



Hearing File No. 20-03-001
Investigation File Nos: 19-05-278 & 19-06-181

**IN THE MATTER OF THE
MOTOR DEALER ACT, R.S.B.C. 1996, C. 316 and the
BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004, c. 2**

VEHICLE SALES AUTHORITY OF BC (VSA)

Complainant

And

**LGN ENTERPRISES INC. dba
LGN AUTO CLEARANCE CENTER
(Dealer Licence#40289)**

Respondent

And

**A&A AUTO SALES LTD. dba
AUTO CLEARANCE DOWNTOWN HASTINGS
(Dealer Licence #40660)**

Respondent

DECISION OF THE ACTING REGISTRAR OF MOTOR DEALERS

- [1] This is a matter in which the facts appear to be uncontroverted but that has nevertheless become mired in procedural complexity unrelated to the compliance matters at issue.
- [2] On September 8, 2021, Registrar Christman, as he then was, recused himself on the basis of a reasonable apprehension of bias arising from the involvement of former VSA employee Loraine Lee in this matter. The matter was then reassigned to me.
- [3] The Respondents had sought an order dismissing this proceeding and for their costs on the basis that Ms. Lee, a non-lawyer who Registrar Christman believed during the period of her employment was a lawyer, had stated in pleadings filed in British Columbia Supreme Court¹ that she had been supervised by Registrar Christman.

¹ *Law Society of British Columbia v. Loraine Lee* (Vancouver Registry No. S214739)

- [4] On October 6, 2021, counsel for the parties appeared before me and advised that they anticipated they could arrive at an agreed statement of facts and could then make written submissions in respect of appropriate remedy.
- [5] Between October 20 and 25, 2021, counsel exchanged correspondence with respect to the agreed statement of facts. The VSA appended the correspondence to their brief and it makes plain that counsel had agreed in writing on the facts to be included in an agreed statement of facts.
- [6] The VSA has provided at Ex. C to their Written Submissions of November 16, 2021, an Agreed Statement of Facts that includes the facts that both counsel had agreed to include, and that is signed by counsel for the VSA but not counsel for the Respondents. I understand that counsel for the Respondents has not signed it but has not indicated that the Respondents now dispute any of the facts set out therein or wish to add any further additional facts.
- [7] The Agreed Statement of Facts is attached to this Decision as Appendix 1. I have no evidence before me that contradicts any of the facts included in the Agreed Statement of Facts and it appears that the Respondents do not dispute the facts set out therein are true. I therefore find that the facts as set out in the Agreed Statement of Facts are true.
- [8] The facts disclose serious compliance issues and breaches of the applicable statutes on the part of the Respondents involving a 2005 Lincoln Navigator (the "Lincoln") including:
- i. Making false declarations in a Contract of Purchase and Sale
 - ii. Failing to disclose that the Lincoln was "Not Suitable for Transportation"
 - iii. Repeatedly offering to sell the same Lincoln while still unsuitable for transportation
- [9] The Respondents do not dispute that they failed to comply with statutory requirements in respect of the Lincoln but they say that they made this admission early in the process and that the delay and costs resulting from the hearing process are such that the case should be dismissed against them or alternatively, "If the ultimate conclusion is not the dismissal of the case. . . any determination against them ought not result in sanctions or costs".

