for the Claims Administrator to complete his or her duties.

29. If, at any stage of the claims process, it is determined that the Division will require additional payments from Koons Kia to satisfy all consumer restitution due under this Assurance, Koons Kia shall pay the Division additional restitution in the amount specified by the Division within thirty (30) days of being notified by the Division of the additional amount.

30. If there are insufficient funds collected to provide full restitution to each eligible consumer, restitution shall be distributed to consumers on a pro rata basis.

31. At the conclusion of any claims process conducted by the Division, any part of the Restitution Amount paid by Koons Kia under this Assurance that has not been distributed to consumers may, at the discretion of the Attorney General, may be (a) held in trust for consumers by the State or (b) used in accordance with State law, for consumer education or other purposes permitted by State law.

COSTS

32. Koons Kia shall pay the Division Two Hundred Thousand Dollars (\$200,000), which the Division shall use to pay for the costs of the claims procedure provided under this Assurance. Koons Kia shall make the payment required under this paragraph as follows: Thirty

(30) days from the date of this Assurance, Koons Kia shall pay the Division One Hundred Thousand Dollars (\$100,000). If Koons Kia has fully complied with all provisions of the Assurance, including making timely payments pursuant to its payment terms, and remains in compliance for a period of one year, the Division shall waive the remaining One Hundred Thousand Dollars (\$100,000) of the payment that Koons Kia is required to pay pursuant to this paragraph. If, at any time prior to the one year anniversary of this Assurance, Koons Kia breaches any of the terms of this Assurance, the remaining balance of the amount due hereunder shall become due and owing.

RELEASE

33. In consideration for Koons Kia's commitments as set forth in this Assurance, the Division releases and discharges Koons Kia, and its officers, employees, and agents, from all civil claims that the Division could have brought under the Consumer Protection Act, relating to the conduct alleged in paragraphs 5 and 6 that occurred prior to Koon's Kia's signing this Assurance.

NOTICES

34. Unless another person is designated by either party, any notices or documents required to be sent to the Parties pursuant to this Assurance shall be sent to the following addresses:

- a. For the Attorney General:

Philip Ziperman
Deputy Chief
Consumer Protection Division
200 St. Paul Place, 16th Floor
Baltimore, MD 21202
pziperman@oag.state.md.us

(410) 576-6417

and

Chief, Consumer Protection Division
200 St. Paul Place, 16th Floor
Baltimore, MD 21202
consumer@oag.state.md.us

- b. For Koons of Reisterstown Road, Inc.

Thomas M. Wood, IV
Neuberger, Quinn, Gielen, Rubin & Gibber, P.A.
One South Street, 27th Floor
Baltimore, Maryland 21202
tnw@nqgrg.com
(410) 332-8523

DISPUTES

35. The Chief of the Division, or his designee, shall resolve any disputes concerning this Assurance and enter any supplemental orders needed to effectuate its purpose.

ENFORCEMENT

36. Koons Kia understands that this Assurance is enforceable by the Consumer Protection Division pursuant to the Consumer Protection Act and that any violation of this Assurance is a violation of the Consumer Protection Act.

37. Koons Kia agrees that any future violations of this Assurance, or the Consumer Protection Act, shall constitute a second violation of the Consumer Protection Act for purposes of §13-410 of the Act.

AGREED AS TO FORM AND SUBSTANCE:

Consumer Protection Division
Office of the Attorney General of Maryland

Koons of Reisterstown Road, Inc.

By:

By:

W D Gruhn IPZ

William D. Gruhn
Chief

Philip D. Ziperman

Philip D. Ziperman
Assistant Attorney General

4/19/22

Date

James S. O'Connell

James S. O'Connell Corporate Secretary

4/11/2022

Date