



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 File #: 13-05-016

VSA Hearing File #: 13-10-002

WHEREAS the undersigned 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley (Dealer #31061) and Lionel Robins (Salesperson #109969) 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) BPCPA: (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*, and Section 2(2) of the *Salesperson Licensing Regulation*.

Specifically:

#1

On or about August 1, 2012, at or near Langley in the Province of British Columbia, 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley (Dealer #31061), Lionel Robins (SP#109969), Maxwell Dean (SP#122039), Sean Schuster (SP#110184) and Clayton O'Grady (SP#121493) (the "Suppliers") did in relation to a consumer transaction contravene sections 4, 5, 8 and 9 of the BPCPA by making an oral, written, visual, descriptive or other representation or conduct to a consumer that had the capability, tendency or effect of misleading Joseph Baran (the "Consumer") in the purchase of a 2011 Ford F150 Crew Cab VIN #1FTFW1ET6BFA96301 (the "Motor Vehicle 1") and a 2012 Ford Fusion Vin #3FAHP0JA3CR111237 (the "Motor Vehicle 2") specifically:

- Misrepresenting the Consumer's income and, through coercion, selling the Consumer the Motor Vehicle 1 knowing that the Consumer was not able to afford the financing and or pay for the financing.
- Provided the Consumer with misleading information about a loan being approved when it had not resulting in the Consumer purchasing the Motor Vehicle 2.

#2

On or about August 1, 2012, at or near Langley in the Province of British Columbia, 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley (Dealer #31061), Lionel Robins

(SP#109969), Maxwell Dean (SP#122039), Sean Schuster (SP#110184) and Clayton O'Grady (SP#121493) (the "Suppliers") did in relation to a consumer transaction by making an oral, written, visual, descriptive or other representation or conduct to a consumer that had the capability, tendency or effect of misleading Joseph Baran (the "Consumer") in the purchase of a 2011 Ford F150 Crew Cab Vin #1FTFW1ET6BFA96301 (the "Motor Vehicle 1") and a 2012 Ford Fusion VIN #3FAHP0JA3CR111237 (the "Motor Vehicle 2") specifically contravened sections 8 and 9 of the BPCPA by committing an unconscionable act or practice, specifically the Suppliers:

- Pressured the Consumer to purchase with urgency, contrary to the Consumer's feelings, and ignored the Consumer's request that he could not afford the Motor Vehicle 1 and pressured him to complete the sale.
- Took advantage of the Consumer's inability or incapacity to reasonably protect his interest by advising the Consumer that he was approved for a loan and he had to take a vehicle from them and they could only trade him into a different vehicle all the time knowing that there was never a loan application submitted on the Motor Vehicle 1. The Consumer purchased the Motor Vehicle 2 as a result of the misleading statements of the Suppliers.

AND WHEREAS, 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley and Lionel Robins are desirous of resolving this matter without the need for any formal adjudication of the above allegations.

AND WHEREAS, 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley and Lionel Robins will resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again.

AND WHEREAS, 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley and Lionel Robins have completed a system review of its operations and made procedural changes satisfactory to the Registrar.

NOW THEREFORE 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley and Lionel Robins 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 consumers 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 \$25,038.96. (\$3,440.33 paid so far. Pay out as of November 1, 2013 \$21,598.63)
- d) To ensure that all persons involved in consumer transactions are licensed Salespersons under the Motor Dealer Act.
- e) 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*.

- f) 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) 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley and Lionel Robins undertakes to reimburse the Registrar a total of \$489.96 for inspection/investigation and legal costs relating to the subject matter of this Undertaking; and
- b) 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley and Lionel Robins undertakes to pay an Administrative Penalty in the amount of \$3,000.00 in relation to the issue covered in this Undertaking.

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: 0881323 B.C. Ltd. *dba* Orca Bay Suzuki Langley

Signature: _____ Date: October 23, 2013

Name: Lionel Robins

Signature: _____ Date: October 23, 2013

ACCEPTED by the Registrar of Motor Dealers of British Columbia this 23 day of October 2013

Ian Christman - Registrar of Motor Dealers