- [10] Counsel for the Respondents in November 2021 wrote that he had recently learned “that the VSA knew about the Lorraine Lee problem in March but did not tell the Respondents about it at that time” and that it was “unfair for the Registrar to recuse himself in September when he and the VSA were aware of the problem in March”
- [11] In their December 7, 2021 submissions, the Respondents described the hearing process as follows:
- “The Authority has put the LGN Respondents through a pointless, retributive, hellish and expensive witch hunt over an allegation to which the Respondents admitted 18 months ago.”
- [12] The Authority in reply submissions argued that the Respondents’ admission was “ambiguous” and noted that “the Respondents have at all times failed or refused to provide an undertaking [that] would each jointly and severally acknowledge and admit to the contraventions”.
- [13] The Authority makes the point that a formal disposition on the record, even if not accompanied by a penalty or order for costs, may be necessary for the proper administration of the regulatory scheme. In particular, it may be of assistance to the extent there is any future non-compliance by the Respondents.
- [14] I agree with the Authority that it is appropriate that there be a formal disposition on the record in this matter. This is the case given the serious infractions which the Respondents do not dispute occurred. While the Respondents say that they admitted to the infractions at the outset, their refusal to sign an undertaking and the tone of their submissions suggest they have not fully accepted responsibility for their breaches.
- [15] The Authority submits that the following findings should be made:
- a. LGN breached subsection 27(b) of the *Motor Dealer Act Regulation* by offering the Lincoln for sale on March 15, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement “Not Suitable for Transportation”.
 - b. A&A breached subsection 27(b) of the *Motor Dealer Act Regulation* by offering the Lincoln for sale on May 21, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement “Not Suitable for Transportation”.

- c. A&A breached subsection 27(b) of the *Motor Dealer Act Regulation* by offering the Lincoln for sale on August 28, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation". LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by offering the Lincoln for sale on March 15, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".
- d. LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by expressly misrepresenting on March 15, 2019 that "The Motor Vehicle has never sustained damages requiring repairs costing more than \$ 2000" when the Lincoln had in fact sustained damages requiring repairs costing more than \$2,000.
- e. LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by expressly misrepresenting on March 15, 2019 that "The Motor Vehicle has not previously been registered in any jurisdiction other than British Columbia and has not brought into the province specifically for the purpose of sale", when the Lincoln had in fact been previously registered in a jurisdiction other than British Columbia, namely Ohio and Minnesota.
- f. LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by expressly misrepresenting on March 15, 2019 that "The Motor Vehicle complies with the requirements of the Motor Vehicle Act" when the Lincoln did not in fact comply with the requirements of the *Motor Vehicle Act*.
- g. A&A committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by offering the Lincoln for sale on May 21 , 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".
- h. A&A committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by offering the Lincoln for sale on August 28, 2019 when it was not suitable for transportation

without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".

- i. The Authority further respectfully submits that the Registrar should make a compliance order, pursuant to section 155 of the *Business Practices and Consumer Protection Act* and section 26.02 of the *Motor Dealer Act*, obliging LGN and A&A to comply with the *Motor Dealer Act*, the *Business Practices and Consumer Protection Act*, and the regulations made thereunder.
 - j. The Authority does not seek the imposition of an administrative penalty pursuant to section 164 of the *Business Practices and Consumer Protection Act* or section 26.04 of the *Motor Dealer Act* given the effluxion of time since the date on which the contraventions occurred.
- [16] I have considered each of the orders the Authority seeks in the context of the facts set out in the Agreed Statement of Facts which I have accepted as true. I agree with the Authority that each of the findings sought is appropriate in the circumstances.
- [17] The Authority does not seek an administrative penalty, nor do they seek costs.
- [18] Accordingly, I order and declare as follows:
- a. LGN breached subsection 27(b) of the *Motor Dealer Act Regulation* by offering the Lincoln for sale on March 15, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".
 - b. A&A breached subsection 27(b) of the *Motor Dealer Act Regulation* by offering the Lincoln for sale on May 21, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".
 - c. A&A breached subsection 27(b) of the *Motor Dealer Act Regulation* by offering the Lincoln for sale on August 28, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation". LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by offering the Lincoln for sale on March 15, 2019 when it was not suitable for transportation without affixing to the

vehicle in a clear and legible manner the statement "Not Suitable for Transportation".

