



Neutral Citation: 2016-BCRMD-009

**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***

BETWEEN:

**MOTOR DEALER COUNCIL OF BRITISH COLUMBIA  
*dba* MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA  
AND JAMES GRIEVE**

COMPLAINANTS

AND:

**AUTOLINES MOTOR GROUP LTD.  
(Dealer #40090)**

MOTOR DEALER

AND:

**CORY DEWINETZ  
(Salesperson #110800)**

SALESPERSON

**DECISION OF THE REGISTRAR OF MOTOR DEALERS**

**Date and Place of Hearing:** March 16, 2016, at Surrey, British Columbia

**Appearances for:**

Motor Dealer and Salesperson	Cory Dewinetz
James Grieve	In person
Vehicle Sales Authority	Daryl Dunn, Manager of Compliance and Investigations Bryan Reed, Compliance Officer

**Introduction**

[1] On March 16, 2016, a hearing was held to review allegations that Autolines Motor Group Ltd. (Dealer #40090) ("Autolines") and Cory Dewinetz (Salesperson #110800) contravened sections 4 and 5 of the *Business Practices and Consumer Protection Act* ("BPCPA") by making one or more representations or by conduct that had the capability, tendency or effect of misleading James Grieve during the purchase of a 2007 Volkswagen Golf (the "2007 Golf"). Specifically, it was alleged that Autolines and Mr. Dewinetz:

- a) Misrepresented the condition of the 2007 Golf to Mr. Grieve;
- b) Failed to make the proper repairs to the 2007 Golf; and
- c) Failed to disclose to Mr. Grieve that the 2007 Golf had prior damage over \$2,000.

[2] At the hearing, additional concerns were raised that Autolines and Mr. Dewinetz:

- a) allowed an employee who was not a licenced salesperson to complete sales documents; and
- b) failed to disclose that the 2007 Golf had been registered out of province.

### **Facts**

[3] Autolines is owned and operated by Mr. Dewinetz.

[4] In or about August 2014, Autolines acquired the 2007 Golf. On August 19, 2014, A&A Tire Inc., specifically Conrad Moore, a technician with A&A Tire Inc., performed an inspection of the 2007 Golf. The inspection sheet which was introduced into evidence showed the following deficiencies in the 2007 Golf:

- a) Chip in windshield;
- b) Exhaust centre hanger broken;
- c) Plastic valance hanging low front; and
- d) License plate light (right) inoperative.

[5] Mr. Moore testified at the hearing that none of the noted deficiencies created safety hazards with the 2007 Golf. It was his opinion that the 2007 Golf was safe when it was returned to the Autolines in August 2014.

[6] In early November 2014, Mr. Grieve attended the dealership and was shown the 2007 Golf by Mr. Dewinetz. There is a dispute in the evidence as to whether Mr. Grieve took the 2007 Golf for a test drive or not. On November 10, 2014, Mr. Grieve entered into a purchase agreement with Autolines to purchase the 2007 Golf for \$6,000. The following notes were made on the purchase agreement:

- a) Three month power train warranty \$600 per claim
- b) To fix dent + rear 1/4 also
- c) To do touch ups
- d) To call paint guy to see how much would cost
- e) Poss. rims and tires \$550 extra not in sale price.

[7] In addition, Autolines made the following declarations on the purchase agreement which are relevant to this hearing:

- a) Has the motor vehicle ever sustained damage requiring repairs costing more than \$2,000?

Answer: No.

- b) Has the motor vehicle ever been registered in any other jurisdiction other than British Columbia?

Answer: No.

[8] Autolines had obtained a vehicle claims history report from ICBC on the 2007 Golf. This report showed two claims, one on August 14, 2012, and one on March 19, 2011. The total value of the two claims was approximately \$1,500.

[9] The ICBC vehicle claims history report noted that the 2007 Golf was imported from another Canadian province or territory.

[10] On the APV9T transfer tax form completed by the insurance agent, it is also noted that the 2007 Golf was previously registered outside of British Columbia.

