



UNDERTAKING

IN THE MATTER OF THE *MOTOR DEALER ACT* R.S.B.C. 1996 c. 316 and the *BUSINESS PRACTICES AND CONSUMER PROTECTION ACT* S.B.C. 2004, c. 2

THIS UNDERTAKING is made with an effective date of August **17th**, 2017

Between

White Spot Service Ltd. *dba* Morrey Nissan Sales (Dealer #5232)

And

The Registrar, Vehicle Sales Authority of B.C. (the "Registrar")

WHEREAS:

1. White Spot Service Ltd. *dba* Morrey Nissan Sales (Dealer #5232) (the "Dealer") is a "registered motor dealer" as defined under the *Motor Dealer Act* R.S.B.C. 1996 c. 316 (the "Act").
2. The "Registrar of Motor Dealers", as defined under the Act, (the "Registrar") is responsible for the administration and enforcement of the Act, its regulations and prescribed provisions of the *Business Practices and Consumer Protection Act* S.B.C. 2004 c. 2 (the "BPCPA")
3. The Registrar reviewed a sample of one year's of the Dealer's records and found that the Dealer:
 - i. Charged \$120 for floor mats on new vehicles even though the Nissan Freight & PDI charge to consumers included floor mats as standard.
4. The Dealer cooperated with the Registrar's investigation and reviewed all of its sales in the past year and determined that in 624 consumer purchases the Dealer charged \$120 for floor mats on new vehicles even though the Nissan Freight & PDI charge to consumers included floor mats as standard.
5. The Dealer has agreed to refund the 624 consumers who overpaid the \$120 for floor mats and provide proof of the refund to the Registrar.
6. The Registrar asserts that the Dealer have contravened the following provisions of the MDA and the BPCPA or their regulations:
 - i. Section 5(1) of the BPCPA as deemed by sections 4(1) and 4(3)(a)(i) to (viii) and 4(3)(b)(i) to (ix) and/or 4(3)(c)(i) to (iii) and section 9(1) of the BPCPA; and

ii. Section 27 of the *Motor Dealer Act Regulation* [advertising].

NOW THEREFORE the Dealer undertakes, acknowledges, and agrees with the Registrar:

7. To comply with all provisions of the BPCPA and its regulations;
8. To refrain from misrepresenting to consumers extra fees that are already accounted for;
9. To comply with the MDA, the *Motor Vehicle Act* and the regulations made thereunder;
10. To reimburse \$120 plus taxes to 624 consumers who were charged for floor mats where they purchased vehicles from the Dealer within the last year.
11. To submit an audit of the Dealer reimbursing the consumers by a fully licensed and accredited accountant within 90 days of signing the Undertaking.
12. To pay an Administrative Penalty in the amount of \$8,000.00 in relation to the subject matter of this Undertaking;
13. To reimburse the Registrar a total of \$331.61 representing 100% of the investigation and legal costs incurred to date in relation to the subject matter of this Undertaking;
14. That this Undertaking is binding on the Dealer until such time as it is either terminated in writing by the Registrar or terminated by Order of the Supreme Court of British Columbia;
15. That in addition to rendering the Dealer liable to further penalties and proceedings as provided for under the BPCPA, it is an offence under the BPCPA to fail to comply with any part of this undertaking that has not been previously terminated;
16. That the Registrar, may upon breach of any part of this undertaking by the Dealer declare the Undertaking to be at an end and may institute such proceedings and take such action under the BPCPA, or the Act as considered necessary;
17. That any communication with the Registrar in connection with this undertaking shall be made to the following:

Registrar of Motor Dealers
Vehicle Sales Authority of B.C.
#208 – 5455 152 Street
Surrey, B.C. V3S 5A5
Fax: (604)-574-5883

And in the case of the Dealer to the following address:

White Spot Service Ltd. *dba* Morrey Nissan Sales
4450 Still Creek Drive
Burnaby, B.C. V5C 6C6

unless another address for delivery is given to the other party, in writing, by either the Registrar or the Dealer;

18. The Dealer acknowledges and warrants that they have had an opportunity to seek legal advice as to the terms of this Undertaking; and
19. This Undertaking may be filed by the Registrar in the B.C. Supreme Court and if it is so filed, the Undertaking is deemed an order of that court for all purposes except appeals.

DATED this 17th day of August, 2017.

Dealer Name: Morrey Nissan Sales

Jarrett Morrey

(Print the name and title of Dealer's authorized representative)

Signature: "Original is signed"

ACCEPTED by the Registrar of Motor Dealers this 17th day of August, 2017.

"Original is signed"

Wendy Baker, QC

Acting Registrar of Motor Dealers or his delegate