- d. LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by expressly misrepresenting on March 15, 2019 that "The Motor Vehicle has never sustained damages requiring repairs costing more than \$ 2000" when the Lincoln had in fact sustained damages requiring repairs costing more than \$2,000.
- e. LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by expressly misrepresenting on March 15, 2019 that "The Motor Vehicle has not previously been registered in any jurisdiction other than British Columbia and has not brought into the province specifically for the purpose of sale", when the Lincoln had in fact been previously registered in a jurisdiction other than British Columbia, namely Ohio and Minnesota.
- f. LGN committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by expressly misrepresenting on March 15, 2019 that "The Motor Vehicle complies with the requirements of the Motor Vehicle Act" when the Lincoln did not in fact comply with the requirements of the *Motor Vehicle Act*.
- g. A&A committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by offering the Lincoln for sale on May 21 , 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".
- h. A&A committed a deceptive act contrary to subsection 5(1) of the *Business Practices and Consumer Protection Act* by offering the Lincoln for sale on August 28, 2019 when it was not suitable for transportation without affixing to the vehicle in a clear and legible manner the statement "Not Suitable for Transportation".
- i. There will be a compliance order, pursuant to section 155 of the *Business Practices and Consumer Protection Act* and section 26.02 of the *Motor Dealer Act*, obliging LGN and A&A to comply with the *Motor Dealer Act*, the *Business Practices and Consumer Protection Act*, and the regulations made thereunder.

j. There will be no administrative penalty pursuant to section 164 of the *Business Practices and Consumer Protection Act* or section 26.04 of the *Motor Dealer Act* or order as to costs.

[19] The compliance order may be reconsidered in accordance with sections 180 and 181 of the *Business Practices and Consumer Protection Act*. Any application for reconsideration is required to be made within 30 days of receipt of this decision.

Dated: April 15, 2022

"Original signed"

Claire E. Hunter, Q.C.
Acting Registrar of Motor Dealers

PART I - FACTS

Agreement as to Facts

1. In accordance with directions made by the Registrar on October 6, 2021, the Authority provided a draft Agreed Statement of Facts to the Respondents' counsel on October 6, 2021. A copy of the draft Agreed Statement of Facts dated October 6, 2021 is attached as **Appendix "A"**.
2. By email dated October 20, 2021, the Respondents' counsel confirmed his agreement with the facts set out in the draft Agreed Statement of Facts dated October 6, 2021, subject only to a request for the inclusion of one additional fact. A copy of the Respondents' counsel's email dated October 20, 2021, is attached as **Appendix "B"**.
3. By email dated October 25, 2021, the Authority provided the Respondents' counsel with a revised Agreed Statement of Facts including the one additional fact sought by him. A copy of the revised Agreed Statement of Facts dated October 25, 2021, is attached as **Appendix "C"**.
4. To date, the Authority has not received a response from the Respondents' counsel with respect to the revised Agreed Statement of Facts dated October 25, 2021.
5. In the circumstances, it is the position of the Authority that agreement has been reached with respect to the facts set out in the draft Agreed Statement of Facts dated October 6, 2021, as confirmed by the Respondents' counsel in his email dated October 20, 2021.

The Agreed Facts, as Supported by Materials Filed Herein

6. The facts set out in the draft Agreed Statement of Facts dated October 6, 2021, as supported by materials filed herein, are as follows:

The Motor Dealers

7. LGN Enterprises Inc., dba LGN Auto Clearance Center (“LGN”), is a motor dealer carrying on business at 16144 84th Avenue, Surrey, B.C. (Dealer Licence #40289).
8. A&A Auto Sales Ltd., dba Auto Clearance Downtown (“A&A”), is a motor dealer carrying on business at 1195 Hastings Street East, Vancouver, B.C. (Dealer Licence #40660).

Sale of the Lincoln by LGN

9. On March 15, 2019, Ms. Susan Birch purchased a 2005 Lincoln Navigator, VIN: 5LMFU28595LJ02468 (the “Lincoln”) from LGN.
- Compliance Report dated September 23, 2020, exhibit page 002, par. 1¹
 - Contract of Purchase and Sale dated March 15, 2019, exhibit page 025
 - APV9T Transfer Tax Form dated March 15, 2019, exhibit page 026

False Declarations

10. The Contract of Purchase and Sale contains the following declarations:

¹ All document references herein are taken from Exhibit “A” to the Affidavit of Bill Manhas sworn on September 29, 2020

3. The Motor Vehicle has never sustained damages requiring repairs costing more than \$2000, except as disclosed herein: TRUE

4. The Motor Vehicle has not previously been registered in any jurisdiction other than British Columbia and has not brought into the province specifically for the purpose of sale, except as disclosed herein: NONE

.

