
**IN THE MATTER OF THE
CONSUMER PROTECTION ACT (CPA)**

THIS **UNDERTAKING** is made pursuant to Section 152 of the *Consumer Protection Act* ("CPA").

BY: 1545358 ALBERTA LTD. oa ALL AUTO SALES
at or near the city of Calgary, in the Province of Alberta
(hereinafter called the "Supplier")

TO: The DIRECTOR OF FAIR TRADING (as delegated)
(hereinafter called the "Director")

WHEREAS:

- A. At the time of the complaint, the Supplier was licensed by the Alberta Motor Vehicle Industry Council ("AMVIC") to carry on the automotive business activity of retail sales, consignment and wholesale sales in the Province of Alberta.
- B. AMVIC investigations (case file 21-04-593 and case file 21-06-164) were initiated as a result of a consumer complaint received by AMVIC in May 2021, alleging issues with the condition of a motor vehicle purchased, concerns with the fees charged and the cost of financing.
- C. An administrative review was held via teleconference call on July 13, 2021 at approximately 9a.m. Participating in the administrative review was Mr. Qudratullah Mehri, owner and sole director of the Supplier, Naziyah Mehri, sister to Mr. Mehri, [REDACTED] – AMVIC investigator, [REDACTED] – delegate for AMVIC manager of investigations south, C. Z [REDACTED] – administrative assistant to the Director, and G. Gervais – Director of Fair Trading (as delegated).
- D. On April 1, 2021, the consumer ("TG") entered into an agreement to purchase a 2004 Volkswagen Beetle (the "Beetle") for the purchase price of \$6,323.95. TG had not yet seen or test driven the Beetle but it had been described and represented to her by the salesperson to be in mint condition and to come with a six month warranty. TG asserted that she wanted to take the Beetle for her own inspection but the salesperson advised her she could not and that the Supplier did their own inspection. The salesperson sent her the Mechanical Fitness Assessment ("MFA") and Carfax. Not long after purchase, TG encountered mechanical issues with the Beetle and noted undisclosed body damage. As a result, TG took the Beetle to a Volkswagen technician in which an inspection was completed and several issues were noted including structural damage and other items requiring repair. By representing the vehicle was in mint condition, the Supplier misled the consumer as per Section 6(4)(a) and 6(4)(j) of the CPA.

Consumer Protection Act**Unfair practices****Section 6**

(4) Without limiting subsections (2) and (3), the following are unfair practices if they are directed at one or more potential consumers:

- (a) a supplier's doing or saying anything that might reasonably deceive or mislead a consumer;
- (j) supplier's representation that goods or services have been made available in accordance with a previous representation if they have not;

E. On May 6, 2021, the AMVIC investigator completed an open search query on the Supplier's advertising including website ads, their Facebook page and Kijiji advertisements and a number of deficiencies including, but not limited to:

- Mileages of vehicles being inaccurate
- Website ads missing stock numbers
- Failure to include any inducements such six month powertrain warranties being free of charge
- Making claims that cannot be substantiated by the Supplier

By making false, misleading or deceptive statements, the Supplier has breached Section 11 of the Automotive Business Regulation ("ABR").

Automotive Business Regulation**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

- (n) does not use false, misleading or deceptive statements,

F. The AMVIC investigation identified that the bill of sale ("BOS") in the consumer transaction failed to disclose the additional fees that the finance company charges as part of the financing agreement and these additional fees were not listed on the BOS. TG signed the BOS agreeing to the purchase price and then came to learn that there were additional fees associated with financing. The finance contract dated April 2, 2021 shows a selling price of \$6,499, a \$399 GPS charge, \$6.25 AMVIC levy, a \$29.50 PPSA fee, a \$1,495 lender administration fee and a \$3,500 down payment, which is very different than what is listed on the BOS. The investigation further revealed that the Supplier failed to provide the complete vehicle history of the Beetle to TG prior to the sale. The Supplier did provide a Carfax, however the Supplier needed to disclose all known information to the consumer in writing prior to the purchase.

Automotive Business Regulation

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.

