



IN THE MATTER OF THE *MOTOR DEALER ACT* RSBC 1996 C 316 and the *MOTOR DEALER CUSTOMER COMPENSATION FUND REGULATION* BC REG 102/95, OC 271/95

FILED BY:

Jay Jauncey

Claimant

INVOLVING:

**Haley Dodge Chrysler Jeep Ram
Dealer Licence 7855 / Canceled**

Motor Dealer

DECISION OF THE MOTOR DEALER CUSTOMER COMPENSATION FUND BOARD

By way of written submissions.

[1] On December 9, 2022, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "**Fund**") filed by Jay Jauncey (the "**Claimant**") was presented to the Motor Dealer Customer Compensation Fund Board (the "**Board**") for hearing.

Decision

[2] This claim has been denied.

Claim Summary

[3] This claim is for \$20,000.00 and is based on a transaction on November 8, 2018 for the purchase of a 2017 Chrysler Pacifica Touring L (the "**Chrysler**") between the Claimant and the Motor Dealer, Haley Dodge Chrysler Jeep Ram ("**Haley Dodge**").

[4] Haley Dodge assured the Claimant that the Chrysler had no previous accidents, nor had it been registered outside of the province, and it was never previously used as a rental vehicle. Further, the respective boxes were unchecked on the Purchase Agreement and Transfer/Tax Form.

[5] Recently, the Claimant obtained the Carfax report for the Chrysler and the following observations were made it was involved in a previous accident amounting to \$11,050.00 in damages, the odometer reading did not match the reading that was advertised to him, and the Chrysler was a previous rental vehicle. As such, the Claimant is seeking compensation from the fund for \$20,000.00 which represents the loss of value for Chrysler had it not been misrepresented upon purchase.

Legislative Authority and the Board's Findings

[6] 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 lists losses eligible from the Fund "*with respect to the purchase of a motor vehicle, the loss of a trade-in, full payment or other liquidated amount...*"

[7] The Board reviewed the documents on file, copies of which were provided to the Claimant and to Walker Auto Sales at the pre-hearing stage and to which both parties had an opportunity to respond. The documents under review included:

- a. Claimant's Allegations Summary,
- b. Demand to Motor Dealer,
- c. Claim Application,
- d. Investigation Report; and
- e. Investigation Cost Recovery Invoice.

[8] Upon investigation, it developed that the damage shown on the Carfax was not accurate and the only misrepresentation that the Board found was the failure to advise the buyer that the car had been a rental vehicle.

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

Investigation Cost Recovery by the VSA

[10] Pursuant to Section 22(b) of the *Motor Dealer Act* (the "MDA"), costs incurred in investigating claims against the Fund must be paid from the Fund.

[11] The Board reviewed the VSA Investigation Cost Recovery Invoice for this claim - Invoice #21161-2. The Board approved the invoiced investigation costs in the amount of \$1,369.53 for recovery by the VSA from the Compensation Fund.

Reimbursement to the Fund by the Motor Dealer

[12] According to Section 24 of the *MDA*, if a claim is paid out of the Fund, the motor dealer who caused the claim must reimburse the Compensation Fund for the amount paid out of the Fund for the claim and for the investigation costs. The Registrar of Motor Dealers may cancel the dealer licence of the motor dealer who caused the claim if the Fund is not repaid.

[13] Since this claim is denied, the investigation costs will not be charged to Haley Dodge.

Reconsideration

[14] According to Sections 16(2), 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 in writing within 30 days of the decision.

Date: January 4, 2023

Motor Dealer Customer Compensation Fund Board

Per:

/Original is signed/

Ian Moore, Board Chair

Enc.