



IN THE MATTER OF THE MOTOR DEALER ACT R.S.B.C. 1996 c. 316

**VSA Investigation File #: 15-05-136
VSA Hearing File #: 16-01-003**

RE:

TOPWIN AUTO CENTRE INC. dba THE CARBOY AUTO SALES (Dealer #30819)

UNDERTAKING

WHEREAS Topwin Auto Centre Inc. dba The Carboy Auto Sales (the "Dealer") is a "registered motor dealer" as defined under the *Motor Dealer Act* R.S.B.C. 1996 c. 316 (the "Act").

AND WHEREAS the "Registrar of Motor Dealers", as defined under the Act, (the "Registrar") is responsible for the administration and enforcement of the Act, its regulations and prescribed provisions of the *Business Practices and Consumer Protection Act* S.B.C. 2004 c. 2.

AND WHEREAS an investigation has been initiated involving the Dealer's conduct, and the following alleged contraventions of sections 4 and 5 of the BPCPA:

On or about January 2013, at or near Richmond in the Province of British Columbia, Topwin Auto Centre Inc. dba The Carboy Auto Sales (Dealer #30819) and Xia (Jenny) Liang (Salesperson #108911) (collectively 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 that had the capability, tendency or effect of misleading Zhengwen Hao (the "Consumer") during the purchase of a 2011 Mercedes Benz B200 VIN #WDDFH3DB6BJ735164 (the "Motor Vehicle"). Specifically, the Suppliers:

- Misrepresented to the Consumer that there was a manufacturer's warranty remaining on the Motor Vehicle until July 2015, when there was not; and
- Failed to provide any records pertaining to this transaction.

AND WHEREAS the Dealer wishes to resolve these issues, without a hearing, voluntarily by entering into this Undertaking.

AND WHEREAS the Dealer has resolved the consumer monetary complaint to the satisfaction of the consumer and the Registrar by making the consumer whole again by reimbursing the consumer the amount of the purchase price of the Motor Vehicle.


THE DEALER HEREBY UNDERTAKES TO:

- 1) To comply with the BPCPA and the regulations made there under;
- 2) To ensure all consumers are aware of their rights, remedies and obligations prior to completion of the transaction;
- 3) To provide complete records when requested by the VSA and/or a Compliance Officer acting on behalf of the Registrar;
- 4) To maintain complete records of all Motor Vehicle transactions including but not limited to repairs, deposits, purchase agreements, inspections, buy ins and all other related documents;
- 5) Reimburse the Registrar a total of \$315.30 for inspection/investigation and legal costs relating to the subject matter of this Undertaking; and
- 6) Pay an Administrative Penalty in the amount of \$2,500.00 in relation to the issues covered in this Undertaking.


THE DEALER ACKNOWLEDGES THAT:

- 1) This Undertaking is being entered into by the Dealer voluntarily.
- 2) The Dealer has had an opportunity to obtain legal advice as to the terms of this Undertaking.
- 3) The Registrar will make it a condition of the Dealer's registration to abide by and carry out the terms of this Undertaking.
- 4) The Registrar will take steps to monitor and enforce this Undertaking. Enforcement can include, but is not limited to, court action to obtain a compliance order, or the suspension or cancelation of the Dealer's registration.

IN WITNESS WHEREOF the undersigned (and each of them, if more than one) has set his/her/its hand and seal (attested by the hands of its duly authorized officers, if applicable):

Dealer Name: <u>Topwin Auto Centre Inc.</u>
<u>XIA LIANG</u> (Print the name and title of Dealer's authorized representative)
Signature: <u></u> Date: <u>Feb. 19</u> 2016.

ACCEPTED by the Registrar of Motor Dealers this 22 day of February 2016.


Ian Christman - Registrar of Motor Dealers or his delegate