



**IN THE MATTER OF THE MOTOR DEALER ACT R.S.B.C. 1966 C. 316 and the MOTOR  
DEALER CUSTOMER COMPENSATION FUND REGULATION B.C. REG. 102/95, O.C.  
271/95**

FILED BY:

**Paul Caron**

Claimant

INVOLVING:

**Canem Auto Gallery  
Dealer License 30267/Cancelled**

Motor Dealer

**DECISION OF THE MOTOR DEALER CUSTOMER COMPENSATION FUND BOARD**

By way of written submissions.

[1] On December 2, 2016, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "Fund") filed by Paul Caron (the "claimant") was presented to the Motor Dealer Customer Compensation Fund Board (the "Board") for hearing.

**Decision**

[2] The claim has been denied.

**Claim summary**

[3] According to the claimant's submission, on March 28, 2014, the claimant purchased a 2006 Kawasaki ZX636 (the "Kawasaki") from Canem Auto Gallery/West Coast Auto Finance ("Canem Auto").

[4] When the claimant wanted to sell the Kawasaki they found out its value was less than expected since it was a rebuilt, which Canem allegedly did not disclose to the claimant at the time of purchase. The claimant sought \$2,000, which he thought represented the discount in value he would receive on resale with the Kawasaki being a rebuilt vehicle. The claimant claims \$2,000 from the Fund.

**Legislative authority and the Board's findings**

[5] In reviewing the eligibility of the claimant's alleged loss, the Board applied Section 5(1)(a) of the *Motor Dealer Customer Compensation Fund Regulation* (the "Regulation") which outlines the losses eligible for compensation from the Fund with respect to the purchase of a motor vehicle. In addition, section 7(a) of the Regulation provides that any claim that is based on the cost, quality or value of the motor vehicle received is not eligible for compensation from the Fund.

[6] The Board reviewed the Claim Application and supporting documents, copies of which were provided to the claimant and to Canem Auto at the pre-hearing stage and to which both parties had an opportunity to respond. The Board found that the rebuilt status of the Kawasaki was declared on the following documents, all of which were duly signed/initialed by the claimant:

- (i) the Motor Vehicle Purchase Agreement dated March 28, 2014, for the claimant's purchase of the Kawasaki;
- (ii) the ICBC Transfer/Tax Form (APV9T) date stamped April 9, 2014; and
- (iii) the ICBC Vehicle Registration date stamped April 9, 2014.

[7] Therefore, the Board found no evidence to support the claimant's allegation of their loss of the trade-in value of the Kawasaki arising from Canem Auto's failure to declare the rebuilt status of the motorcycle.

[8] The Board has jurisdiction to assess claims which fall within the specific terms of the Regulation only. Claimants may have other legal remedies available to them and are encouraged to do their own investigations into, or speak with a lawyer about, other possible remedies. Attached is the Vehicle Sales Authority of BC (the "VSA") Fact Sheet *Where to go for help*.


#### **Finality of decision**

[9] Decisions of the Board cannot be appealed. According to Section 16(2) of the *Motor Dealer Act*, "A decision, order or ruling of the Board ... is final and conclusive and is not open to question or review in court except on a question of law or excess of jurisdiction".

[10] Reconsideration: The Board may, at its discretion, reconsider its decision. The Board will consider a request for reconsideration from a party to a claim, provided that the request is made in writing and includes relevant evidence that was not previously considered by the Board and was not known or available to the party before the hearing. All parties to a claim will be notified if the Board decides to reconsider its decision. The Board's policy requires that an application for reconsideration be made within 30 days of the decision.

[11] Judicial Review: The Board's decision may be challenged on a question of law or excess of jurisdiction in the BC Supreme Court pursuant to the *Judicial Review Procedure Act*. According to Section 57 of the *Administrative Tribunals Act*, an application for judicial review must be made within 60 days of the date the decision is issued. We suggest contacting a lawyer to obtain legal advice regarding this option.

