



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 July 22, 2020

between

Ocean Park Ford (DL#8367)

And

The Registrar of Motor Dealers

WHEREAS:

1. Ocean Park Ford (DL#8367), (the "Dealer"), is a registered motor dealer as defined under the *Motor Dealer Act R.S.B.C. 1996 c. 316* (the "MDA").
2. The Registrar of Motor Dealers (the "Registrar"), as defined under the MDA, is responsible for the administration and enforcement of the MDA, its regulations, and prescribed provisions of the *Business Practices and Consumer Protection Act S.B.C. 2004 c. 2* (the "BPCPA").
3. After an investigation was conducted, the Registrar has received information that the Dealer:
 - a) Failed to conduct an inspection of the vehicle as required by the *Motor Vehicle Act* before making the sale to the consumer;
 - b) Failed to adhere to the mandated written inclusion of the "one clear day" cooling off period and was only in possession of the vehicle for in or around 1 hour;
 - c) Failed to disclose that the vehicle had an outstanding safety recall notice; and
 - d) Has yet to unwind the deal for the consumer, Dallas Johnson and Mr. Johnson continues to make his loan payments and is still in the position of the vehicle which is inoperable.
4. The Registrar asserts that the above detailed conduct violates the following statutory provisions:
 - a) Sections 21(2)(d), (e) and (f) of the Motor Dealer Act Regulation ("MDAR") for selling a vehicle with an outstanding safety recall;

- b) Section 30(2)(g) and 31(3) of the MDAR for failing to adhere to the mandated written inclusion of the "one clear day" cooling off period on the lease documentation;
- c) Sections 4(3)(b)(vi), 5, 8 and 9 of the *Business Practices and Consumer Protection Act* ("BPCPA") for engaging in deceptive acts or practices and engaging in unconscionable acts or practices; and
- d) The Code of Conduct provisions at section 33(2)(a) of the MDAR, for failing to act with honesty and integrity.

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

- 5. To comply with the MDA, the BPCPA and the regulations made thereunder;
- 6. To unwind the deal and reimburse the consumer, Dallas Johnson, for the loan payments he has made so far or alternatively to fix the vehicle to the standards of the Motor Vehicle Act;
- 7. To pay an Administrative Penalty, in the amount of **\$5,000** to deter the Dealer from engaging in conduct similar to the aforementioned contraventions of the MDA and the BPCPA in the future, within thirty (30) days from the signing of this Undertaking;
- 8. To reimburse the Registrar a total of **\$2,211.73** representing 100% of the investigation costs incurred to date in relation to this matter, within thirty (30) days from the signing of this Undertaking;
- 9. That this Undertaking is binding 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 being rendered liable to further penalties and proceedings as provided for under the BPCPA, that it is an offence under the BPCPA to fail to comply with any part of this Undertaking that has not been previously terminated;
- 11. That the Registrar, upon breach of any part of this Undertaking, may declare the Undertaking to be at an end and may institute such proceedings and take such action under the BPCPA, or the MDA as considered necessary.
- 12. That nothing herein is intended to resolve any other complaint or investigation not specifically referenced in this Undertaking;
- 13. That any communication with the Registrar in connection with this Undertaking shall be made to the following address:

Registrar of Motor Dealers
Vehicle Sales Authority of BC
#280 – 8029 199th Street
Langley, BC V2Y 0E2

In the case of Dealer, to the following address:

Ocean Park Ford
Unit 2F – 3050 King George Boulevard
Surrey, BC V4P 1A2

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

14. The Dealer has read this Undertaking and has had a reasonable opportunity to seek and obtain legal advice as to its terms.

DATED this 22nd, day of July 2020

Ocean Park Ford (DL#8367)

Authorized signatory: "original is signed"
Name: Chris Vallance
Title: General Manager

ACCEPTED by the Registrar of Motor Dealers this 18 day of August 2020

"original is signed"
Ian Christman
Registrar of Motor Dealers