



Motor
Vehicle Sales Authority
of British Columbia

+
Previously known as the Motor Dealer Council of British Columbia

**IN THE MATTER OF THE MOTOR DEALER ACT
AND THE BUSINESS PRACTICES AND CONSUMER PROTECTION ACT**

UNDERTAKING

(Section 154, Business Practices and Consumer Protection Act)

VSA Files: 13-70023

WHEREAS the undersigned Marks Marine Cycle & Sled (Dealer# 31218) and Robert Charles Marks (Salesperson #121107) are each a "supplier" within the meaning of subsection 1(1) of the *Business Practices and Consumer Protection Act*;

AND WHEREAS the Registrar of Motor Dealers (the "Registrar") has reason to believe that the supplier is contravening is about to contravene or has contravened the *Business Practices and Consumer Protection Act* (BPCPA) or the regulations made thereunder, namely:

Section 5(1) BPCP: (Sections 4(1) and 4(3)(a)(i to viii) 4(3)(b)(i to ix) and/or 4(3)(c)(i to iii).

Section 20 and 21(1), Section 21(2), Section 21(3) and Section 23 of the Motor Dealer Act Regulation.

Section 2(2) of the Salesperson Licensing Regulation

Specifically:

#1

On or about the 20th day of August 2012 at or near Prince George in the Province of British Columbia, Marks Marine Cycle & Sled (Motor Dealer), and Robert Charles Marks (Sales Person) did in relation to a consumer transaction contravene sections 4 and 5 of the Business Practices and Consumer Protection Act (BPCPA) by making an oral, written, visual, descriptive or other representation or conduct by the Supplier to a consumer that had the capability, tendency or effect of misleading Karann Currie (the "Consumer") in the purchase of a 1995 Pontiac VIN: 1G2HZ52K3S4216719 (the "Motor Vehicle") specifically the Suppliers: Sold the Consumer the Motor Vehicle and who subsequently found that the Motor Vehicle was not suitable for transportation. The Motor Vehicle was found to have a worn CV Joint and a severely rusted frame rendering the Motor Vehicle unsafe. The Suppliers at the time of the sale misrepresented the condition of the Motor Vehicle by failing to disclose to the Consumer the extent of the condition of the Motor Vehicle and by attending the Insurance Agent with the Consumer allowing the Consumer to insure and drive the unsafe vehicle and the Supplier ought to have known that the

damage to the Motor Vehicle existed as the Motor Vehicle was returned to the Supplier by a previous consumer who found the vehicle in poor condition.

AND WHEREAS, Marks Marine Cycle & Sled is desirous of resolving this matter without the need for any formal adjudication of the above allegations.

AND WHEREAS, Marks Marine Cycle & Sled will resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again.

AND WHEREAS, Marks Marine Cycle & Sled has completed a system review of its operations and made procedural changes satisfactory to the Registrar.

NOW THEREFORE Marks Marine Cycle & Sled and Robert Charles Marks each undertakes:

- a) To comply with the *Business Practices and Consumer Protection Act* and the regulations made there under;
- b) To ensure all material facts are disclosed to consumer prior to purchase of any motor vehicle;
- c) To resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again by reimbursing the consumer the purchase price of the motor vehicle plus taxes for a total of \$1,344.00.
- d) To resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by reimbursing the consumer the cost of the replacement of the CV Joint on the motor vehicle plus taxes for a total of \$314.22.
- e) To inspect all motor vehicles offered for sale prior to sale at an independent Government Licensed Inspection Facility for a period of six months from the date of this undertaking and to maintain records of the inspections in the dealer file. (All used vehicles to be inspected prior to sale).
- f) To ensure that all persons involved in consumer transactions are licensed Salespersons under the Motor Dealer Act.
- g) To ensure that a minimum of two years of business records are maintained and available at the dealer location and are available for inspection upon request in accordance with Section 20 of the Motor Dealer Act Regulations.
- h) To ensure that all motor vehicle sales are documented on an approved Purchase Agreement which complies with the Motor Dealer Act and the Regulations.

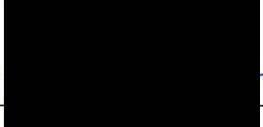
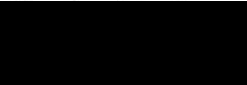
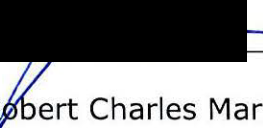
AND THEREFORE the undersigned

- a) Marks Marine Cycle & Sled undertakes to reimburse the Registrar a total of \$1,500 for inspection/investigation and legal costs relating to the subject matter of this Undertaking; and
- b) Marks Marine Cycle & Sled undertakes to pay an Administrative Penalty in the amount of \$1,000 in relation to the issue covered in this Undertaking.
- c) Robert Charles Marks undertakes to pay an Administrative Penalty of \$500.00.

THE UNDERSIGNED hereby acknowledges, represents and declares that he or she has read this Undertaking and has had a reasonable opportunity to obtain independent legal advice as to its terms.

THE UNDERSIGNED further hereby acknowledges that the availability of an undertaking to resolve any future similar allegations or contraventions may be unavailable; and that any similar allegations may be reviewed by the Registrar of Motor Dealers at a formal hearing to consider the allegations.

IN WITNESS WHEREOF the undersigned has set his hand:

Name: Marks Marine Cycle & Sled	
Signature: 	Date: <u>JUNE 3</u> , 2013
Robert Charles Marks	
Name: Robert 	
Signature: 	Date: <u>JUNE 3</u> , 2013
Robert Charles Marks	

ACCEPTED by the Registrar of Motor Dealers of British Columbia this 11 day of June 2013



Ian Christman - Registrar of Motor Dealers