7. The Motor Vehicle complies with the requirements of the Motor Vehicle Act: TRUE

- Contract of Purchase and Sale dated March 15, 2019, exhibit page 025

11. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln had in fact sustained damages requiring repairs costing more than \$2000.

- CARFAX Canada Vehicle History Report dated March 27, 2019, exhibit pages 037 to 041

12. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln had been previously registered in a jurisdiction other than British Columbia, namely Ohio and Minnesota.

- CARFAX Canada Vehicle History Report dated March 27, 2019, exhibit pages 037 to 041

13. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln did not comply with the requirements of the *Motor Vehicle Act*.

Failure to Disclose “Not Suitable for Transportation”

14. The Contract of Purchase and Sale does not contain a statement that the Lincoln is not suitable for transportation and is sold for parts only or purposes other than transportation.

- Contract of Purchase and Sale dated March 15, 2019, exhibit page 025

15. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln did not comply with the requirements of the *Motor Vehicle Act* and was in fact unsuitable for transportation. On March 19, 2019, as a result of having mechanical issues with the Lincoln, Ms. Birch took her vehicle to a Designated Inspection Facility for a complete safety inspection. The resulting inspection report records the following comments:

VEHICLE HAS WOBBLE WHILE DRIVING
MAJOR BRAKE PULSATION WHILE DRIVING
VEHICLE HAS RADIAL PULL FROM TIRES WHILE DRIVING
DRIVERS SIDE WHEEL BEARING HAS MAJOR EXCESSIVE
PLAY – LOOSE
LEFT FRONT TIRE IS BALD ON INSIDE EDGE AND TIRE IS
SPLIT AND READY TO BLOW
RIGHT FRONT TIRE IS WORN ON INSIDE EDGES
.....
FRONT BRAKE PAD LININGS HAVE 8 MM REMAINING -
OVERHEATED PADS
FRONT BRAKE ROTORS ARE WARPED WITH HEAT SPOTS
AND OVERHEATED EXCESSIVE RUN OUT AND CANNOT BE
MACHINED
'RIGHT FRONT BRAKE CALIPER IS SEIZED ENGAGED AND
LEFT FRONT IS STICKING - REQUIRES RIGHT FRONT
CALIPER AND RECOMMEND STRONGLY LEFT FRONT
CALIPER
RECOMMEND REAR BRAKE ROTORS TO ELIMINATE BRAKE
PULSATION

EMERGENCY BRAKE DOES NOT OPERATE AND HOLD •
REQUIRES REAR BRAKE ROTOR REMOVAL TO INSPECT
PARKING BRAKE SHOES TO DETERMINE IF ADJUSTMENT IS
REQUIRED OR EMERGENCY BRAKE SHOES MAY BE
COMPROMISED AND DAMAGED. .

- NAPA AUTOPRO Inspection Report dated March 19, 2019, exhibit pages 027 to 031

The Consumer Complaint

16. On March 20, 2019, Ms. Birch filed a consumer complaint with the Vehicle Sales Authority.

- Consumer Complaint Form dated March 20, 2019, exhibit pages 033 to 036

17. On April 10, 2019, LGN responded to the consumer complaint stating: “At this time we are not willing to pay Ms. Birch any money or take the vehicle back.”

- Complaint Response Form dated April 10, 2019, exhibit pages 042 to 046

18. On May 15, 2019, LGN unwound the transaction and reimbursed Ms. Birch for the full value of her Lincoln.

- Compliance Report dated September 23, 2020, exhibit page 002, par. 9

The Lincoln is Again Offered for Sale by A&A while still Unsuitable for Transportation

19. On May 21, 2019, the Vehicle Sales Authority received an email with attachments from Ms. Birch stating that the Lincoln was now being offered for sale by A&A. The email contained an attachment of what was described as a contemporaneous screen print advertising the Lincoln for sale.