[11] At the hearing, much time was spent on the condition of the 2007 Golf at the time of purchase. These issues can be categorized as follows:

**Safety concerns**

- a) Stabilizer bushings
- b) Brakes
- c) Shocks
- d) Exhaust pipe

### **Non-safety concerns**

- a) Mags and tires
- b) Stereo
- c) Antenna and trim
- d) Paint chips and dents

### **Assessment of Evidence**

#### ***a) Failure to declare damage over \$2,000 and registration out of British Columbia***

[12] At the hearing Mr. Dewinetz openly admitted that he did not obtain a CarProof vehicle history report which would have disclosed that the 2007 Golf sustained damage in excess of \$8,000 during the time it was registered outside of British Columbia.

[13] The ICBC vehicle claims history report which Mr. Dewinetz and Autolines did obtain clearly stated that the 2007 Golf had been imported from another Canadian province or territory. Mr. Dewinetz had access to this document at the time of the sale of the 2007 Golf.

[14] Mr. Dewinetz testified that Autolines does not always obtain CarProof reports and that he did not know why he did not obtain a CarProof report in this case.

[15] Mr. Dewinetz did not exercise appropriate care and attention in obtaining a correct vehicle history for the 2007 Golf. The ICBC report ought to have alerted him to the need to obtain data relating to the time the 2007 Golf was not registered with ICBC.

[16] As a result of Mr. Dewinetz's carelessness, he incorrectly completed two important disclosures on the purchase agreement. He incorrectly stated the extent of the damage sustained by the 2007 Golf, and incorrectly stated that the 2007 Golf had not be registered outside of British Columbia.

[17] In addition to the incorrect representations on the purchase agreement, the extent of damage was discussed by Mr. Dewinetz to Mr. Grieve. Both witnesses agreed that Mr. Dewinetz advised Mr. Grieve that the 2007 Golf had sustained only minor damage, valued at approximately \$1,500 in total.

[18] I also accept the evidence of Mr. Grieve that Mr. Dewinetz told him that the prior owner was a British Columbia resident, which left the impression that the 2007 Golf had not been registered out of British Columbia.

***b) Sales documents completed by a non-licensed salesperson***

[19] The assistant to Mr. Dewinetz, Anastasia Petukhova, prepared and signed the warranty documents for the sale of the 2007 Golf. Ms. Petukhova was not a licensed salesperson.

[20] Mr. Dewinetz testified that he conducted all aspects of the sale and his assistant simply prepared the paperwork. Mr. Dewinetz completed the purchase agreement, and signed it on behalf of Autolines.

[21] Mr. Dewinetz agreed that Ms. Petukhova did sign the warranty documents on behalf of Autolines.

***c) Condition of the 2007 Vehicle.***

***(i) Concerns with respect to the safety of the 2007 Golf***

[22] At the time he purchased the 2007, Mr. Grieve was provided with a copy of the A&A Tire Inc. inspection report which had been done in August 2014. As confirmed by Mr. Moore in evidence, none of the four items noted posed any safety concerns.

[23] Approximately one month after his purchase of the 2007 Golf, Mr. Grieve went to A&A Tire Inc. to have a further assessment done of the 2007 Golf.

[24] An issue was raised with respect to the stabilizer bushings on the front suspension. Mr. Moore testified that the stabilizer bushings were not noted in August to have any issues. When Mr. Grieve brought the car back to A&A, Mr. Moore noted some play in the stabilizer bushings but it was his opinion that there was no safety concern as far as the bushings being worn out. A&A did replace the stabilizer bushings at the request of Mr. Grieve. Autolines agreed to pay the cost of the replacement.

[25] Mr. Grieve also asked A&A to check the shock absorbers as Mr. Grieve had had inspections performed by Midas and Jim Pattison which suggested the shock absorbers might have been leaking. Mr. Moore testified that, "I then drove in and lifted the vehicle up on the hoist at my facility to show James [Grieve] the physical condition of the shocks and struts. It was made clear that these parts of the vehicle were in fact free of damage. Hydraulic fuel leaks, cracks, seizures and all mounts were secure and tight".

