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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: BONNYBROOK AUTO SALES INC.**  
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 used sales in the Province of Alberta.
- B. An AMVIC investigation (case file 22-04-217) was initiated as a result of a consumer complaint received by AMVIC in April 2022, alleging they were verbally abused and threatened with a lien being placed on their vehicle after not paying for half the costs of a repair bill that they allege they did not agree to pay.
- C. An administrative review was held via teleconference call on Jan. 10, 2023 at approximately 1 p.m. Participating in the administrative review was Mr. Jamel Assef, owner and director of the Supplier; [REDACTED] AMVIC investigator; [REDACTED], AMVIC manager of investigations south; and G. Gervais, Director of Fair Trading (as delegated).
- D. On March 19, 2022, the consumers ("DL") and ("RL") purchased a used 2012 Dodge Durango (the "Durango") from the Supplier and took delivery of the Durango on March 23, 2022.
- E. On April 11, 2022, the Durango's engine overheated and the consumers brought the Durango to their local mechanic who replaced the thermostat however, the engine overheated again seven days later. DL had diagnostics performed at a third party facility and was provided with a quote for the needed repair work.
- F. The Supplier was willing to work with DL on the cost of the repairs and paid for the Durango to be towed from Olds to Calgary to have a licensed technician he uses regularly diagnose the repairs.
- G. The Supplier spoke with DL and was agreeable to pay for half of the estimated \$3,000 repair work to the Durango and assumed DL was agreeable to pay the other half. DL and RL state they did not agree to this.
- H. The AMVIC investigation revealed that a lien was placed on the Durango by the Supplier and has not been removed.

- I. During the administrative review, the investigator remarked that the consumers have not yet paid for their half of the repair bill. There was no known pre-existing mechanical issues with the Durango when they purchased it. The Supplier paid for the tow bill and for half of the repair bill.
- J. The Supplier did not have any documentation or written communication regarding the required repairs to show authorization from the consumers nor an agreement to pay for half the costs of the required repairs. When the AMVIC investigator interviewed DL, he admitted that comments he made to the Supplier could have been construed as authorization to complete the repairs on the Durango and that he was agreeing to pay half of the repair costs. Due to this miscommunication between DL and the Supplier, the investigator determined there was insufficient evidence to prove that the Supplier had the repairs completed without authorization from DL.
- K. After RL picked up the Durango from the repair facility without paying for their half of the repair costs, RL spoke with Mr. Assef who accused her of ripping him off. RL alleges that Mr. Assef was verbally abusive towards her and threatened her with a lien being placed on the Durango if they did not pay their portion of the repair bill.
- L. During the administrative review, Mr. Assef advised that he sold the Durango to DL and not RL and that the majority of his dealings were with DL only. Mr. Assef indicated that when RL picked up the Durango without paying for the repair bill and then called him, he recalls raising his voice in frustration as he felt he had been fair to the consumers and was trying to help them, however he does not recall being abusive towards her. He claims that if he used words that were offensive it was only after choice words were said to him. Mr. Assef acknowledged as a business owner he must be professional and adhere to a proper code of conduct. Notwithstanding, the Supplier need not use any threatening, intimidating or abusive language in discussions with a consumer as per Section 12(g) of the Automotive Business Regulation ("ABR").

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

Every business operator must comply with section 6 of the Act and in addition must  
(g) not use threatening, intimidating, abusive or coercive language in discussions with a consumer,

- M. Unrelated to the initial consumer complaint, the AMVIC investigation revealed issues with the Supplier's documentation not being compliant with legislation. The Supplier had previously been issued warning letters in relation to a non-compliant BOS in 2020 and 2021. The bill of sale ("BOS") for this transaction is missing the government issued identification that the Supplier used to confirm the identity of the consumer, the date of delivery, missing the deposit made and any outstanding balance remaining, the disclosure statement pertaining to the vehicle's history, condition, declaration that the business operator has disclosed information as per Section 31.1. The BOS does not comply with the requirements as set out in the ABR therefore the Supplier has contravened Section 31.2 of the ABR.

## **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.**
- (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.

- N. During the administrative review, Mr. Assef expressed that he has been in business since approximately 1999 and has no previous enforcement history.
- O. The Supplier acknowledged the shortcomings in the BOS and stated he had worked with his controller to address the issues when he received the two warning letters and believed the deficiencies had all been resolved. The Supplier committed to ensuring his BOS is fully compliant.
- P. The investigator remarked the Supplier was cooperative during the investigation.
- Q. 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 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 not to use threatening, intimidating, abusive or coercive language in discussions with consumers as per Section 12(g) of the ABR.
3. The Supplier will undertake to ensure their BOS is completed in compliance with Section 31.2 of the ABR.
4. 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 **June 30, 2023**.
5. The Supplier shall pay the sum of **\$500** 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.

6. 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.

7. 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.

8. 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.

9. 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 February, 2023.

**BONNYBROOK AUTO SALES INC.**

PER: "original signed by"  
Jamel ASSEF

ACCEPTED by the Director of Fair Trading on the 14 day of February, 2023.

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