- Compliance Report dated September 23, 2020, exhibit page 002, par. 12
- Email from Ms. Birch with Attachments, exhibit pages 047 to 051

20. On May 23, 2019, CVSE Inspectors Greg Neal and Dave Dhaliwal attended at A&A to inspect the Lincoln. The CVSE deemed the Lincoln unsafe and issued an "Out of Service" Notice and Order. A "Condemned" sticker was placed on the Lincoln's windshield.

- Compliance Report dated September 23, 2020, exhibit page 002, par. 18 - 19
- "Out of Service" Notice and Order dated May 23, 2019, exhibit page 057
- Photograph of "Condemned sticker, exhibit page 58

21. During an audio-taped interview with the principal of A&A, Aykut Bilgin, conducted on September 13, 2019, Mr. Bilgin admitted that he had advertised the Lincoln for sale on the website "before it was even repaired".

- Transcript of Interview with Bilgin on September 13, 2019, exhibit page 173, lines 8 - 25

The Lincoln is Yet Again Offered for Sale by A&A while still Unsuitable for Transportation

22. On August 28, 2019, the Authority again attended with CVSE to conduct an inspection of the vehicles on site at A&A. The Lincoln was still on site and was advertised for sale at \$8,888.00 plus \$395.00 Doc Fee. That vehicle, which was previously inspected and condemned on May 23, 2019, revealed several mechanical issues, resulting in the vehicle being issued another "Out of Service" Notice and Order.

- Compliance Report dated September 23, 2020, exhibit page 002, par. 23 - 25

- “Out of Service” Notice and Order dated August 28, 2019, exhibit page 080
- Photographs of the Lincoln, exhibit pages 81 - 86

**IN THE MATTER OF THE
MOTOR DEALER ACT, R.S.B.C. 1996, c. 316 and the
BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004, c. 2**

BETWEEN:

VEHICLE SALES AUTHORITY OF BC (VSA)

AUTHORITY

AND:

LGN ENTERPRISES INC. dba LGN AUTO CLEARANCE CENTER
(Dealer Licence #40289) and A&A AUTO SALES LTD. dba AUTO CLEARANCE
DOWNTOWN HASTINGS (Dealer Licence #40660)

RESPONDENTS

AGREED STATEMENT OF FACTS

AFFLECK HRABINSKY BURGOYNE LLP
1000 – 570 Granville Street
Vancouver, B.C.
V6C 3P1

Tel: (604) 800-8026
Email: rhrabinsky@ahb-law.com

Robert P. Hrabinsky
Counsel for the Authority

SODAGAR & COMPANY LAW CORPORATION
650-475 W Georgia St
Vancouver, B.C.
V6B 3A3

Tel: (604) 602-1626
Email: ali@sodagar.ca

Ali Sodagar
Counsel for the Respondents

The Motor Dealers

1. LGN Enterprises Inc., dba LGN Auto Clearance Center (“LGN”), is a motor dealer carrying on business at 16144 84th Avenue, Surrey, B.C. (Dealer Licence #40289).
2. A&A Auto Sales Ltd., dba Auto Clearance Downtown (“A&A”), is a motor dealer carrying on business at 1195 Hastings Street East, Vancouver, B.C. (Dealer Licence #40660).

Sale of the Lincoln by LGN

3. On March 15, 2019, Ms. Susan Birch purchased a 2005 Lincoln Navigator, VIN: 5LMFU28595LJ02468 (the “Lincoln”) from LGN.

False Declarations

4. The Contract of Purchase and Sale contains the following declarations:
 3. The Motor Vehicle has never sustained damages requiring repairs costing more than \$2000, except as disclosed herein: TRUE
 4. The Motor Vehicle has not previously been registered in any jurisdiction other than British Columbia and has not brought into the province specifically for the purpose of sale, except as disclosed herein: NONE

.