[26] Notwithstanding Mr. Moore's conclusion, Mr. Grieve asked A&A to replace the rear shocks on the car in January 2015. When Mr. Moore was replacing the rear shocks, he noticed the right rear wheel had a sticky brake caliper. It was Mr. Moore's opinion that this was a new issue which was not present during the inspection in August 2014. Mr. Grieve advised A&A that the calipers were covered by the 6 month warranty he had purchased with the vehicle and the calipers were replaced.

[27] Mr. Grieve asked A&A to check for exhaust leaks in the 2007 Golf. Mr. Moore noted that no engine service light indicated an excessive exhaust leak was present. However, on a close examination of the exhaust system he did notice a faint smell of exhaust. The leak was located as a pin hole on the back side of the flex pipe on the rear engine against the firewall. This was repaired and the cost of the repair was paid for by the Autolines.

[28] In summary, Autolines paid for two additional repairs at the request of Mr. Grieve after the purchase. Of these, the stabilizer bushings did not represent a safety concern with the 2007 Golf. The repair to the pin hole in the flex pipe may have been a safety concern, although that was not established on the evidence. Nevertheless, the pin hole was replaced at the cost of Autolines without any hesitation by Autolines.

[29] Mr. Grieve took advantage of his warranty to replace the rear calipers when he had the shocks replaced.

[30] None of the evidence before me established that the condition of the 2007 Golf was unsafe or at all inconsistent with the normal wear and tear on a seven year old vehicle.

**(ii) Non-safety concerns**

*Rims and tires*

[31] The purchase agreement noted that a price of \$550 for possible rims and tires was not included in the sale price of the 2007 Golf.

[32] At the time of purchase, Mr. Grieve completed a "Happy Buyer" form. On this form it was stated that rims were to be swapped when Autolines receives a set from a trade-in (Golf).

[33] The deal completed on November 19, 2014. On the day Mr. Grieve went to pick up the 2007 Golf, he noted that the rims (sometimes referred to in evidence as "mags") and tires which he wanted were not on the 2007 Golf.

[34] At the hearing, Mr. Grieve testified that the 2007 Golf had the same rims and tires on it that he had seen when he first viewed the 2007 Golf earlier in November. He testified that he had given \$550 to Autolines to have new mags and tires put on the 2007 Golf but that that had not happened.

[35] Mr. Dewinetz took the opposite view. He stated that when the 2007 Golf was seen by Mr. Grieve it had hubcaps and that Autolines had in fact purchased mags and tires from Gordons, a used part company in Langley, and had them installed on the 2007 Golf for Mr. Grieve. Mr. Dewinetz produced an invoice and payment records from Gordons in relation to the purchase of rims and tires for the 2007 Golf. He agreed that the mags and tires that Mr. Grieve had seen in the showroom were not the same ones on the car but stated that those mags and tires in the showroom were not right size or model for the 2007 Golf. The mags and tires which he installed were the appropriate part for the 2007 Golf. Mr. Conrad Moore also testified at the hearing that when he examined the car in August 2014, the car had hubcaps not mags and tires.

[36] The evidence of Mr. Moore and Mr. Dewinetz together with the invoice from Gordons European Used Parts, which was produced by Mr. Dewinetz, leads me to conclude that in fact the 2007 Golf was delivered to Mr. Grieve with rims and tires purchased by Autolines and installed by Autolines at the request of Mr. Grieve. While Mr. Grieve may have a different memory of what he saw on the car in early November, I am satisfied on the balance of the evidence that Autolines did take the money provided by Mr. Grieve for the replacement mags and tires and used that money to purchase and install replacement mags and tires on the 2007 Golf to be ready for delivery to Mr. Grieve on November 19, 2014.

#### *Stereo*

[37] While some time was spent on the 2007 Golf's stereo at the hearing, it appears that there is no dispute between the parties on the following facts:

- a) the stereo did not work on delivery to Mr. Grieve;
- b) Autolines agreed to replace the stereo in the 2007 Golf with an aftermarket single-din stereo;

- c) Mr. Grieve did not like the look of the single-din aftermarket stereo because it was smaller than the standard opening in the console on the 2007 Golf;
- d) Mr. Grieve requested the stereo company to install a double-din aftermarket stereo that had Bluetooth capabilities and which fit better into the stereo opening on the console of the 2007 Golf.
- e) Mr. Grieve agreed to pay for the upgrade cost of the double-din stereo.
- f) The automotive stereo dealer installed the new stereo and both the dealer and Mr. Grieve paid a share of the cost in amounts agreed to by all parties.

