



Investigation File No.: C-24-10-123
Hearing File No.: H-25-07-005

**IN THE MATTER OF *THE MOTOR DEALER ACT*, R.S.B.C. 1998, c.316 and
THE BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004, c.2**

BETWEEN:

THE VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA

THE AUTHORITY

AND:

RICK HEBEIN

COMPLAINANT

AND:

1079259 BC LTD dba TRICITY MITSUBISHI

RESPONDENT/MOTOR DEALER

AND:

ANDRE CARTER

RESPONDENT/SALESPERSON

DECISION OF THE REGISTRAR OF MOTOR DEALERS

Date and location of decision: December 9, 2025 at Langley, British Columbia

By way of written submissions

I. Introduction

1. This proceeding arises out of a consumer complaint received by the Authority on October 7, 2024, from Rick Hebein concerning a consumer transaction in which he purchased a

2017 Dodge Grand Caravan (“the Vehicle”) from 1079259 BC Ltd. dba Tricity Mitsubishi (“Tricity”) on March 1, 2024.

2. Tricity is a motor dealer licensed with the Authority under license number 40312 and continuously licensed since June 14, 2016. The Respondent Andre Carter is a salesperson licensed with the Authority under license number 101783. He first became licensed on June 1, 2004.
3. The Authority issued a Hearing Notice in this matter on July 28, 2025. In it, the Authority makes the following allegations in respect of Mr. Hebein’s purchase of the Vehicle:
 - a. That Tricity and Mr. Carter each committed or engaged in a deceptive act or practice contrary to section 5(1) of the *Business Practices and Consumer Protection Act* (“BPCPA”) by making oral, written, visual, descriptive or other representations as follows:
 - i. That the Vehicle was of a particular standard or quality when it was not, within the meaning of paragraph 4(3)(a)(ii) of the BPCPA; and
 - ii. That use exaggeration, innuendo or ambiguity about a material fact, or that fail to state a material fact, where the effect is misleading, within the meaning of paragraph 4(3)(b)(vi) of the BPCPA.
 - b. Tricity and Carter each failed to include on the Motor Vehicle Purchase Agreement a statement to the effect that the Vehicle was not suitable for transportation, contrary to paragraph 21(2)(f) of the *Motor Dealer Act Regulation* (“MDAR”); and
 - c. Tricity and Carter each aided, abetted, or caused Hebein to contravene section 75 of the *Motor Vehicle Act* (“MVA”) by allowing the Vehicle to be driven onto public roads when it was unsuitable for transportation, contrary to section 33(2)(i)(iii) of the MDAR.
4. Each of the Parties have provided written submissions and evidence in support of those submissions. While these reasons may not specifically refer to every aspect of the Parties’ submissions and evidence, I have reviewed and considered them all in coming to my decision.

II. Background Facts

5. As is typically the case, the background facts of this matter are in issue between the parties. As I set out the facts and evidence, I will make note where conflicts exist. In making findings of fact, I will apply the burden of proof which is a balance of probabilities, often reframed as “is it more likely than not” that the alleged conduct occurred: *F.H. v. McDougall* [2008] 3 S.C.R. 41 at paragraph 44. The burden of proof remains with the Authority, and Mr. Hebein as to the consumer remedy sought and proof of damages and loss, subject to any statutory shift to the Respondents which will be noted and applied where applicable.

a. Mr. Hebein

6. Mr. Hebein provided a sworn statement dated August 14, 2025. He initially sought to purchase a different vehicle from Tricity but after choosing the vehicle and being approved for financing, he was told that vehicle was no longer available and he was offered the Vehicle as an alternative. Mr. Hebein says that he felt “trapped and with limited options” and decided to purchase the Vehicle and he provided Tricity with a \$1,500 down payment.
7. Mr. Hebein alleges he was misled and manipulated as he found the Vehicle to be in poor mechanical condition due to issues that should have been identified by way of a proper pre-sale inspection. He also says that the financing arranged by Tricity included an interest rate of 29.9% which, despite being informed of the rate, Mr. Hebein was not aware of the impact that this rate would have on his overall financial health.
8. Mr. Hebein says that since purchasing the Vehicle, he has made monthly loan payments of approximately \$12,300 which includes the initial \$1,500 down payment and warranty payments of \$50 per month but due to the high interest rate, only approximately \$900 of the principal loan has been paid down.