 7. The Motor Vehicle complies with the requirements of the Motor Vehicle Act: TRUE
5. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln had in fact sustained damages requiring repairs costing more than \$2000.

6. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln had been previously registered in a jurisdiction other than British Columbia, namely Ohio and Minnesota.
7. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln did not comply with the requirements of the *Motor Vehicle Act*.

Failure to Disclose “Not Suitable for Transportation”

8. The Contract of Purchase and Sale does not contain a statement that the Lincoln is not suitable for transportation and is sold for parts only or purposes other than transportation.
9. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln did not comply with the requirements of the *Motor Vehicle Act* and was in fact unsuitable for transportation. On March 19, 2019, as a result of having mechanical issues with the Lincoln, Ms. Birch took her vehicle to a Designated Inspection Facility for a complete safety inspection. The resulting inspection report records the following comments:

VEHICLE HAS WOBBLE WHILE DRIVING
MAJOR BRAKE PULSATION WHILE DRIVING
VEHICLE HAS RADIAL PULL FROM TIRES WHILE DRIVING
DRIVERS SIDE WHEEL BEARING HAS MAJOR EXCESSIVE
PLAY – LOOSE
LEFT FRONT TIRE IS BALD ON INSIDE EDGE AND TIRE IS
SPLIT AND READY TO BLOW
RIGHT FRONT TIRE IS WORN ON INSIDE EDGES
.....
FRONT BRAKE PAD LININGS HAVE 8 MM REMAINING -
OVERHEATED PADS

FRONT BRAKE ROTORS ARE WARPED WITH HEAT SPOTS AND OVERHEATED EXCESSIVE RUN OUT AND CANNOT BE MACHINED

'RIGHT FRONT BRAKE CALIPER IS SEIZED ENGAGED AND LEFT FRONT IS STICKING - REQUIRES RIGHT FRONT CALIPER AND RECOMMEND STRONGLY LEFT FRONT CALIPER

RECOMMEND REAR BRAKE ROTORS TO ELIMINATE BRAKE PULSATION

EMERGENCY BRAKE DOES NOT OPERATE AND HOLD • REQUIRES REAR BRAKE ROTOR REMOVAL TO INSPECT PARKING BRAKE SHOES TO DETERMINE IF ADJUSTMENT IS REQUIRED OR EMERGENCY BRAKE SHOES MAY BE COMPROMISED AND DAMAGED. .

The Consumer Complaint

10. On March 20, 2019, Ms. Birch filed a consumer complaint with the Vehicle Sales Authority.
11. On April 10, 2019, LGN responded to the consumer complaint stating: "At this time we are not willing to pay Ms. Birch any money or take the vehicle back."
12. On May 15, 2019, LGN unwound the transaction and reimbursed Ms. Birch for the full value of her Lincoln.

The Lincoln is Again Offered for Sale by A&A while still Unsuitable for Transportation

13. On May 21, 2019, the Vehicle Sales Authority received an email with attachments from Ms. Birch stating that the Lincoln was now being offered for sale by A&A. The email contained an attachment of what was described as a contemporaneous screen print advertising the Lincoln for sale.

14. On May 23, 2019, CVSE Inspectors Greg Neal and Dave Dhaliwal attended at A&A to inspect the Lincoln. The CVSE deemed the Lincoln unsafe and issued an "Out of Service" Notice and Order. A "Condemned" sticker was placed on the Lincoln's windshield.
15. During an audio-taped interview with the principal of A&A, Aykut Bilgin, conducted on September 13, 2019, Mr. Bilgin admitted that he had advertised the Lincoln for sale on the website "before it was even repaired".

The Lincoln is Yet Again Offered for Sale by A&A while still Unsuitable for Transportation

16. On August 28, 2019, the Authority again attended with CVSE to conduct an inspection of the vehicles on site at A&A. The Lincoln was still on site and was advertised for sale at \$8,888.00 plus \$395.00 Doc Fee. That vehicle, which was previously inspected and condemned on May 23, 2019, revealed several mechanical issues, resulting in the vehicle being issued another "Out of Service" Notice and Order.