[38] I conclude that Autolines took all reasonable steps to ensure a working stereo was installed in the 2007 Golf, consistent with the factory stereo which had stopped working.

*Antenna and trim*

[39] Mr. Grieve testified that an antenna was broken off when the 2007 Golf was sent to the body shop for painting by Autolines. Mr. Grieve also testified that a piece of trim was removed at the same time by the body shop which painted the car.

[40] Mr. Dewinetz testified that he contacted the body shop and the body shop stated that there was no antenna on the 2007 Golf which was broken or lost and that there was no trim which was removed by the body shop. The cost claimed by Mr. Grieve for the antenna was \$56.

[41] I cannot find sufficient evidence to establish that an antenna or trim were lost or broken by the body shop used by Autolines to paint the car.

*Dents and paint*

[42] There is a dispute on the evidence as to the extent of the dents that needed to be taken out of the 2007 Golf and the touch ups that needed to be done, and who was responsible for repairing and painting the 2007 Golf. Mr. Dewinetz testified that he agreed to fix one dent and something on the rear quarter-panel, which he did do. Mr. Dewinetz produced cancelled cheques demonstrating payments to Dent One and The Paint Doctor for the work Autolines completed on the 2007 Golf.



[43] Mr. Dewinetz testified that he did not agree to fix all minor dents on the 2007 Golf and he no idea that Mr. Grieve went to a company called Dents Unlimited to have a series of dents removed from the 2007 Golf. Mr. Dewinetz testified that he agreed to touch up marks on the 2007 Golf with a touch-up pen and to obtain a quote for Mr. Grieve to have the 2007 Golf painted. Mr. Grieve would have to pay for the paint cost himself but Mr. Dewinetz would assist him in getting a lower price.

[44] Mr. Grieve testified that Mr. Dewinetz agreed to take out all dents in the 2007 Golf and have it repainted. Mr. Grieve said in his statement that "Cory called a body shop and the guy came over and agreed to fix the dents and to paint the roof and to take out the remainder of the dents and to fix the trim on the driver's door but I would have to pay another \$300 cash (no receipt). I wanted my car to look nice so I again agreed". Mr. Grieve testified that he did not accept the work done by that body shop and that there were still dents in the 2007 Golf that had to be taken out by a company known as Dents Unlimited. Mr. Grieve spent a further \$392 on Dents Unlimited to have the remaining dents removed.

[45] The purchase agreement specified that Autolines would fix a dent and the rear quarter, and would do touch ups. The agreement referenced that a "paint guy" would be contacted to "see how much it would cost".

[46] In 2014, Mr. Grieve was purchasing a seven year old vehicle. It was a vehicle with over 152,000 km on it. In the normal course of use, it would be expected that such a vehicle would have the odd dent and scratch on it. When the parties entered into the purchase agreement, they specifically noted a dent was to be repaired and something on the quarter-panel. It was also noted that touch-ups would be done and that a quote would be obtained from a paint company.

[47] The evidence of Mr. Dewinetz is consistent with the written document outlining the agreement between the parties. If the costs of removing all dents and painting the entire 2007 Golf were intended to be included in the purchase price, the purchase agreement would say so and would not reference two specific bodywork repairs and a quote still to be obtained for the cost of painting the 2007 Golf.

[48] I find on balance that Mr. Dewinetz' recollection of events is to be preferred. I do not accept that Autolines agreed to return the exterior of the 2007 Golf to like-new condition as part of the purchase of the 2007 Golf. Autolines completed all bodywork agreed to by the parties at the time of purchase.

**(iii) Overall Findings on the condition of the 2007 Golf**

[49] Based on all of the evidence before me, I find that the 2007 Golf had no safety concerns at the time of purchase and I am satisfied that Autolines and Mr. Dewinetz accurately represented the 2007 Golf as a seven year old vehicle with deficiencies as noted by A&A on its inspection report which was provided to Mr. Grieve at the time of sale.

