

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

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

BY: **1720762 ALBERTA LTD.**  
**operating as LEGACY DODGE CLARESHOLM**  
at or near the town of Claresholm, 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 new and used sales, wholesale, garage and leasing in the Province of Alberta.
- B. An AMVIC investigation (case file 22-06-269) was initiated as a result of a consumer complaint received by AMVIC in June 2022, alleging they were misled and deceived in their interactions with the Supplier regarding a vehicle they had provided monies for and were intending to purchase.
- C. An administrative review was held via teleconference call on Nov. 8, 2022 at approximately 9 a.m. Participating in the administrative review was Matthew Lauinger, vice president of the Legacy Auto Group; Ross North, vice president of the Legacy Auto Group; Steve Adams, general manager for the Supplier; [REDACTED], AMVIC investigator; [REDACTED], AMVIC manager of investigations south; and G. Gervais, Director of Fair Trading (as delegated).
- D. On May 28, 2022, the consumer ("WL") signed a disclosure document he believed to be an offer to purchase for a 2022 Dodge Ram 3500 (the "Ram") for an all-in price of \$106,421.96. WL agreed to pay the full manufacturer suggested retail price ("MSRP") of \$100,550 plus fees and taxes and put down a \$4,000 down payment with his credit card.
- E. The Ram was to be delivered to the Supplier's business on approximately June 15, 2022 and arrangements had been made for WL to take delivery on June 25, 2022.
- F. On June 22, 2022, the Supplier contacted WL and advised they wanted an additional \$10,000 for the Ram due to market conditions as it was a one of a kind truck in Canada. At this time, the Supplier then advised WL they were willing to accept an additional \$5,000.
- G. WL asserts he was told that the Supplier had another buyer who was willing to pay the higher price. The Supplier told WL he had until the end of day to agree to the additional price increase. WL was not willing to pay the higher amount as he had an agreement at a set price.

- H. WL received an email with a refund of \$4,000, the money he had put down on the Ram approximately one hour after his conversation with the Supplier advising him of the price increase. WL subsequently purchased a truck from another automotive business.
- I. The AMVIC investigation revealed that on May 28, 2022, WL signed a disclosure document that lists WL as the customer, the vehicle information, the breakdown of the price of the Ram including the fees and taxes. The salesperson for the Supplier circled the cash all-in price of \$106,421.96. This document is signed by WL and above his signature is a statement that reads, *"I/We have reviewed the above disclosure and agree to the vehicle, price and payment information as declared"*.
- J. On May 31, 2022, the salesperson for the Supplier accepted \$4,000 from WL and stated in a text message *"we would take a \$4000 down payment and consider it your truck."* The Supplier indicated that, although unintentional, the salesperson in the text message used the wrong terminology referring to the \$4,000 as a down payment rather than a deposit. A deposit agreement was not completed by the Supplier. It is reasonable for the consumer to believe that he had made an agreement to purchase a truck based on the text message stating that after providing the monies the truck would be his.
- K. The Supplier negotiated a price for the Ram with WL and came to an agreed upon price. By changing the price on the Ram based on market conditions after the fact is an unfair trade practice. It is an unfair trade practice for a Supplier to do or say anything that might reasonably deceive or mislead a consumer. The onus is on the Supplier to use the correct terms (deposit vs. down payment) when dealing with consumers to avoid any confusion. WL believed the Ram was his after putting down a \$4,000 down payment and that he purchased it for the negotiated price of \$106,421.96. Based on the Supplier's actions and words, the Supplier has contravened Section 6(4)(a) 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 consumers or potential consumers:

(a) a supplier's doing or saying anything that might reasonably deceive or mislead a consumer;

- L. During the administrative review, a discussion was held whether the Supplier exerted any undue pressure or influence on WL when advising him of the price increase of the Ram. The salesperson who dealt with WL indicated that he did not tell WL they had another buyer willing to pay the higher cost and that he only explained the reasons for the price increase. He is not sure why WL would state that to AMVIC. The AMVIC investigation revealed that the Ram was not sold to another consumer until July 14, 2022 almost three weeks later from when WL was contacted. WL was told he only had until the end of the day to decide whether to pay the additional \$5,000. The Supplier explained they refunded WL's money right away rather than waiting until the end of the day, as they felt it is a best practice not to hold onto a consumer's money. WL had already expressed to them he was not prepared to pay the higher price. The Supplier contends there was no intent to pressure or influence WL by their actions or words.

**Consumer Protection Act**

**Unfair practices**

**Section 6**

(2) It is an unfair practice for a supplier, in a consumer transaction or a proposed consumer transaction,

(a) to exert undue pressure or influence on the consumer to enter into the consumer transaction;

- M. In advance of the scheduled administrative review, the Supplier forwarded written representations. The Supplier states that they did not act in malice in this consumer transaction, but due to the very taxing marketplace and lack of vehicles, they made a poor decision in changing the agreed upon price.
- N. The Supplier asserts it was not their intent to mislead the consumer, WL. The Supplier acknowledges that based on the market availability at the time, they should have accounted for the higher selling price prior to the initial quote to WL and that this was wrong on their part. In their written representations it states, *"Changing the price once he quoted it is not a good business practice and was an error that will not be duplicated"*.
- O. The Supplier further acknowledges that referring to a deposit as a down payment is misleading and the sales representative misused the term in a text to WL.
- P. In advance of the scheduled administrative review, the Supplier reached out to WL in the interest of coming to a solution however, WL chose to leave the resolution up to AMVIC.
- Q. The Supplier has been in business for approximately seven years in Alberta. The Supplier has no previous enforcement history and the investigator remarked the Supplier was cooperative during the investigation.
- R. The Supplier acknowledged the general conduct described in the AMVIC investigation and regrets engaging in the aforementioned activity.

**NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:**

1. The Supplier acknowledges and admits that it failed to comply with the provisions of the CPA 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 not to do or say anything that might reasonably deceive or mislead a consumer during the course of a consumer transaction as per Section 6(4)(a) of the CPA.
3. The Supplier will undertake to ensure they do not exert any undue pressure or influence to enter into a consumer transaction as per Section 6(2)(a) of the CPA.
4. The Supplier shall pay the sum of **\$1,000** to the Alberta Motor Vehicle Industry Council, 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.

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 King'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 King'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  14  day of  November , 2022.

**1720762 ALBERTA LTD.**  
**operating as LEGACY DODGE CLARESHOLM**

PER:  "original signed by"   
Matthew LAUINGER  
Vice President Legacy Auto Group

ACCEPTED by the Director of Fair Trading on the  22  day of  November , 2022.

PER:  "original signed by"   
Gerald Gervais, Registrar  
Director of Fair Trading  
(as delegated)