



## **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 October 23, 2018

between

Jin De Xing (Unlicensed)

and

The Registrar, Vehicle Sales Authority of B.C.

#### **WHEREAS:**

1. Section 1(1) of the *Motor Dealer Act* R.S.B.C. 1996 c. 316 ("MDA") sets forth the following definitions:

**"motor dealer"** means a person who, in the course of business,

- (a) engages in the sale, exchange or other disposition of a motor vehicle, whether for that person's own account or for the account of another person, to another person for purposes that are primarily personal, family or household,
- (b) holds himself, herself or itself out as engaging in the disposition of motor vehicles under paragraph (a), or
- (c) solicits, offers, advertises or promotes with respect to the disposition of motor vehicles under paragraph (a),

but does not include a person exempted by regulation or an individual referred to in paragraph (a) of the definition of "salesperson";

...

**"salesperson"** means

- (a) an individual, other than a motor dealer, who, on behalf of a motor dealer and for or in the expectation of a fee, gain or reward,

- (i) solicits, negotiates or arranges for the sale of a motor vehicle to a person, or
  - (ii) in any way participates in the soliciting, negotiating or arranging for the sale of a motor vehicle to a person, or
- (b) an individual who is a motor dealer and who
  - (i) solicits, negotiates or arranges for the sale of a motor vehicle to a person, or
  - (ii) in any way participates in the soliciting, negotiating or arranging for the sale of a motor vehicle to a person...
- 2. The "Registrar of Motor Dealers" ("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 ("BPCPA").
- 3. The Registrar has received information about and investigated the activities of Jin De Xing ("Xing"), indicating that:
  - (a) Xing has engaged in activities on multiple occasions that deem him to be a motor dealer and salesperson, within the meaning of the MDA; and
  - (b) Xing is not registered as a motor dealer or licensed as a sales person.
- 4. Xing's actions contravene the MDA.

**NOW THEREFORE** Xing undertakes, acknowledges, and agrees with the Registrar:

- 5. To comply with the MDA and the regulations made thereunder;
- 6. Specifically, to immediately cease and desist all activity that would be construed as that of a motor dealer or salesperson, as defined by the MDA, unless and until Xing is registered as a motor dealer or licensed as a salesperson, as the case may be.
- 7. To pay an Administrative Penalty in the amount of \$2,000 in relation to the subject matter of this Undertaking within thirty (30) days of the execution of this Undertaking;
- 8. To reimburse the Registrar a total of \$441.66 representing 100% of the investigation and legal costs incurred to date in relation to the subject matter of this Undertaking within thirty (30) days of the execution of this Undertaking;
- 9. That this Undertaking is binding on Xing until such time as it is either terminated in writing by the Registrar or terminated by Order of the Supreme Court of British Columbia.

10. That in addition to rendering Xing liable to further penalties and proceedings as provided for under the MDA, this Undertaking may be filed in the B.C. Supreme Court and once filed is deemed a court order and may be enforced as a court order.
11. That the Registrar, may upon breach of any part of this undertaking by Xing declare the Undertaking to be at an end and may institute such proceedings and take such action under the MDA as considered necessary.
12. 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.  
#280 – 8029 199th Street  
Langley, BC V2Y 0E2

And in the case of Xing to the following address:

Jin De Xing



Refused pursuant to  
sections 22(1) and 22(3) of FIPPA -  
Personal Address

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

13. Xing acknowledges and warrants that they have had an opportunity to seek legal advice as to the terms of this Undertaking.

**DATED** this 23<sup>rd</sup> day of October, 2018

Jin De Xing

Signature: \_\_\_\_\_ Original Signed \_\_\_\_\_

**ACCEPTED** by the Registrar of Motor Dealers this  
29<sup>th</sup> day of October 2018

\_\_\_\_\_  
Original Signed  
Ian Christman  
Registrar of Motor Dealers or his delegate