b. Sean Plecas

9. Mr. Plecas is an Investigation Officer employed by the Authority and he has sworn an affidavit dated July 28, 2025 in this matter (“the Plecas Affidavit”). Mr. Plecas attaches various exhibits to his affidavit including Tricity’s October 29, 2024 response to Mr.

Hebein's complaint ("the Response") which includes several supporting documents as follows:

- a. An undated and unsigned letter from Mr. Carter addressed to Mr. Hebein which, after describing the repairs to be completed on the Vehicle and its warranty coverage, notes that the Vehicle underwent a safety inspection on February 17, 2023 which determined that a new battery was required and an oil change was completed. Mr. Carter also noted that Mr. Hebein had the Vehicle inspected by Pioneer Chrysler sometime after March 12, 2023 and several mechanical issues were identified and repaired including the replacement of several parts including the front windshield, two front tires, the engine manifold gasket, the transmission cooler lines, the rear pads and rotors. Other repairs were completed on July 24, 2024. In Mr. Carter's letter, he states that Tricity is prepared to offer \$750.00 towards the cost of the repairs to the Vehicle in exchange for a signed release.
- b. A copy of the February 29, 2024 purchase agreement for Mr. Hebein's purchase of the Vehicle ("the Purchase Agreement") which includes a declaration that the Vehicle was suitable for transportation and in compliance with the MVA. The Purchase Agreement also describes the financing terms which include a loan amount of \$20,124.00, an interest rate not to exceed 26.99% annually, a term not to exceed 78 months and a monthly payment not to exceed \$549.58.
- c. An undated summary of Tricity's response to Mr. Hebein's consumer complaint prepared by Gordon Spears, SVP of the Tricity Auto Group ("the Summary"). Mr. Spears notes that the Vehicle underwent an inspection on February 17, 2023 and a copy of the service order ("the February Report") for that was provided. He then sets out the chronology of the various repairs performed on the Vehicle as follows:
 - i. On March 12, 2024 Tricity replaced the Vehicle's windshield, its front tires, rear brakes, the transmission fluid line and it performed a brake flush. The cost of these repairs was \$2,591.89 which was paid by Tricity.
 - ii. On March 14, 2024, additional repairs to the Vehicle costing \$2,794.90 were required. These included front brakes and a thermostat housing replacement. This cost was also paid by Tricity.

- iii. On July 24, 2024, repairs to the Vehicle's engine were completed, the front sway bar bushing was replaced as was the passenger sliding door actuator. The total cost of the repairs was \$5,261.76 and all but \$411.75 was covered under Mr. Hebein's warranty.
 - iv. On September 18, 2024, Tricity provided Mr. Hebein with a quote for a full transmission replacement in the amount of \$4,495, of which \$2,165.18 would be covered under warranty.
 - v. Mr. Spears states in the Summary that "The vehicle was not ready to be delivered when we received it from the dealer where it was stored, but Tricity paid for the necessary repairs to be ready for delivery."
- d. Finally, Mr. Plecas provided a copy of a March 25, 2025 email exchange between himself and Jim MacMillan who is a Commercial Vehicle Safety Enforcement ("CVSE") Officer. Mr. Plecas had previously provided Mr. MacMillan with a copy of a March 12, 2024 Service Order from Tricity ("the March Report") which describes the work done on the Vehicle. Mr. Plecas asked Mr. MacMillan "if any of the noted deficiencies would constitute a failure under provincial guidelines." In response, Mr. MacMillan stated "Windshield cracks, seized calipers, leaking lines and lights would all be **Fail** items on a provincial inspection."

