



**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:

Rodney Salewich

Claimant

INVOLVING:

**Don Folk Chevrolet Inc.
Dealer License 6639/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 Rodney Salewich (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 December 9, 2008, the claimant purchased a 2005 Chevrolet Trailblazer (the "Trailblazer") from Don Folk Chevrolet Inc. ("Don Folk") in which Don Folk declared that the Trailblazer had not sustained damages requiring repairs costing more than \$2,000.

[4] While owning the Trailblazer, the claimant had to change the front hubs, rack & pinion, power steering pump, parts of the cooling system and the brakes which cost him \$4,904.71.

[5] On August 30, 2016, the claimant took the Trailblazer to Nelson Ford Sales to trade it in for another vehicle and learned from the CarProof Vehicle History Report provided by Nelson Ford Sales that the Trailblazer had been in four accidents totalling \$5,240.38 in repairs. The last accident was six weeks before the claimant purchased the Trailblazer from Don Folk.

[6] Nelson Ford Sales offered the claimant \$2,000 for the Trailblazer. The claimant alleges they lost \$4,000 because the anticipated value of the Trailblazer according to AutoTrader is \$6,000. The claimant claims \$4,500 from the Fund.

Legislative authority and the Board's findings

[7] In reviewing the eligibility of the claimant's alleged loss, the Board applied Section 5(1) 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. Pursuant to section 5(1)(a), only liquidated amounts are compensable in relation to the purchase of a vehicle. In addition, section 7(a) of the Regulation stipulates that a claim based on the cost, quality or value of a motor vehicle received is not eligible for compensation from the Fund.

[8] The Board reviewed the documents on file, copies of which were provided to the claimant and to Don Folk at the pre-hearing stage and to which both parties had an opportunity to respond. The documents under review included the Claim Application and the Motor Dealer's Response to the Claim Application. The Board found that the claimant had not established a liquidated amount which would be eligible for compensation under section 5(1) of the Regulation. Any alleged loss of the trade-in value of a vehicle due to the failure by a motor dealer to declare previous physical damage requires an opinion or assessment of damages for which the Board has no jurisdiction. The loss claimed is for an unliquidated amount and relates to the cost, quality and value of the motor vehicle. Therefore, the claim is not eligible for compensation from the Fund.

[9] 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

[10] 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".

[11] 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.

[12] 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



Where to go for help...

...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.

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. 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.

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.

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.

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.



Where to go for help...

...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. 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.

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 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.

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.

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