Date: December 19, 2016

  
Darlene Hyde  
Chair, Motor Dealer Customer Compensation Fund Board

Attachment  
DH/af/ag

Suite 208 - 5455 152<sup>nd</sup> Street  
Surrey, British Columbia  
V3S 5A5

Telephone 604.575.7255  
Toll Free 1.877.294.9889  
Facsimile 604.574.5883

Email compensationfund@mvsabc.com  
Web www.vehiclesalesauthority.com



## Where to go for help...

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### ...if you're looking for **legal advice**:

#### Access Pro Bono

For those that cannot afford a lawyer, legal advice in most areas of law is given through free clinics held throughout Vancouver. Appointments can be booked by calling 604-878-7400 or 1-877-762-6664, or online at [www.accessprobono.ca](http://www.accessprobono.ca).

#### Dial-a-Law

A free service available in English, Chinese and Punjabi that offers general information on a variety of law topics. Publications can be accessed online at [www.dialalaw.org](http://www.dialalaw.org). Dial-a-Law can be reached at 604-687-4680 or 1-800-565-5297.

#### Lawyer Referral

Gives the opportunity to discuss a case with a lawyer for up to 30 minutes for a small fee. The consultation will determine if there is a legal problem. The service operates by telephone and can be reached at 604-687-3221 or 1-800-663-1919.

#### Clicklaw

Provides access to legal information and offers several options on solving legal problems. It is available online at [www.clicklawbc.ca](http://www.clicklawbc.ca).

#### Legal Services Society

A non-profit organization that provides legal information and advice for low income families. For general inquiries, call 604-601-6000 or access their website at [www.legalaid.bc.ca](http://www.legalaid.bc.ca).

#### Multilingual Legal Website

A new online resource that provides legal information in a variety of languages, such as Arabic, Chinese, English, French, Korean, Persian, Punjabi, Spanish, and Vietnamese. Search publications at [www.multilingolegal.ca](http://www.multilingolegal.ca).

#### UBC Law Students' Legal Advice Program

UBC law students provide advice under the supervision of a practicing lawyer throughout the Lower Mainland. Call 604-822-5791 to book an appointment or visit their website at <http://www.lslap.bc.ca/main/>.

#### The Law Centre

The Law Centre provides legal assistance to people in the Greater Victoria area who cannot afford a lawyer. Call 250-385-1221 for further assistance, or visit their website at [www.thelawcentre.ca](http://www.thelawcentre.ca).



## Where to go for help...

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...if you're looking for **consumer protection information**:

### **Consumer Protection BC**

A non-profit corporation established to strengthen consumer protection in BC. They enforce consumer protection laws (except regarding motor dealers, lawyers and some other professions) and encourage fair business practices. Complaint handling and resource guides are available on their website at [www.consumerprotectionbc.ca](http://www.consumerprotectionbc.ca). They are also accessible at 1-888-564-9963.

### **Better Business Bureau (BBB)**

Includes an accredited business and charity directory, consumer tips, alerts, and guides. Those in the Lower Mainland call 604-682-2711; the rest of BC call toll free at 1-888-803-1222. More information can be found online at [www.mbc.bbb.org/consumers](http://www.mbc.bbb.org/consumers).

### **Canadian Motor Vehicle Arbitration Plan (CAMVAP)**

Helps consumers resolve disputes with a manufacturer on vehicle defects or warranty through mediation. All services are free. To see if you qualify, visit [www.camvap.ca](http://www.camvap.ca) or call 1-800-207-0685.

### **Canadian Consumer Association**

Gives information on consumer issues and provides tools and resources. Also offers a step-by-step roadmap on how to make a consumer complaint. Visit them at [www.consumerinformation.ca](http://www.consumerinformation.ca).

### **Mediate-BC**

Specializes in dispute resolution through mediation and offers mediation information and services, as well as a directory of available mediators. They can be contacted by going to their website at [www.mediatebc.com](http://www.mediatebc.com).

**Note:** This fact sheet provides general information and is not intended to be legal advice.