



FILED

By the Office of the Registrar of Motor Dealers
on July 15, 2024

Investigation File No.: C-24-03-272

Hearing File No.: H-24-07-002

UNDERTAKING

**IN THE MATTER OF THE *MOTOR DEALER ACT*, RSBC 1996, c 316 and the
BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, SBC 2004, c 2**

BETWEEN:

Jason Atwood
(SP # 109115)

(the "Respondent")

AND:

The Registrar of Motor Dealers

WHEREAS:

1. Jason Atwood, SP # 109115, ("**Mr. Atwood**") is employed at Vernon Dodge Jeep ("**Vernon Dodge**") and is a registered salesperson within the meaning of section 1(1) of the Motor Dealer Act ("**MDA**").
2. The Registrar of Motor Dealers is the Registrar as defined in the MDA, ("**the Registrar**"), and is responsible for the administration and enforcement of the MDA, its regulations, and the prescribed provisions of the *Business Practices and Consumer Protection Act* ("**the BPCPA**").
3. Mr. Atwood, in his capacity as Finance Manager at Vernon Dodge is the subject of an investigation launched by the VSA in response to a complaint made by a consumer, Theresa Nooski ("**Ms. Nooski**"). The complaint and investigation findings are outlined in VSA File No. C-22-10-212 and the investigation report of VSA investigations officer, Daryl Dunn ("**IO Dunn**") dated February 7, 2024. Mr. Atwood is also the subject of an investigation in response to a complaint made by consumer Chelsea Kiddine ("**Ms. Kiddine**"). The complaint and investigation findings are outlined in VSA file No. C-24-01-184

AND WHEREAS:

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4. On October 3, 2022, Ms. Nooski purchased a 2019 Jeep Compass ("**the Compass**") from Vernon Dodge for a price agreed upon by the parties.
5. Mr. Atwood made an application on October 3, 2022, to Scotiabank for financing on Ms. Nooski's behalf. The application [REDACTED]
6. Ms. Nooski advised Mr. Atwood [REDACTED] however, on October 4th, 2022, Ms. Nooski's mother advised Ms. Nooski [REDACTED]

Withheld in accordance with s. 22(3)(f)
of FOIPPA



Withheld in accordance with s. 22(3)(f)
of FOIPPA

7. On October 5th, 2022, Ms. Nooski was given a credit application by Mr. Atwood and was [REDACTED]
8. Ms. Nooski advised that she did not forward the application to her mother as her mother had [REDACTED] Ms. Nooski did not return the documents to Vernon Dodge or Mr. Atwood and instead, retained the document [REDACTED]
9. Mr. Atwood advised that the documents and application were dropped off at Vernon Dodge by an unknown person. The application named Ms. Nooski's mother as the borrower and Ms. Nooski as the co-buyer. Both Ms. Nooski's and her mother's signatures appeared on the credit application. The Scotiabank funding approval provided by Vernon Dodge names Ms. Nooski's mother as the purchaser and Ms. Nooski as the co-purchaser.
10. Ms. Nooski's mother adamantly denied signing the application as either the purchaser or co-purchaser and denied seeing the application. Ms. Nooski's mother also advised she was not contacted either by Vernon Dodge or by Mr. Atwood in relation to the application. She advised she had no knowledge of the loan being in her name.
11. On January 12, 2023, Mr. Atwood advised via a signed statement that he had not spoken with Ms. Nooski's mother, he did not at any time provide her with the documentation or application before, during or after the process of the purchase and funding approval.

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12. On July 8, 2022, Ms. Kiddine purchased a 2019 Kia Sportage (the Sportage) from Vernon Kia.
13. At all material times, Mr. Atwood was employed by Vernon Kia as a finance manager. As finance manager, he was responsible for drafting purchase agreements for consumer vehicle sales.
14. The documentation submitted by Vernon Kia and Ms. Kiddine show that on the purchase agreement, which was drafted by Mr. Atwood, none of the required vehicle declarations were completed other than question #2 which is marked as "no".
15. On the purchase agreement there are two entries that were included in the purchase price calculation, one for "accessories" in the amount of [REDACTED] and one for "protections" in the amount of [REDACTED]. Ms. Kiddine advised she did not know what these two entries were as she did not receive anything extra, and these items were not discussed or explained to her by Vernon Kia or Mr. Atwood prior to her purchase of the Sportage. Withheld in accordance with s. 22(3)(f) of FOIPPA
16. The Registrar asserts Mr. Atwood has contravened the following legislation:

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12. On July 8, 2022, Ms. Kiddine purchased a 2019 Kia Sportage (the Sportage) from Vernon Kia.
13. The documentation submitted by Vernon Kia and the Ms. Kiddine show that on the purchase agreement none of the required vehicle declarations were completed other than question #2 which is marked as "no".
14. On the purchase agreement there are two entries that were included in the purchase price



calculation, one for "accessories" in the amount of [REDACTED] and one for "protections" in the amount of [REDACTED]. Ms. Kiddine advised she did not know what these two entries were as she did not receive anything extra, and these items were not discussed or explained to her by Vernon Kia or Mr. Atwood prior to her purchase of the Sportage.

Withheld in accordance with s. 22(3)(f)
of FOIPPA

15. The Registrar asserts Mr. Atwood has contravened the following legislation:

- a. Section 5(1) of the BPCPA for committing or engaging in a deceptive act or practice in respect of a consumer transaction by misrepresenting the contents of the credit application which had the capability, tendency or effect of deceiving or misleading a consumer or guarantor.
- b. Section 33(2)(1) of the *Motor Dealer Act Regulation* ("**MDAR**"), for failing, in the course of business, to act with honesty and integrity, by preparing and submitting a credit application in the name of a consumer who did not attend the dealership, did not sign the application and did not authorize the preparation of the credit application in her name and which ultimately resulted in a loan being approved in her name.
- c. Section 21(2)(e) of the ("**MDAR**"), for failing to include a statement on the purchase agreement that the motor vehicle complies with the requirements of the *Motor Vehicle Act*
- d. Section 23 of the ("**MDAR**"), for failure to complete all but one of the required vehicle declarations.

NOW THEREFORE the Respondent undertakes, acknowledges, and agrees with the Registrar:

1. To comply with the MDA, MDAR, BPCPA, and the sections thereunder;
2. To pay an Administrative Penalty in the amount of **\$8000.00** in relation to the subject matter of this Undertaking as per the Notice of Administrative Penalty which will be provided to the Respondent upon receipt of the fully executed and filed Undertaking;
3. To reimburse the Registrar a total of **\$252.01** representing 100% of the investigation costs incurred to date in relation to the subject matter of this Undertaking within thirty (30) days of the Registrar signing this Undertaking;
4. That this Undertaking is binding on the Respondent until such time as it is either terminated in writing by the Registrar or terminated by Order of the Supreme Court of British Columbia;

5. That in addition to rendering the Respondent liable to further penalties and proceedings as provided for under the BPCPA, it is an offense under the BPCPA to fail to comply with any part of this Undertaking that has not been previously terminated;
6. That the Registrar may, upon breach of any part of this Undertaking by the Respondent, declare the Undertaking to be at an end and may institute such proceedings and take such action under the BPCPA, or the Act as considered necessary; and
7. That any communication with the Registrar in connection with this Undertaking shall be made to the following address:

Registrar of Motor Dealers
Vehicle Sales Authority of B.C.
#280 – 8029 199th Street
Langley, BC V2Y 0E2

And in the case of the Respondent, to the following address:

Jason Atwood
C/O Vernon Dodge Jeep
4607 27th Street,
Vernon, BC V1T 4Y8

unless another address for delivery is given to the other party, in writing, by either the Registrar or the Motor Dealer.

The Respondent acknowledges and warrants that they have had an opportunity to seek legal advice as to the terms of this Undertaking.

Jason Atwood (SP # 109115)

Per:

Signature _____

Jason Attwood

Name of Authorized Signatory

) **ACCEPTED** by the Registrar of Motor Dealers this
) 15th day of July 2024.

[illegible]

) Kenneth Affleck, K.C.
Registrar of Motor Dealer

Withheld in accordance with s. 22 of FOIPPA