DATED: _____

DATED: _____

Counsel for the Authority

Counsel for the Respondents

From: [Ali Sodagar](#)
To: [Robert P. Hrabinsky](#)
Subject: Re: LGN et al v. VSA | Hearing File 20-03-001
Date: Wednesday, October 20, 2021 10:02:09 AM

Hi Robert:

The only addition we seek is an acknowledgement in a final paragraph that the Respondents ultimately did not sell the subject Lincoln again. I do not want to see the inadvertent implication that someone (other than Mr. Bilgin) is stuck with the vehicle.

[Ali Sodagar](#)

Lawyer, Trade-Mark Agent



On Wed, Oct 6, 2021 at 11:04 AM Robert P. Hrabinsky <RHrabinsky@ahb-law.com> wrote:

Ali,

Further to this morning's PHC, I have attached a draft Agreed Statement of Facts for your review and comment.

I look forward to hearing from you.

Regards,

Robert P. Hrabinsky



Affleck Hrabinsky Burgoyne LLP

1000 – 570 Granville Street

Vancouver, BC, V6C 3P1

Email: rhrabinsky@ahb-law.com

Web: www.ahb-law.com

Direct Tel: 604·800·8026

Direct Fax: 604·800·9026

Office Tel: 604·800·8020

Notice Regarding Confidentiality of Transmission: This message (including any attachments) is for the sole use of the intended recipient and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this communication is prohibited. Please notify us of the error in communication by telephone (604-800-8020) and destroy all copies of this communication including any attachments.

**IN THE MATTER OF THE
MOTOR DEALER ACT, R.S.B.C. 1996, c. 316 and the
BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004, c. 2**

BETWEEN:

VEHICLE SALES AUTHORITY OF BC (VSA)

AUTHORITY

AND:

LGN ENTERPRISES INC. dba LGN AUTO CLEARANCE CENTER
(Dealer Licence #40289) and A&A AUTO SALES LTD. dba AUTO CLEARANCE
DOWNTOWN HASTINGS (Dealer Licence #40660)

RESPONDENTS

AGREED STATEMENT OF FACTS

AFFLECK HRABINSKY BURGOYNE LLP
1000 – 570 Granville Street
Vancouver, B.C.
V6C 3P1

Tel: (604) 800-8026
Email: rhrabinsky@ahb-law.com

Robert P. Hrabinsky
Counsel for the Authority

SODAGAR & COMPANY LAW CORPORATION
650-475 W Georgia St
Vancouver, B.C.
V6B 3A3

Tel: (604) 602-1626
Email: ali@sodagar.ca

Ali Sodagar
Counsel for the Respondents

The Motor Dealers

1. LGN Enterprises Inc., dba LGN Auto Clearance Center (“LGN”), is a motor dealer carrying on business at 16144 84th Avenue, Surrey, B.C. (Dealer Licence #40289).
2. A&A Auto Sales Ltd., dba Auto Clearance Downtown (“A&A”), is a motor dealer carrying on business at 1195 Hastings Street East, Vancouver, B.C. (Dealer Licence #40660).

Sale of the Lincoln by LGN

3. On March 15, 2019, Ms. Susan Birch purchased a 2005 Lincoln Navigator, VIN: 5LMFU28595LJ02468 (the “Lincoln”) from LGN.

False Declarations

4. The Contract of Purchase and Sale contains the following declarations:
 3. The Motor Vehicle has never sustained damages requiring repairs costing more than \$2000, except as disclosed herein: TRUE
 4. The Motor Vehicle has not previously been registered in any jurisdiction other than British Columbia and has not brought into the province specifically for the purpose of sale, except as disclosed herein: NONE

.

 7. The Motor Vehicle complies with the requirements of the Motor Vehicle Act: TRUE
5. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln had in fact sustained damages requiring repairs costing more than \$2000.

6. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln had been previously registered in a jurisdiction other than British Columbia, namely Ohio and Minnesota.
7. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln did not comply with the requirements of the *Motor Vehicle Act*.

