



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 #: 13-07-053
Hearing File #: 13-10-009**

WHEREAS the undersigned BB Auto Sales Ltd. and Guibin Benny Yao 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 May 18, 2013, at or near Burnaby in the Province of British Columbia, BB Auto Sales Ltd. (Dealer#10832), Guibin Benny Yao (SP#102609) and Chernor (Simon) Mansaray (SP#110595) (the "Suppliers") did in relation to a consumer transaction contravene sections 4, 5, 8 and 9 of the Business Practices and Consumer Protection Act (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 Wang Feng (the "Consumer") in the purchase of a 2008 Hyundai Tiburon VIN# KMHHM65D78U289464 (the "Motor Vehicle") specifically:

- Misrepresenting the mileage that the Motor Vehicle had traveled prior to the purchase by the Consumer due to the odometer and the speedometer not being operational and not recording the distance traveled.

2. On or about May 18, 2013, at or near Burnaby in the Province of British Columbia, BB Auto Sales Ltd. (Dealer#10832), Guibin Benny Yao (SP#102609) and Chernor (Simon) Mansaray (SP#110595) (the "Suppliers") did in relation to a consumer transaction contravene sections 4, 5, 8 and 9 of the Business Practices and Consumer Protection Act (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 Wang

Feng (the "Consumer") in the purchase of a 2008 Hyundai Tiburon VIN# KMHHM65D78U289464 (the "Motor Vehicle") specifically:

- Misrepresenting the mileage that the Motor Vehicle had traveled prior to the purchase by the consumer due to the odometer and the speedometer not being operational and not recording the distance traveled; and
- The Suppliers owning the Motor Vehicle for a period of time prior to the sale to the Consumer and should have known that the odometer reading was not correct and should have disclosed this fact to the Consumer.

AND WHEREAS, BB Auto Sales Ltd. and Guibin Benny Yao are desirous of resolving this matter without the need for any formal adjudication of the above allegations.

AND WHEREAS, BB Auto Sales Ltd. and Guibin Benny Yao will resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again.

AND WHEREAS, BB Auto Sales Ltd. and Guibin Benny Yao have completed a system review of its operations and made procedural changes satisfactory to the Registrar.

NOW THEREFORE BB Auto Sales Ltd. and Guibin Benny Yao 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, Feng Wang, the purchase price of the motor vehicle plus taxes for a total of \$8,000.
- d) To inspect all motor vehicles offered for sale prior to sale at an independent Government Licensed Inspection Facility for a period of three 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).
- e) To ensure that all persons involved in consumer transactions are licensed Salespersons under the Motor Dealer Act.
- f) 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.
- g) 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) BB Auto Sales Ltd. and Guibin Benny Yao undertakes to reimburse the Registrar a total of \$432.01 for inspection/investigation and legal costs relating to the subject matter of this Undertaking; and
- b) BB Auto Sales Ltd. and Guibin Benny Yao undertakes to pay an Administrative Penalty in the amount of \$2,500 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: BB Auto Sales Ltd	
Signature: _____ Guibin Benny Yao	Date: <u>Oct 25/2013</u>

ACCEPTED by the Registrar of Motor Dealers of British Columbia this 25 day of October 2013.

Ian Christman - Registrar of Motor Dealers