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

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

**BY: NO BULL RV SALES INC.**  
at or near the city of Spruce Grove, 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, used sales, leasing, wholesale, agent or broker and consignment sales in the province of Alberta.
- B. An AMVIC investigation (case file 20-08-104) was initiated as a result of a consumer complaint received by AMVIC in August 2020, alleging consignment contract issues.
- C. An administrative review was held via teleconference call on Sept. 22, 2021 at approximately 9 a.m. Participating in the administrative review was Mr. Richard Showers, owner and sole director of the Supplier; D. Hennessey, general manager of the Supplier; [REDACTED], AMVIC investigator; [REDACTED], AMVIC manager of investigations north; and G. Gervais, Director of Fair Trading (as delegated).
- D. On June 5, 2020, the consumer, "DH", entered into a consignment agreement with the Supplier to sell his 2015 Viking travel trailer (the "Viking"). DH alleges that there was no discussion on what he would get for the sale of his Viking but assumed this would be discussed when the Viking was sold. DH signed the agreement which did not state any disbursements or commissions but did state that the minimum amount acceptable would be the lien payout at the time of sale along with a listing fee of \$899 to the Supplier which was paid upfront and any repairs required to ensure the major systems of the Viking were functioning.
- E. On July 8, 2020, the Supplier sold the trailer for \$9,992.75 plus an option package to the new buyer, the AMVIC levy and the goods and services tax (GST).
- F. On July 28, 2020, 20 days after the sale of the Viking, the Supplier paid out the lien balance of the trailer in the amount of \$4551.18 and on the same date DH received a consignment statement showing that the lien was paid out however no other disbursements were listed and he received no other funds. By failing to provide to the consignor the consignor's share of the purchase price, being the purchase price less the amount payable to the lienholder and the business operator's disbursements, fees and commissions with 14 days of the date that the Supplier sells the vehicle, the Supplier has breached Section 33.1 of the Automotive Business Regulation (ABR).

**Automotive Business Regulation****Paying out proceeds****Section 33.1**

- (1) A business operator who enters into a consignment agreement to sell a consignor's vehicle must, within 14 days of the date that the operator sells the vehicle,
- a) if the business operator has knowledge that the vehicle is subject to a lien,
    - (i) issue a cheque for the amount owing under the lien payable to the lienholder and take reasonable steps to ensure that the lienholder receives the amount owing, and
    - (ii) provide to the consignor a cheque payable to the consignor for the consignor's share of the purchase price, being the purchase price less the amount payable to the lienholder and the business operator's disbursements, fees and commissions, and a statement of account that meets the requirements of subsection (2),

and

- b) in any other case, provide to the consignor a cheque payable to the consignor for the consignor's share of the purchase price, being the purchase price less the business operator's disbursements, fees and commissions, and a statement of account that meets the requirements of subsection (2).

(2) The statement of account must set out

- a) the amounts required to pay out any outstanding liens on the vehicle,
- b) a description of any vehicle or other personal property received as consideration for the sale of the consignor's vehicle and the value assigned to the vehicle or other property, and
- c) the amount payable to the consignor.

- G. The AMVIC investigation revealed that the Supplier is using an outdated consignment agreement form that makes reference to old legislation and that does not conform to the legislative requirements as per Section 33 of the ABR:

**Automotive Business Regulation****Requirements****Section 33**

- (1) A consignment agreement must be in writing and be signed by the business operator and the consignor.
- (2) A consignment agreement must
- (a) set out the name, business address and business phone number of the business operator;
  - (b) set out the name, address and phone number of the consignor;
  - (c) set out a complete description of the vehicle being consigned, including
    - (i) its vehicle identification number,

- (ii) the year, make, model number, colour, number of doors and options of the vehicle,
    - (iii) the odometer reading of the vehicle, and
    - (iv) the history of the vehicle within the consignor's knowledge, setting out any special uses of the vehicle, such as police or taxi use, whether it was recertified and any other information that a reasonable buyer would want to be aware of;
  - (d) describe the consignor's ownership interest in the vehicle and, if the consignor has knowledge that the vehicle is subject to one or more liens, list those liens;
  - (e) set out when the agreement ends and what happens to the vehicle if it has not been sold when the agreement ends;
  - (f) set out the disbursements, fees and commissions that the business operator may charge the consignor for services provided by the operator;
  - (g) set out the minimum amount that the consignor will receive from the business operator for the sale of the vehicle and whether the consignor will accept another vehicle or other personal property as part of the minimum amount;
  - (h) set out who is responsible for insuring the vehicle during the term of the agreement;
  - (i) set out any repairs or other work on the vehicle that the consignor authorizes the business operator to perform and who is responsible for paying for the repairs or other work;
  - (j) contain the terms referred to in subsection (3).
- (3)** The following terms are deemed to be contained in every consignment agreement:
- (a) the business operator agrees not to use the vehicle for the operator's personal use without the written consent of the consignor;
  - (b) the business operator agrees to be the trustee of any money, vehicles or other personal property that the operator receives as consideration for the sale of the vehicle being consigned less an amount for the operator's disbursements, fees and commission;
  - (c) the business operator agrees to provide to the consignor, within 14 days of the date of sale of the vehicle, a copy of the bill of sale that sets out the purchase price for which the vehicle was sold.
- (4)** A business operator who enters into a consignment agreement must give a copy of the agreement to the consignor.
- (5)** The provisions in a consignment agreement that deal with the matters referred to in subsection (2)(a) to (i) may be amended with the consent of the parties to the agreement.

H. Mr. Showers, owner and sole director for the Supplier advised that he has been in business for over seven years and expressed that this matter is not a reflection of their normal business practices. Mr. Showers stated a discussion was held with DH regarding the contract of the consignment sale of the Viking but acknowledges that the paperwork does not reflect that discussion. Mr. Showers took responsibility for the general conduct described in the AMVIC investigation.

- I. The Supplier has no previous history with the regulator and conducts a large volume of sales annually and regrets that this matter occurred.
- J. The Supplier commits to working with the regulator.

**NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:**

- 1. The Supplier acknowledges and admits that it failed to comply with the provisions of the 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 utilize a consignment agreement that meets the legislative requirements and will properly complete the consignment agreement as per Section 33 of the ABR.
- 3. The Supplier will undertake to pay out the proceeds of a consignment sale as per the legislative requirements as per Section 33.1(1) of the ABR.
- 4. The Supplier will reimburse the consumer the sum of **\$5441.57**. This represents the share of the consignment selling price of the Viking, less the amount payable to the lienholder and the Supplier's disbursements, fees and commissions. Such payment is to be made payable to the consumer within **sixty (60) days** of signing the Undertaking.
- 5. 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.
- 6. 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.
- 7. 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.

8. 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 13 day of October, 2021.

**NO BULL RV SALES INC.**

PER: "original signed by"  
Richard SHOWERS

ACCEPTED by the Director of Fair Trading on the 19 day of October, 2021.

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