Vehicle history information

Section 31.1

- (1)** A business operator engaged in automotive sales must disclose the following information in accordance with subsection (2), on the basis of information the business operator knew or ought to have known:
- (a) whether the vehicle has been bought back by the manufacturer under the Canadian Motor Vehicle Arbitration Plan;
 - (b) whether the vehicle has sustained damage caused by fire;
 - (c) whether the vehicle has sustained damage caused by immersion in liquid to at least the level of the interior floorboards;
 - (d) whether the vehicle has been used as a police car or an emergency vehicle;
 - (e) whether the vehicle has been used as a taxi cab or a limousine;
 - (f) whether the vehicle has been previously owned by a rental vehicle business or used as a rental vehicle on a daily or other short-term basis;
 - (g) whether the vehicle has, at any time, been assigned a status in one of the following categories under the *Vehicle Inspection Regulation* (AR 211/2006) or an equivalent status under the laws of another jurisdiction:
 - (i) salvage motor vehicle;
 - (ii) non-repairable motor vehicle;
 - (iii) unsafe motor vehicle;
 - (h) whether the vehicle has been damaged in an incident or collision where the total cost of repairs fixing the damage exceeded \$3000 and, if the repairs were carried out by the business operator, the total cost of the repairs;
 - (i) whether the vehicle was registered in any jurisdiction other than Alberta immediately before it was acquired by the business operator and, if so,
 - (i) the name of the jurisdiction in which the vehicle was previously registered,
 - (ii) whether the vehicle was required to be inspected prior to registration in Alberta, and

- (iii) whether the vehicle passed or failed any required inspections.
- (2)** The business operator must disclose the information required under subsection (1) in a clear and legible manner.

Receipt of information**Section 31.1**

A business operator engaged in automotive sales must not enter into a bill of sale with a consumer unless the business operator has obtained written confirmation from the consumer that he consumer has received the information required under section 31.1.

- G. On April 14, 2021, the consumer services officer ("CSO") sent out a request for a Supplier response in relation to the consumer complaint and the Supplier failed to meet the deadline of April 23, 2021. On May 3, 2021, the Supplier provided the CSO a number of unsigned documents. The AMVIC investigator reviewed the deal jacket from the Supplier and found that the finance documents were missing and the other documents on file were incomplete and unsigned. The Supplier could not produce the acquisition document for the purchase of the Beetle, proof of payment for the Beetle, nor the registration certificate for the Beetle. The Supplier has a responsibility to not only complete and retain accurate financial records as per Section 132 of the CPA and Section 9 of the ABR but also to produce the records for inspection and failed to meet this standard.

Consumer Protection Act**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.
- (2)** Every licensee and former licensee must make the records referred to in subsection (1) available for inspection by an inspector at a place in Alberta and at a time specified by the inspector.

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.

- H. During the investigation, the Supplier advised the AMVIC investigator that the technician who completed the MFA had missed completing several parts of the form and as a result the MFA was not a true description of the Beetle sold to TG. The Supplier acknowledges and admits that it failed

to meet the legislative requirements as per Section 15 of the Vehicle Inspection Regulation ("VIR"). By breaching Section 15 of the VIR, the Supplier has also breached Section 12(o) of the ABR.

Vehicle Inspection Regulation**Sales of used motor vehicle****Section 15**

(1) Subject to subsection (2), a dealer in used motor vehicles shall, before entering into a contract to sell a motor vehicle, give to the buyer a used motor vehicle mechanical fitness assessment that contains the following:

- (a) a statement identifying the type of motor vehicle as a truck, motorcycle, bus, van, light truck, automobile or other type of motor vehicle;
- (b) a statement showing the make, model, year, vehicle identification number, odometer reading in kilometres or miles, licence plate number and province of registration of the vehicle;
- (c) the name and address of the dealer selling the vehicle and the name of the technician who issued the mechanical fitness assessment;
- (d) a statement that the mechanical fitness assessment expires 120 days after the date on which it was issued;
- (e) a statement certifying that at the time of sale the motor vehicle
 - (i) complies with the Vehicle Equipment Regulation (AR 122/2009), or
 - (ii) does not comply with the Vehicle Equipment Regulation (AR 122/2009) and containing a description of the items of equipment that are missing or do not comply with the Vehicle Equipment Regulation (AR 122/2009);
- (f) the signature of the technician who conducted the mechanical fitness assessment;
- (g) the date the mechanical fitness assessment was issued.

