

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

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

BY: SOUTH EAST COLLISION AND REFINISHING CENTRE LTD.

in 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 following automotive business activities: retail sales and autobody in the Province of Alberta.
- B. An administrative review was held via teleconference call on June 11, 2024 at approximately 9 a.m. Participating in the administrative review was Jamshid Akbaree, owner for the Supplier; F. Lough, AMVIC investigator; [REDACTED], manager of investigations south; and K. Lockton, Director of Fair Trading (as delegated) (the "Director").
- C. AMVIC received a complaint regarding the Supplier from a consumer ("HS") in relation to the repair of a 2016 Hyundai Sonata plug-in hybrid (the "Sonata"). The consumer complaint alleged the Supplier had not completed the required repairs in the timeframe stated or for the agreed upon cost. AMVIC initially received the consumer complaint in February 2023 (case file no. 23-02-011), however after HS and the Supplier came to an agreement this complaint did not proceed any further. In July 2023 AMVIC received another complaint from HS (case file no. 23-07-238) as the agreement previously reached had fallen through. An AMVIC investigation was commenced as a result of the consumer complaint from HS.
- D. After being in a collision, HS took the Sonata to the Supplier in August 2021. At this time the Supplier provided HS a verbal estimate of \$6,000 to \$7,000 and told HS it would take approximately a month to complete the work. HS gave the Supplier verbal authorization to complete the repairs. As this was done verbally it is not clear if this estimate was for the parts and the completion of the repairs or only for the parts required. Shortly after the Sonata was given to the Supplier, HS sent two electronic money transfers to the Supplier for a total amount of \$4,000.
- E. Based on the invoices, the Supplier has been ordering parts for the Sonata since January 2022. During the administrative review the Supplier advised finding parts for the Sonata has been very difficult. When the Sonata was first brought to the Supplier in 2021 the COVID-19 pandemic greatly affected the ability to get parts in general, coupled with the fact the Sonata is a plug-in

hybrid, which was not common in 2016, the Supplier has not been able to easily acquire the required parts to repair the Sonata.

- F. The Supplier advised that when they began completing the repairs in February 2022 the Sonata would not start. The Supplier thought this was due to it not being plugged in for such a long period of time and towed the Sonata to another business that had the equipment to plug in the Sonata to charge. It was at this time the Supplier learned the Sonata required additional engine repairs. The Supplier advised they paid the automotive repair business to complete some of the work on the engine but did not have the documents to demonstrate what work had been completed nor the cost.
- G. According to the Supplier, the automotive repair business found that due to the impact of the collision the hybrid battery wiring harness needed to be replaced. During the administrative review the Supplier explained that the hybrid battery wiring harness runs from the front of the Sonata, where the engine is, to the back of the Sonata, where the plug-in is located. Due to the high voltage, this repair requires an automotive repair business to have the required equipment to complete the repair.
- H. After AMVIC received the initial consumer complaint from HS in February 2023 (case file no. 23-02-011), the Supplier and the consumer came to an agreement of \$9,000 to finish the repairs to the Sonata and the Supplier would complete the repairs by no later than March 29, 2023. This agreement was recorded in writing however the document is undated. The Sonata was not repaired by March 29, 2023.
- I. In July of 2023 AMVIC received the second consumer complaint from HS as the repairs to the Sonata had not been completed. After the investigation commenced the Supplier offered to resolve the matter and complete the repairs for \$8,500. HS did not accept this resolution.
- J. The AMVIC investigation revealed that the Supplier failed to document the appropriate authorization to complete repairs throughout the period of time the Supplier has had the Sonata as required by Sections 31.7 and 31.8 of the ABR.

Automotive Business Regulation

Authorization of work

Section 31.7

- (1) A business operator engaged in automotive repairs must not install parts or equipment in or on a vehicle or repair or service a vehicle unless the consumer has provided authorization.
- (2) An authorization under subsection (1) must be provided in writing, subject to section 31.8.
- (3) An authorization must contain the following information:
 - (a) the name of the consumer, or the consumer's agent, giving authorization;
 - (b) the date of authorization;
 - (c) a description of the work that the consumer, or the consumer's agent, authorizes to be carried out;
 - (d) the estimated total cost of the work described in clause (c) and confirmation that the consumer, or the consumer's agent, authorizes that cost.

Authorization not in writing

Section 31.8

An authorization of work may be in a form other than in writing if the business operator records the following information in writing:

- (a) the information required under section 31.7(3);
- (b) the time at which authorization is given;
- (c) the method by which authorization is given.

- K. In addition, due to the Supplier's lack of record keeping in relation to the estimates and the above mentioned authorizations for repairs, determining exactly what happened and when it happened is very difficult to determine. This is especially difficult due to the amount of time that has elapsed. However, based on the evidence that is available the Supplier did contravene Sections 6(4)(a), 6(4)(n) and 6(4)(u) of the CPA in their representations made to HS in relation to the repair of the Sonata.

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;
- (n) a supplier's representation that goods or services will be supplied within a stated period if the supplier knows or ought to know that they will not;
- (u) a supplier's giving an estimate of the price of goods or services if the goods or services cannot be provided for that price;

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.

- L. During the administrative review, the Supplier advised the autobody work is completed on the Sonata. The invoices for the parts were reviewed during the administrative review and the Supplier confirmed which parts had been installed on the Sonata. The total cost the Supplier has spent for parts alone, based on the invoices available, is \$7,873.19. The Supplier advised the outstanding issue with the Sonata is the hybrid battery wiring harness, which is a repair they are not licensed to complete nor do they have the certified staff and equipment to complete this repair.
- M. During the administrative review, the Supplier advised that they have learnt a lot as a result of this consumer complaint and has changed many business practices to ensure this does not happen again.
- N. The Supplier indicated a willingness to work with the regulator and commit to adhering to the legislative requirements.

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 to create and maintain accurate business records in accordance with Section 132 of the CPA and Section 9 of the ABR.
3. The Supplier will undertake to ensure they get authorization to engage in automotive repairs from consumers in compliance with Sections 31.7 and 31.8 of the ABR.
4. The Supplier will undertake to ensure they are not engaging in business practices that could mislead or deceive a consumer, specifically the Supplier will not make representations that goods or services will be supplied within a stated period if the Supplier knows or ought to know they will not as per Sections 6(4)(a) and 6(4)(n) of the CPA.
5. The Supplier will undertake to ensure they do not give an estimate for the price of goods or services, if the goods or services cannot be provided for that price in accordance with Section 6(4)(u) of the CPA.
6. 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 **Jan. 31, 2025**. Based on the nature of this consumer complaint this inspection will focus on the Supplier's autobody records. However, the inspector may review additional business records at their discretion.
7. The Supplier shall pay the sum of **\$1,000** 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 thirty (30) days from the date of signing this Undertaking.

8. 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.

9. 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.

10. 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.

11. The Supplier acknowledges that they were advised by AMVIC that they as the Supplier 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 9 day of July , 2024

PER: "original signed by"
South East Collision and Refinishing Centre Ltd.
Jamshid AKBAREE
Owner

ACCEPTED by the Director of Fair Trading on the 23 day of July , 2024.

PER: "original signed by"
AMVIC
Katie Lockton, Deputy Registrar
Director of Fair Trading (as delegated)