



**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 #: 13-07-127

VSA Hearing File #: 13-12-002

WHEREAS the undersigned Sea Fun Enterprises Ltd. (Dealer #10232), Gary Garfield Hibbs (Salesperson #103037) and Phillip Ian Garnett (Salesperson #117093) 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 January 18, 2013, at or near Victoria in the Province of British Columbia, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett (the "Suppliers") 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 to a consumer that had the capability, tendency or effect of misleading Amanda Graham (the "Consumer") in the purchase of a 2007 Chrysler Sebring VIN# 1C3LC56R77N500410 (the "Motor Vehicle") specifically:

- Recording the mileage of the Motor Vehicle on the Purchase Agreement and on the Carfinco finance documents as 112,936 kilometers full while knowing that the actual mileage was approximately 213,000 kilometers at the time of the sale to the Consumer;
- Adding a Lubrico Warranty to the purchase in the amount of \$1,219.00 plus tax in the amount of \$146.28 without informing or disclosing to the Consumer at the time of the sale; and
- Failing to provide the Purchase Agreement and the financing documents to the Consumer at the time of the transaction.

#2

On or about December 28, 2012, at or near Victoria in the Province of British Columbia, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett (the "Suppliers") 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 to a consumer that had the capability, tendency or effect of misleading Steven Martin and Letitia Martin (the "Consumers") in the purchase of a 2006 Jeep Commander VIN# 1J8HGG58266C137896 (the "Motor Vehicle") specifically:

- Recording the mileage of the Motor Vehicle on the Purchase Agreement and on the Carfinco finance documents as 105,210 kilometers full while knowing that the actual mileage was approximately 205,000 kilometers at the time of the sale to the Consumer;
- Adding a Lubrico Warranty to the purchase in the amount of \$1,800.00 plus tax in the amount of \$216.00 without informing or disclosing to the Consumer at the time of the sale; and
- Failing to provide the Purchase Agreement and the financing documents to the Consumer at the time of the transaction.

#3

Between July 1, 2013, and November 1, 2013, at or near Victoria in the Province of British Columbia, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett (the "Suppliers") contravened Section 20 of the Motor Dealer Act Regulations specifically:

- Failing to maintain, for a period of two years, records of all transactions resulting in the purchase or sale of a motor vehicle and further failed to provide them upon the written request of the Motor Vehicle Sales Authority.

AND WHEREAS, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett are desirous of resolving this matter without the need for any formal adjudication of the above allegations.

AND WHEREAS, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett will resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again.

AND WHEREAS, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett have completed a system review of its operations and made procedural changes satisfactory to the Registrar.

NOW THEREFORE Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett 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 ensure that all persons involved in consumer transactions are licensed Salespersons under the Motor Dealer Act;

- d) 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*; and
- e) 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) Sea Fun Enterprises Ltd. undertakes to reimburse the Registrar a total of \$6,553.50 for inspection/investigation and legal costs relating to the subject matter of this Undertaking; and
- b) Sea Fun Enterprises Ltd. undertakes to pay an Administrative Penalty in the amount of \$5,000.00 in relation to the issues covered in this Undertaking; and
- c) Gary Garfield Hibbs undertakes to pay an Administrative Penalty in the amount of \$5,000.00 in relation to the issues 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: Sea Fun Enterprises Ltd.	
Signature: _____	Date: _____, 2014
Name: Dennis Clayton Gillespie	
Signature: _____	Date: _____, 2014
Name: Gary Garfield Hibbs <i>GDH</i>	
Signature: 	Date: <i>Jan 10</i> , 2014

ACCEPTED by the Registrar of Motor Dealers of British Columbia this *17* day of *January* 2014


 Ian Christman - Registrar of Motor Dealers



Motor
Vehicle Sales Authority
of British Columbia

Previously known as the Motor Dealer Council of British Columbia

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WHEREAS the undersigned Sea Fun Enterprises Ltd. (Dealer #10232), Gary Garfield Hibbs (Salesperson #103037) and Phillip Ian Garnett (Salesperson #117093) 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 January 18, 2013, at or near Victoria in the Province of British Columbia, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett (the "Suppliers") 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 to a consumer that had the capability, tendency or effect of misleading Amanda Graham (the "Consumer") in the purchase of a 2007 Chrysler Sebring VIN# 1C3LC56R77N500410 (the "Motor Vehicle") specifically:

