



**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:

**Susan Robertson**

Claimant

INVOLVING:

**ATD Holdings Inc. dba All The Details  
40052/Cancelled**

Motor Dealer

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

By way of written submissions.

[1] On June 2, 2017, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "Fund") filed by Susan Robertson (the "claimant") was presented to the Motor Dealer Customer Compensation Fund Board (the "Board") for hearing.

**Decision**

[2] This claim has been approved for \$800.00, which will be paid to the claimant from the Fund.

**Claim summary**

[3] This claim is for \$800.00 and is based on the transaction between the claimant and All The Details on February 14, 2015, in which:

- (a) The claimant and her partner attended the location of All The Details to view a 2006 Cadillac Escalade (the "Escalade") that they previously viewed online. The claimant requested the owner, Steve Bede ("Bede"), to accept a deposit of \$1,000.00 to hold the Escalade until the claimant received the settlement proceeds from ICBC. Bede agreed and accepted the deposit.
- (b) Sometime later the claimant informed Bede that her ICBC settlement was delayed, which Bede confirmed was not a problem.
- (c) On June 12, 2015, the claimant called Bede and informed that she was ready to pay for the Escalade. The claimant asked how much money she needed to bring and Bede said it would be \$11,760.00. The claimant provided Bede with the bank draft for \$11,760.00.

- (d) Upon arrival at All the Details, the claimant was informed by Bede that he lowered the price for the Escalade from \$12,000.00 to \$10,500.00. That is when the claimant realized that Bede did not take into account the \$1,000 deposit previously paid to Bede. When asked by the claimant, Bede said that he had forgotten about the deposit and wrote on the sales contract that \$1,000.00 would be paid on June 30, 2015.
- (e) After no money was received on June 15, 2015, the claimant contacted Bede via text messages multiple times in June-July 2015, and received \$200.00 from Bede. The claim is for \$800 which remains unpaid.

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

[4] In reviewing the eligibility of the claimant's alleged loss, the Board applied Section 5(1)(a)(iii) of the *Motor Dealer Customer Compensation Fund Regulation* (the "Regulation") which stipulates that "the dishonest conduct of the motor dealer or the misappropriation or wrongful conversion of money or other property entrusted to the motor dealer" is eligible for compensation from the Fund.

[5] The Board reviewed the claimant's Claim Application, a copy of which was provided to the motor dealer at the pre-hearing stage and to which the motor dealer had an opportunity to respond.

[6] The Board found evidence that the claimant paid a \$1,000 deposit to All The Details that was not accounted for in the purchase of the Escalade and the claimant was only reimbursed \$200. Therefore, the claim is eligible for compensation from the Fund.

#### **Compensation payment to claimant**

[7] We will send the claimant a cheque in the amount of \$800.00 within 60 days from the date of the hearing, i.e., on or before August 2, 2017.

[8] If the Board decides to reconsider its decision before that time, the payment will be withheld until completion of the reconsideration procedures.

#### **If additional compensation received by the claimant**

[9] According to Section 20 of the *Motor Dealer Act* (the "MDA"), the claimant has an obligation to advise the VSA if the claimant receives additional compensation from another source for the loss paid from the Fund. For instance, if an insurance company also awards the claimant compensation for the same loss paid from the Fund, the claimant must advise the VSA immediately about that compensation. Failure to repay the Fund may be a cause of legal action against the claimant for the amount unrepaid.

#### **Reimbursement to the Fund by the motor dealer**

[10] According to the *Motor Dealer Act* (the "MDA"), if a claim is paid out of the Fund, the Registrar of Motor Dealers may cancel the dealer license of the motor dealer who caused the claim (MDA, Section 24(1)). If cancelled, the new license may not be issued until the motor dealer has reimbursed the Fund for the amount paid out from Fund for the claim (MDA, Section 24(2)).

[11] The VSA Licensing Department will take the required action regarding repayment to the Fund by the motor dealer.

**Finality of decision**

[12] Decisions of the Board cannot be appealed. According to Section 16(2) of the MDA, "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".

[13] Reconsideration: According to Sections 16(3), 18.1 and 18.2 of the MDA, 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. An application for reconsideration must be made within 30 days of the decision.

[14] 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: June 26, 2017



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Darlene K. Hyde  
Chair, Motor Dealer Customer Compensation Fund Board

*Attachment*  
*DH/af/ag*