[50] I do not accept that Autolines or Mr. Dewinetz breached any representations made in relation to the non-safety related concerns raised by Mr. Grieve. Autolines did not represent that the 2007 Golf would be sold in pristine condition. It was seven years old and had been driven over 150,000 km. All proper repairs were done by Autolines and Mr. Dewinetz and Autolines did not misrepresent the condition of the 2007 Golf.

**The Law**

**(a) Motor Dealer Act - declaring damage over \$2000**

[51] Section 23(b)(ii) of the *Motor Dealer Act Regulation* says a motor dealer has positive duty to research and declare any damage to a used vehicle where the cumulative costs of repairs exceeds \$2,000.

*Harris v. Windmill Auto Sales & Detailing Ltd.* (April 10, 2013, File 12-030, Registrar), affirmed by *Windmill Auto Sales & Detailing Ltd. v. Registrar of Motor Dealers*, 2014 BCSC 903 (BC Supreme Court)

[52] The importance of an accurate description of the damage on a used vehicle was described by the BC Court of Appeal in *Brook v. Wheaton Pacific Pontiac Buick GMC Ltd.*, 2000 BCCA 332 at para. 34:

“... It might be more precise, however, to say that the purpose is to alert the purchaser of the possibility of hidden existing damage which would affect the value of the vehicle.”

**(b) Motor Dealer Act - jurisdiction of prior registration**

[53] Pursuant to s. 21(2) of the *Motor Dealer Act Regulation*, a motor dealer is required to set out the name of any jurisdiction known to the motor dealer, other than British Columbia, in which the motor vehicle has previously been registered.

similar to the declaration of damage requirement, this requirement provides important information to a purchaser as to potential condition of the vehicle.

**(c) Salesperson Licensing Regulation**

[54] Pursuant to section 2 of the *Salesperson Licensing Regulation*, a person must not act as salesperson unless licensed.

[55] A salesperson is defined under the *Motor Dealer Act* to include an individual 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...

[56] Completing sales documents and representing the dealer on sales documents, including warranty documents, are activities which are properly construed as arranging for the sale of a motor vehicle.

**(d) Deceptive acts or practices – BPCPA**

[57] Section 4(1) of the BPCPA defines a deceptive act or practice to include an oral or written representation by a supplier (in this case a dealer) that has a capacity, tendency or effect of deceiving or misleading a consumer. Section 4(3)(a)(iii) of the BPCPA states that representation by a supplier that a good (in this case a car) has a particular prior history that it does not have is a deceptive act.

[58] The BPCPA prohibits making misrepresentations (called deceptive acts or practices) during a consumer transaction: section 5(1) of the BPCPA. The BPCPA codifies the common law of misrepresentation with statutory modifications to promote consumer protection.

[59] A deceptive act or practice can occur innocently, negligently or deliberately and a consumer may still be entitled to a remedy. However, the nature of the misrepresentation may have some bearing on the consumer's remedy.

*Windmill Auto Sales & Detailing Ltd. v. Registrar of Motor Dealers*,  
2014 BCSC 903 (BC Supreme Court)

*Crown Auto Body and Auto Sales Ltd. v. Motor Vehicle Sales Authority of British Columbia*, 2014 BCSC 894 (BC Supreme Court) at paragraphs 28 – 30

[60] It is not necessary to show a dealer intended to mislead a consumer by its representation in order to find it to be an intentional act. If the dealer is found to have acted recklessly in relation to the representation, that will be sufficient to say the dealer acted intentionally.

*Casillan v. 565204 BC Ltd. dba Daewoo Richmond*, 2009 BCSC 1335

[61] A motor dealer's duty to make declarations under the *Motor Dealer Act* and associated regulations are also representations. Therefore, the manner in which declarations under the *Motor Dealer Act* are made must be compliant with the BPCPA.