Automotive Business Regulation**General codes of conduct****Section 12**

Every business operator must comply with section 6 of the Act and in addition must

- (o) comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.
- I. On June 15, 2021, the AMVIC investigator attended the Supplier to serve documents and while onsite observed an individual engaged in unlicensed auto body activities on a vehicle. It was further identified in the investigation that the Supplier has previously purchased vehicles from unlicensed curbers and unlicensed businesses.
- J. During the administrative review, the Supplier acknowledged its shortcomings and took responsibility for the general conduct described in the AMVIC investigation. The AMVIC investigator expressed that the Supplier was cooperative in the investigation and TG was made whole in the consumer transaction when the Supplier bought back the Beetle from TG.

- K. The Supplier expressed that the breaches of legislation were unintentional and have taken a number of steps to rectify the concerns. Mr. Mehri advised that the salesperson who was involved in the consumer transaction with TG is no longer employed with them and they are no longer using the services of the technician who completed the MFA on the Beetle.
- L. During the administrative review, Mr. Mehri apologized for not being receptive in producing documents to the AMVIC investigator and CSO and advised that he recently moved business locations as a result of a fire and some of the documents were misplaced.
- M. The Supplier employs a total of three salespeople including Mr. Mehri but unfortunately at the time of this complaint a personal injury kept Mr. Mehri away from his work and he was unable to monitor the day to day activities of the business. Mr. Mehri's sister has been assisting him with the paperwork/document concerns. Mr. Mehri has also hired a third party company to rectify his advertisement issues to bring him into compliance.
- N. The Supplier has adopted a practice of having businesses and individuals produce their business licence or salesperson registration to them prior to purchasing from them rather than relying on their word. The Supplier recognizes they are vicariously liable for their actions and the actions of their employees.
- O. Mr. Mehri advised that he has been in the automotive industry for approximately five years in total starting off as a wholesaler and has only been involved in the retail sales business for the last three years and admits that he is still learning.
- P. The Supplier commits to working with the regulator and to be a positive contributor to the local economy and automotive industry.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

- 1. The Supplier acknowledges and admits that it failed to comply with the provisions of the CPA, ABR, and VIR 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 utilize a BOS that meets the legislative requirements and will properly complete the BOS to comply with Section 31.2 of the ABR.
- 3. If a consumer complaint is received, the Supplier will respond to a consumer services officer's or investigator's email request for documentation regarding the complaint as per the guidelines in the email request.
- 4. The Supplier will undertake not to do or say anything that might reasonably deceive or mislead a consumer as per Section 6(4)(a) of the CPA.

5. The Supplier will undertake that their business provides a consumer with full disclosure at the time of the sales transaction as defined in Section 6 of the CPA and abide by all regulations including the general codes of conduct in Section 12 of the ABR.
6. The Supplier will undertake that all MFAs are completed in full and by a licensed technician as per Section 15 and 16 of the VIR and given to a consumer **before** entering into a contract to sell a motor vehicle.
7. The Supplier will ensure its advertising conforms to the advertising regulations as set out in the ABR.
8. The Supplier will ensure they purchase their vehicles through properly licensed businesses and individuals and that they will not engage in designated business activities unless he holds a licence under this Act that authorizes him to engage in that business activity as per Section 104(1) of the CPA.
9. To ensure that the Supplier is in full compliance with the CPA and its related regulations, the Supplier agrees to assist AMVIC with an industry standards inspection which will take place before **May 31, 2022**.
10. The Supplier shall pay the sum of **\$500** 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 **30 days** from the date of signing this Undertaking.
11. This Undertaking will remain in force,

Unless:
 - a. Terminated by the Director or varied with the consent of the Supplier;
 - b. Varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking; or
 - c. Terminated by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair; however, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.
12. The Supplier acknowledges the Director may, upon breach of any term of the Undertaking, institute such proceedings and take such action under the CPA as they may consider necessary.
13. The Supplier acknowledges this Undertaking is a public document and will be maintained in the public record by the Director of Fair Trading (as delegated) as required by Section 157.1 of the CPA.

14. The Supplier acknowledges that they were advised by AMVIC, and are aware that they are entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges they are entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Supplier, has on the 28th day of July, 2021.

1545358 ALBERTA LTD. oa ALL AUTO SALES

PER: "original signed by"
Qudratullah MEHRI

ACCEPTED by the Director of Fair Trading on the 24th day of August, 2021.

PER: "original signed by"
Gerald Gervais, Registrar
DIRECTOR OF FAIR TRADING
(as delegated)