- Recording the mileage of the Motor Vehicle on the Purchase Agreement and on the Carfinco finance documents as 112,936 kilometers full while knowing that the actual mileage was approximately 213,000 kilometers at the time of the sale to the Consumer;
- Adding a Lubrico Warranty to the purchase in the amount of \$1,219.00 plus tax in the amount of \$146.28 without informing or disclosing to the Consumer at the time of the sale; and
- Failing to provide the Purchase Agreement and the financing documents to the Consumer at the time of the transaction.

VEHICLE SALES AUTHORITY OF B.C.

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#2

On or about December 28, 2012, at or near Victoria in the Province of British Columbia, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett (the "Suppliers") 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 to a consumer that had the capability, tendency or effect of misleading Steven Martin and Letitia Martin (the "Consumers") in the purchase of a 2006 Jeep Commander VIN# 1J8HGG58266C137896 (the "Motor Vehicle") specifically:

- Recording the mileage of the Motor Vehicle on the Purchase Agreement and on the Carfinco finance documents as 105,210 kilometers full while knowing that the actual mileage was approximately 205,000 kilometers at the time of the sale to the Consumer;
- Adding a Lubrico Warranty to the purchase in the amount of \$1,800.00 plus tax in the amount of \$216.00 without informing or disclosing to the Consumer at the time of the sale; and
- Failing to provide the Purchase Agreement and the financing documents to the Consumer at the time of the transaction.

#3

Between July 1, 2013, and November 1, 2013, at or near Victoria in the Province of British Columbia, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett (the "Suppliers") contravened Section 20 of the Motor Dealer Act Regulations specifically:

- Failing to maintain, for a period of two years, records of all transactions resulting in the purchase or sale of a motor vehicle and further failed to provide them upon the written request of the Motor Vehicle Sales Authority.

AND WHEREAS, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett are desirous of resolving this matter without the need for any formal adjudication of the above allegations.

AND WHEREAS, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett will resolve the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again.

AND WHEREAS, Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett have completed a system review of its operations and made procedural changes satisfactory to the Registrar.

NOW THEREFORE Sea Fun Enterprises Ltd., Gary Garfield Hibbs and Phillip Ian Garnett 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 ensure that all persons involved in consumer transactions are licensed Salespersons under the Motor Dealer Act;

- d) 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*; and
- e) 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 Phillip Ian Garnett undertakes:

- a) To pay an Administrative Penalty in the amount of \$1,000.00 in relation to the issues covered in this Undertaking;
- b) To refrain from being involved in the financing of motor vehicles and/or the sale of warranties or insurance products relating to the sales of Motor vehicles for a period of two years;
- c) To refrain from working in the business office in any capacity relating to the sales/financing of motor vehicles for a period of two years; and
- d) To attend and complete a Level 2 training course within 30 days of acceptance of 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:	Phillip Ian Garnett	
Signature:		Date: <u>JAN 14</u> , 2014

ACCEPTED by the Registrar of Motor Dealers of British Columbia, this 15 day of January 2014


Ian Christman - Registrar of Motor Dealers

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Motor
Vehicle Sales Authority
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Previously known as the Motor Dealer Council of British Columbia

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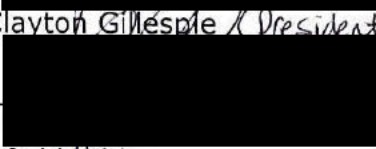
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IN WITNESS WHEREOF the undersigned has set his hand:

Name: Sea Fun Enterprises Ltd.		Date: 20 JAN, 2014
Name: Dennis Clayton Gillespie (President of Sea Fun Enterprises Ltd.)		Date: 20 JAN, 2014
Name: Gary Garfield Hibbs		Date: _____, 2014

ACCEPTED by the Registrar of Motor Dealers of British Columbia this 24 day of January 2014

Ian Christman - Registrar of Motor Dealers