## **Findings**

[62] I find that Autolines and Mr. Dewinetz did make two misrepresentations in relation to the purchase and sale of the 2007 Golf. These misrepresentations were made on the purchase agreement and orally to Mr. Grieve. Autolines and Mr. Dewinetz misrepresented the extent of prior damage to the 2007 Golf by failing to disclose the damage in excess of \$8,000 which had been sustained out of British Columbia, and misrepresented that the 2007 Golf had been registered out of British Columbia.

[63] The misrepresentations made by Autolines and Mr. Dewinetz were made recklessly as Mr. Dewinetz ought to have reviewed more carefully the ICBC vehicle history report and noted that the 2007 Golf was from out of province. Upon seeing the 2007 Golf had come from out of province, Mr. Dewinetz ought to have obtained a CarProof vehicle history report, or other similar report, to identify the extent of damage to the 2007 Golf while registered outside of British Columbia. He failed to do either of these things and recklessly made the representations he did orally and on the purchase agreement with Mr. Grieve.

[64] I am satisfied that Autolines and Mr. Dewinetz are "suppliers" and the representations made to Mr. Grieve were made within the context of a "consumer transaction" as those terms are defined by the BPCPA.

[65] I find that Autolines and Mr. Dewinetz breached section 5 of the BPCPA in making the false representations described above.

[66] In addition to breaching the BPCPA, these misrepresentations are in breach of sections 21 and 23 of the *Motor Dealer Act Regulation*.

[67] I also find that Autolines and Mr. Dewinetz permitted Ms. Petukhova to complete sales documents in breach of the *Salesperson Licensing Regulation*. Mr. Dewinetz was unaware of the requirement to ensure all employees involved in the sale of vehicles were licensed salespeople. Autolines, as Ms. Petukhova's employer, is responsible for this breach of the Regulation.

[68] The complainants have not established that Autolines or Mr. Dewinetz misrepresented the condition of the 2007 Golf or failed to make proper repairs.

### **Remedy**

[69] No submissions were made by Mr. Grieve or the Vehicle Sales Authority to the effect that the consumer transaction should be unwound or cancelled in any way and no claim for damages was made in relation to the failure of Autolines and Mr. Dewinetz to properly identify the registration of the 2007 Golf outside of British Columbia and the damage in excess of \$2,000.

[70] As such, I am satisfied that a compliance order is the appropriate order to be made in relation to the breaches I have identified in this decision.

[71] I have also considered whether an administrative penalty is appropriate. Pursuant to s. 164(2) of the *BPCPA* I must consider a series of factors when assessing administrative penalties: (a) previous enforcement actions for contraventions of a similar nature by the person, (b) the gravity and magnitude of the contravention, (c) the extent of the harm to others resulting from the contravention, (d) whether the contravention was repeated or continuous, (e) whether the contravention was deliberate, (f) any economic benefit derived by the person from the contravention, and (g) the person's efforts to correct the contravention.

[72] I was presented with no evidence of previous enforcement actions of any kind against Autolines and Mr. Dewinetz. Failure to properly declare damage to a vehicle and failure to declare registration out of the jurisdiction are serious contraventions of the *Motor Dealer Act Regulation* and the BPCPA; these are material considerations for any purchaser and must be accurately stated. No harm to others resulted from the contravention, and I do not find the contravention to be repeated or continuous. I am satisfied that Autolines and Mr. Dewinetz had information which ought to have prompted a further inquiry to be made as to the prior condition of the 2007 Golf and that Autolines and Mr. Dewinetz were reckless

in making the misrepresentation they did and as such at law their actions are deliberate. Autolines received the benefit of the sale of the 2007 Golf, but the specific profit received from that sale was not disclosed in evidence. Mr. Dewinetz was forthright in admitting his error in failing to disclose the prior history of the 2007 Golf.

[73] I have reviewed many decisions of the Registrar where a dealer has been found to have failed to properly represent damage to a vehicle. Each case is specific to its facts, with the range of penalties being linked to factors such as the knowledge or recklessness of the dealer, the number of times the dealer had been found to have engaged in the conduct at issue, the amount of other monetary orders made by the Registrar, and other such considerations which are identified in the *BPCPA*.

