



Vehicle Sales Authority
of British Columbia

Investigation File 18-02-131
Hearing File 19-07-002

Neutral Citation: 2019-BCRMD-021

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

STEPHEN PHAM and BINH XOUNG PHAM

Consumer Complainants

MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA

Complainant

And

SUPER SALE AUTO LTD.

(Motor Dealer Registration #40285)

Respondent Dealer

And

NAVID KHOSHBAKHT

(Salesperson Licence #202467)

Respondent Dealer Principal

**DECISION OF THE REGISTRAR OF MOTOR DEALERS
ON COSTS**

Date and place of decision: August 12, 2020 at Langley, British Columbia

By way of written submissions

I. Introduction

[1] On January 3, 2020, I rendered a decision in this case finding Super Sale Auto Ltd. ("Super Sale") breached section 5 of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c.2 ("BPCPA"). I further found that Navid

Khoshbakht, as the owner of Super Sale and the responsible salesperson in the transaction, did condone, acquiesce in or cause Super Sale to breach section 5 of the BPCPA. I made various orders regarding disciplinary action designed to protect the public and deter Super Sale and Navid Khoshbakht from committing future similar breaches. I also ordered a process where the parties could address investigation costs. The time allotted for that process has come to an end. The Authority has provided their submissions and evidence on costs. I have no submissions from Super Sale or Mr. Khoshbakht on costs.

II. General Legal Principles

[2] Under section 155 of the BPCPA, the Registrar may make various orders to address non-compliance with the BPCPA. Included in this, is an order for a dealer and/or licensee to pay inspection/investigation costs.

[3] When considering costs, their amount should reasonably reflect the time to conduct the inspection/investigation. An order of costs on the non-compliant person serves two important public policy considerations. First, the costs to investigate and ameliorate any non-compliance should be borne by the non-compliant person and not from the general industry through licensing fees. The vast majority of the industry that is compliant, should not be burdened with the extra costs of non-compliant persons. Second, costs can also act as a deterrent on the specific individual and the industry generally.

III. The Evidence

[4] In its submissions, and as noted on an invoice attached to those submissions, the Authority seeks costs in the amount of \$1,131.62. The Authority's submissions explain how that amount was calculated. It speaks of an hourly rate applied for the various employees involved in the inspection/investigation and an hourly rate to recover overhead costs as a portion of the employee's hourly rate. The invoice does not identify in detail each employee involved or their hourly rate. I note Super Sale or Mr. Khoshbakht did not object to this amount.

[5] In reviewing past similar decisions, the investigation costs of \$1,131.62 appear inline with those past decisions. It does not appear there is anything untoward in the amount claimed by the Authority as costs, and my past experience indicates this request for costs is reasonable. See for example:

- *Re: Anita L. Prince* (unlicensed) (June 4, 2020, File Number 20-02-11, Registrar)
- *Re: Barnes Wheaton (North Surrey) Chevrolet Buick GMC Ltd. et al* (April 16, 2020, File 19-07-004, Registrar)

IV. Decision/Order

[6] Given the findings of breaching the BPCPA by both Super Sale and Mr. Khoshbakht; that costs should be borne by those who are non-compliant, and that the costs submitted by the Authority appear reasonable; pursuant to section 155(4)(d) of the BPCPA I order Super Sale Auto Ltd. and Navid Khoshbakht to pay inspection/investigation costs in the amount of \$1,131.62 payable to the Motor Vehicle Sales Authority of British Columbia. Pursuant to section 155(6) of the BPCPA, Super Sale Auto Ltd. and Navid Khoshbakht are joint and severally liable to pay those costs.

V. Reviewing this decision

[7] If there is disagreement with this decision and my compliance order, it may be reviewed by requesting reconsideration in accordance with sections 180 to 182 of the BPCPA. The request must be made in writing within 30 days of receiving this decision or the compliance order, whichever is the latter. The request must be accompanied by the required new evidence as defined in those sections of the BPCPA, if the request is to cancel or vary the compliance order. The request can be submitted electronically to my assistant Preet Jassal at preet@mvsabc.com.

[8] This decision and my compliance order may also be reviewed by petitioning the B.C. Supreme Court for judicial review pursuant to the *Judicial Review Procedure Act*. The time to file such a petition is within 60 days of receiving this decision as per section 7.1(t) of the *Motor Dealer Act*.

August 12, 2020

“Original is signed”

Ian Christman, J.D.
Registrar of Motor Dealers