

AMENDED

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

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

BY: **ZAIN AUTO SALES 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 automotive business activity of wholesale sales in the Province of Alberta.
- B. An administrative review was held via teleconference call on May 28, 2024 at approximately 9:05 a.m. Participating in the administrative review was Zainalabbdee Al Azzawi, owner of the Supplier; [REDACTED] AMVIC investigator; [REDACTED] manager of investigations south; and K. Lockton, Director of Fair Trading (as delegated) (the "Director").
- C. AMVIC received an anonymous Crime Stoppers tip relating to a dealer licence plate and the name of an individual who was allegedly selling and repairing vehicles in a Calgary neighbourhood. An AMVIC investigation (case file number 24-01-131) was commenced as a result of the Crime Stoppers tip. The investigator completed a search of the licence plate number provided to Crime Stoppers and determined it was registered to the Supplier. However, the name provided in the Crime Stoppers tip did not correspond to Mr. Al Azzawi. Mr. Al Azzawi does however live in the same neighbourhood as the address stated in the complaint.
- D. The investigator determined within a specified period of time the Supplier had purchased 27 vehicles from an auction. Based on the information gathered by the investigator, 14 of the 27 vehicles had new registered owners at the time of the investigation. The investigator reviewed the 14 bills of sale. Of the 14 bills of sale, two vehicles were sold by the Supplier and Mr. Al Azzawi to consumers. The Supplier does not hold an AMVIC business licence to conduct vehicle sales to consumers as they hold an AMVIC business licence for the business activity of wholesale sales only.

Consumer Protection Act

Licence required - designated businesses

Section 104

(1) No person may engage in a designated business unless the person holds a licence under this Act that authorizes the person to engage in that business.

Automotive Business Regulation

Definitions

Section 1

(1) In this Regulation,

(l) “wholesaler” means an automotive business that buys vehicles from, sells or consigns vehicles to or exchanges vehicles with other automotive businesses exclusively, and includes an automotive business that buys vehicles from members of the public for sale to other automotive businesses but not to consumers.

New classes of licence

Section 3

(7) A person who holds an automotive business licence is not authorized to carry on any class or classes of activities that are not specified on the licence.

- E. The two bills of sale reviewed demonstrated the Supplier had gifted a vehicle and sold a vehicle within the family. The definition of a consumer in the Automotive Business Regulation (“ABR”) demonstrates that this business activity requires an AMVIC business licence to sell vehicles to consumers or gift vehicles, even to family members.

Automotive Business Regulation

Definitions

Section 1

(1) In this Regulation,

(e.1) “consumer” means

(i) an individual who receives or has the right to receive goods or services for personal use from an automotive business as a result of a purchase, lease, gift, contest or other arrangement, but does not include an individual who intends to sell the goods after receiving them,

(ii) a business with a commercial fleet of 5 or fewer vehicles that receives or has the right to receive goods or services for business use from an automotive business as a result of a purchase, lease, gift, contest or other arrangement, but does not include a business that intends to sell the goods after receiving them;

- F. During the administrative review, after the above definitions were reviewed with the Supplier they stated they did not understand that the two transactions were outside of what they were allowed to do with the wholesale business licence. The Supplier thought because one was a gift and the other was within their household they were not doing anything wrong. The Supplier stated they now understand the definition of a consumer and will ensure they do not conduct sales to consumers.
- H. The Supplier indicated a willingness to work with the regulator and commit to adhering to legislative requirements.

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 acknowledges that they understand the definition of a consumer, the definition of a wholesaler and that they will not engage in the sale of vehicles to consumers.

3. 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.

4. 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.

5. 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.

6. 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 26 day of June, 2024

PER: "original signed by"
Zain Auto Sales Ltd.
Zainalabbdee AL AZZAWI
Owner

ACCEPTED by the Director of Fair Trading on the 9 day of July, 2024.

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