- (a) *Pirvulescu v. Parkwood Auto Sales Ltd.*, MVSA August 6, 2010: failure to accurately report damage to vehicle. Reimbursement of \$11,000, administrative penalty of \$7,500 ordered against dealer and \$500 against salesperson, cancellation of motor dealer registration and licence of one salesperson.
- (b) *Connell v. Joe Cunningham Ford Ltd.*, MVSA January 21, 2010: misrepresenting prior accident history of vehicle and failing to report damage over \$2,000 on purchase of vehicle. Return of vehicle and refund of purchase price of \$13,500, administrative penalty of \$2,000 ordered against dealer.
- (c) *Crowston v. Platinum Auto Corporation*, MVSA April 26, 2012: representation of damage over \$2,000 unclear, ambiguous, and failed to state a material fact. Administrative penalty of \$5,000 ordered against dealer and suspension of licence of one salesperson.
- (d) *Harris v. Windmill Auto Sales & Detailing Ltd.*, MVSA April 10, 2013, affirmed 2014 BCSC 903: failure to disclose extent of prior accidents and damage to vehicle. Repayment of purchase price in the amount of \$43,000.16 and administrative penalty of \$2,500 ordered against dealer and \$500 against salesperson.

[74] I find that the *Crowston* case is most similar to the case at bar. In *Crowston*, the dealer misrepresented both the extent of damages and the extra-provincial registration of the vehicle. The Registrar in *Crowston* also found that the dealer routinely used a sales agreement formatted in such a way as to confuse and mislead purchasers. There is no similar finding in this case.

[75] Failure to accurately disclose the vehicle history is a very serious breach. The extent of damage is a material consideration for a buyer. Substantial prior damage may affect the safety of a vehicle. While this scenario fortunately did not unfold in this case, the recklessness of Autolines and Mr. Dewinetz in making the misrepresentations I have found is of serious concern. As such, I find that an administrative penalty against Autolines in the amount of \$3,000 is appropriate.

[76] I have considered whether to order payment of the investigation and hearing costs in this matter, of approximately \$2,000, ought to be paid by Autolines and Mr. Dewinetz. The bulk of the hearing was spent on issues raised by the complainants which were not successful. As such, I am ordering Autolines and Mr. Dewinetz to pay 1/4 of the investigation and hearing costs in this matter in the total amount of \$500.

### ***Compliance Orders and Administrative Penalty***

[77] Autolines Motor Group Ltd. (Dealer #40090) and Cory Dewinetz (Salesperson #110800) are each jointly and severally ordered to:

- (a) Abide by the *Motor Dealer Act* and its associated regulations, and the *Business Practices and Consumer Protection Act*;
- (b) Ensure all reasonable steps are taken to obtain the history of damage in relation to any vehicles offered for sale including obtaining CarProof vehicle history reports or other reports which would identify all prior damage;
- (c) Ensure all damage declarations about motor vehicles being offered for sale are accurate to the best of their knowledge and belief, based on their reasonable investigation;
- (d) Ensure that all purchase agreements accurately reflect whether the vehicle was ever registered outside of British Columbia;
- (e) Ensure that all oral representations made about vehicles for sale are accurate and based in fact;
- (f) Ensure that all employees who are involved in executing sales documents, including warranty documents, on behalf of Autolines are licensed salespeople; and

- (f) Pay the Registrar a total of \$500 for the inspection and investigation costs relating to this matter.

[78] Cory Dewinetz (Salesperson #110800) is ordered to retake the Salesperson Certification Course at his own cost within 45 days of the issuance of this decision.

[79] Autolines Motor Group Ltd. (Dealer #40090) is ordered to pay an administrative penalty in the amount of \$3,000 for breaches of the BPCPA.

[80] The administrative penalties and compliance order may be reconsidered in accordance with the BPCPA, Part 12. A request for reconsideration must be submitted in writing within 30 days of receiving these reasons. A request for reconsideration may be submitted to the VSA to the attention of the Manager of Compliance and Investigations. Such an application must identify the grounds for reconsideration and be accompanied by the new evidence to be considered as required by the BPCPA.

Dated: July 15, 2016



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Wendy A. Baker, QC,  
Acting Registrar of Motor Dealers