Failure to Disclose “Not Suitable for Transportation”

8. The Contract of Purchase and Sale does not contain a statement that the Lincoln is not suitable for transportation and is sold for parts only or purposes other than transportation.
9. Contrary to the express, written representations contained in the Contract of Purchase and Sale, the Lincoln did not comply with the requirements of the *Motor Vehicle Act* and was in fact unsuitable for transportation. On March 19, 2019, as a result of having mechanical issues with the Lincoln, Ms. Birch took her vehicle to a Designated Inspection Facility for a complete safety inspection. The resulting inspection report records the following comments:

VEHICLE HAS WOBBLE WHILE DRIVING
MAJOR BRAKE PULSATION WHILE DRIVING
VEHICLE HAS RADIAL PULL FROM TIRES WHILE DRIVING
DRIVERS SIDE WHEEL BEARING HAS MAJOR EXCESSIVE
PLAY – LOOSE
LEFT FRONT TIRE IS BALD ON INSIDE EDGE AND TIRE IS
SPLIT AND READY TO BLOW
RIGHT FRONT TIRE IS WORN ON INSIDE EDGES
.....
FRONT BRAKE PAD LININGS HAVE 8 MM REMAINING -
OVERHEATED PADS

FRONT BRAKE ROTORS ARE WARPED WITH HEAT SPOTS AND OVERHEATED EXCESSIVE RUN OUT AND CANNOT BE MACHINED

'RIGHT FRONT BRAKE CALIPER IS SEIZED ENGAGED AND LEFT FRONT IS STICKING - REQUIRES RIGHT FRONT CALIPER AND RECOMMEND STRONGLY LEFT FRONT CALIPER

RECOMMEND REAR BRAKE ROTORS TO ELIMINATE BRAKE PULSATION

EMERGENCY BRAKE DOES NOT OPERATE AND HOLD • REQUIRES REAR BRAKE ROTOR REMOVAL TO INSPECT PARKING BRAKE SHOES TO DETERMINE IF ADJUSTMENT IS REQUIRED OR EMERGENCY BRAKE SHOES MAY BE COMPROMISED AND DAMAGED. .

The Consumer Complaint

10. On March 20, 2019, Ms. Birch filed a consumer complaint with the Vehicle Sales Authority.
11. On April 10, 2019, LGN responded to the consumer complaint stating: "At this time we are not willing to pay Ms. Birch any money or take the vehicle back."
12. On May 15, 2019, LGN unwound the transaction and reimbursed Ms. Birch for the full value of her Lincoln.

The Lincoln is Again Offered for Sale by A&A while still Unsuitable for Transportation

13. On May 21, 2019, the Vehicle Sales Authority received an email with attachments from Ms. Birch stating that the Lincoln was now being offered for sale by A&A. The email contained an attachment of what was described as a contemporaneous screen print advertising the Lincoln for sale.

14. On May 23, 2019, CVSE Inspectors Greg Neal and Dave Dhaliwal attended at A&A to inspect the Lincoln. The CVSE deemed the Lincoln unsafe and issued an "Out of Service" Notice and Order. A "Condemned" sticker was placed on the Lincoln's windshield.
15. During an audio-taped interview with the principal of A&A, Aykut Bilgin, conducted on September 13, 2019, Mr. Bilgin admitted that he had advertised the Lincoln for sale on the website "before it was even repaired".

The Lincoln is Yet Again Offered for Sale by A&A while still Unsuitable for Transportation

16. On August 28, 2019, the Authority again attended with CVSE to conduct an inspection of the vehicles on site at A&A. The Lincoln was still on site and was advertised for sale at \$8,888.00 plus \$395.00 Doc Fee. That vehicle, which was previously inspected and condemned on May 23, 2019, revealed several mechanical issues, resulting in the vehicle being issued another "Out of Service" Notice and Order.
17. As at October 22, 2021, the Lincoln remains registered to A&A.

DATED: October 25, 2021

DATED: _____



Counsel for the Authority

Counsel for the Respondents