



**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 Investigation File #: 14-10-059

VSA Hearing File #: 15-01-002

WHEREAS the undersigned Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto. (Dealer #25262), Tony Ha Jung (Salesperson #106804), Taeil Jang (Salesperson #110141), and Minkook Kang (Salesperson #108488) 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, deceptive acts and practices as defined or deemed by sections 4(1); 4(3)(a)(i to viii) 4(3)(b)(i to ix); and/or 4(3)(c)(i to iii).

Section 9(1) BPCPA, unconscionable acts and practices as defined in section 8 of the BPCPA.

AND WHEREAS the contraventions of section 5(1) of the BPCPA included misrepresenting or failing to make representations required by law, and specifically:

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

Section 2(2) of the *Salesperson Licensing Regulation*.

Specifically:

1. Between December 1, 2013, and January 21, 2015, at or near Coquitlam in the Province of British Columbia, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto. (Dealer #25262), Tony Ha Jung (Salesperson #106804), Taeil Jang (Salesperson #110141), and Minkook Kang (Salesperson #108488) (collectively the "Suppliers") did in relation to a consumer transaction contravene sections 4, 5, 63 and 101 of the *Business Practices and Consumer Protection Act* (BPCPA) by making an oral, written, visual, descriptive or other representation or conduct by the Suppliers to a consumer that had the capability, tendency or effect of misleading Hur Maeng Hwa (the "Consumer") during the lease of a 2007 Honda Civic VIN#2HGFA16857H022450. Specifically, the suppliers:

- Are not licensed to lease motor vehicles;
 - Did not use a Lease Agreement that meets the standards of disclosure and cost to the Consumer;
 - Did not offer a cooling off period or identify to the Consumer at the time of the lease; and
 - Advertised the lease of motor vehicles in written media.
2. Between December 1, 2013, and January 21, 2015, at or near Coquitlam in the Province of British Columbia, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto. (Dealer #25262), Tony Ha Jung (Salesperson #106804), Taeil Jang (Salesperson #110141), and Minkook Kang (Salesperson #108488) (collectively the "Suppliers") did in relation to a consumer transaction contravene sections 4, 5,63 and 101 of the *Business Practices and Consumer Protection Act* (BPCPA) by making an oral, written, visual, descriptive or other representation or conduct by the Suppliers to a consumer that had the capability, tendency or effect of misleading eighteen consumers who leased vehicles from the motor dealer. Specifically, the Suppliers:
- Failed to disclose to consumers that they were not licensed to lease vehicles;
 - Failed to provide the consumers with a Lease Agreement that meets the standards of the various acts and meets the disclosure requirements to the consumers;
 - Failed to advise the consumers in writing or otherwise that there is a cooling off period at the time of the lease; and
 - Failed to provide the consumers a waiver of the cooling off period.
3. Between December 1, 2013, and January 21, 2015, at or near Coquitlam in the Province of British Columbia, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto. (Dealer #25262), while carrying on business as a registered Motor Dealer while not licensed to lease vehicles and did not meet the requirements to affect a lease. Further, the Dealer failed to utilize a Lease Agreement that meets the disclosure requirements of the various acts and failed to disclose in writing, otherwise the cost to the consumers, the cooling off period or having a signed waiver on file by the lease of 18 vehicles to 17 consumers.

AND WHEREAS, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto., Tony Ha Jung, Taeil Jang, and Minkook Kang are desirous of resolving this matter without the need for any formal adjudication of the above allegations.

AND WHEREAS, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto., Tony Ha Jung, Taeil Jang, and Minkook Kang will refrain from Leasing vehicles until they are licensed to Lease motor vehicles and approved by the Motor Vehicle Sales Authority. Further they will not Lease any motor vehicle to a consumer until they have an approved Lease agreement in place to the satisfaction the Registrar of Motor Dealers in the Province of British Columbia.

AND WHEREAS, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto., Tony Ha Jung, Taeil Jang, and Minkook Kang will refrain from advertising that they Lease

vehicles until they are licensed to Lease motor vehicles and approved by the Motor Vehicle Sales Authority and to the satisfaction the Registrar of Motor Dealers in the Province of British Columbia.

AND WHEREAS, Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto., Tony Ha Jung, Taeil Jang, and Minkook Kang will complete a system review of its operations and make procedural changes satisfactory to the Registrar of Motor Dealers in the Province of British Columbia.

NOW THEREFORE Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto., Tony Ha Jung, Taeil Jang, and Minkook Kang each undertakes:

- a) To comply with the BPCPA and the regulations made there under;
- b) To ensure all material facts are disclosed to consumer prior to purchase/lease 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*.
- e) To ensure that all motor vehicle sales are documented on an approved Purchase Agreement which complies with the *Motor Dealer Act* and its Regulations.
- f) To ensure that all motor vehicle leases are documented on an approved Lease Agreement which complies with the *Motor Dealer Act* and its Regulations.

AND THEREFORE the undersigned

- a) Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto., Tony Ha Jung, Taeil Jang, and Minkook Kang undertakes to reimburse the Registrar a total of \$757.17 for inspection/investigation and legal costs relating to the subject matter of this Undertaking;
- b) Jung, Ha-Sung and Jung, Soon Kwi *dba* M.K. (Mukunghwa) Auto. undertakes to pay an Administrative Penalty in the amount of \$7,500 in relation to the issue covered in this Undertaking; and
- c) Tony Ha Jung undertakes to pay an Administrative Penalty in the amount of \$1,000 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: Jung, Ha-Sung and Jung, Soon Kwi <i>dba</i> M.K. (Mukunghwa) Auto.	
Signature: _____	Date: <u>Feb 02 2015</u>
Name: Tony Ha Jung	
Signature: _____	Date: <u>Feb 02 2015</u>

ACCEPTED by the Registrar of Motor Dealers of British Columbia this 2 day of February 2015



Ian Christman - Registrar of Motor Dealers