c. Andre Carter

10. In an affidavit sworn August 7, 2025 ("Carter Affidavit #1), Mr. Carter confirms that he was the salesperson who sold the Vehicle to Mr. Hebein. He attaches a photo of the Vehicle as an exhibit to his affidavit. Mr. Carter outlined his practice for taking clients on test drives, stating that he remains alert and pays attention to "any issues with the vehicle that might show up during the drive" as any minor issues that are identified can typically be fixed "as part of the sales contract."
11. Mr. Carter recalled that he accompanied Mr. Hebein during his test-drive of the Vehicle and that they both noted a crack in the passenger side of the windshield as well as worn tread on the tires. These issues were replaced as part of the sales agreement. Mr. Carter did not recall Mr. Hebein indicating that the crack in the windshield obscured his vision while in the driver's seat.

12. During the test-drive Mr. Carter noted that the Vehicle's braking system was normal and that Mr. Hebein did not raise any concerns with it. Sometime after the sale had been completed, Mr. Carter recalled Mr. Hebein calling him to thank him for selling him the Vehicle. During that call Mr. Hebein did not mention any issues with the Vehicle.
13. Mr. Carter provided a second affidavit sworn September 3, 2025 ("Carter Affidavit #2"). In this affidavit, Mr. Carter noted that he also serves as a finance manager which includes working with customers and lenders in securing loans for their purchases.
14. Mr. Carter indicates in this affidavit that it is his practice to record his telephone calls and he describes nine such calls between himself and Mr. Hebein and others. Mr. Carter does not indicate in his affidavit how he recorded the calls (eg, a voice recording function on a phone or other recording device) or whether he still has the device that he used to record his conversations. There is no independent evidence that the calls have been verified or authenticated.
15. Unfortunately, Carter Affidavit #2 does not include transcriptions of Mr. Carter's calls, the dates when the calls took place or specific time references as to the matters referred to. I will therefore consider the weight to be placed on these calls with these limitations in mind. The practice of simply attaching audio files as exhibits to affidavits without at the very least providing dates and time references to relevant passages in the body of the affidavit is to be discouraged.
16. Mr. Carter says that he first spoke with Mr. Hebein on February 23, 2024. This call is identified as Exhibit A to Carter Affidavit #2. Mr. Hebein indicates that he was interested in purchasing a used Dodge Caravan, that he would require financing with a monthly payment not exceeding \$350.00 per month and that he was receiving full-time government disability benefits totaling \$3,000 per month in addition to some other home-based work. Mr. Carter indicated that he would research possible vehicles and lending options for Mr. Hebein.
17. Following their initial discussion, Mr. Hebein and Mr. Carter spoke on other occasions. In an undated call from Mr. Carter, identified as Exhibit I to Carter Affidavit #2, he advised Mr. Hebein that he had located the Vehicle and that it was offered for sale for \$15,251.00. After taxes and fees Mr. Hebein's monthly payment would be \$550 per month but that this

was contingent on a down payment of \$1,500. Mr. Carter advised Mr. Hebein that the interest rate for the financing was 26.99%.

18. In their next call, identified as Exhibit J, Mr. Hebein advised Mr. Carter that he was able to pay \$1,500.00 as a deposit towards the purchase of the Vehicle. In the call following that, identified as Exhibit K, Mr. Carter confirms that arrangements were being made to replace the Vehicle's windshield and tires and Mr. Carter indicated to Mr. Hebein that he would call him once they had arrived.
19. Mr. Carter deposes that he next spoke with Mr. Hebein in June following his purchase of the Vehicle. A recording of that call is marked as Exhibit M. In the course of that call, Mr. Hebein discusses the mechanical condition of the Vehicle, including what he described as a ticking sound in the engine, as well as repairs that were being completed under warranty.
20. Mr. Carter deposes that he had further discussions with Mr. Hebein about the mechanical condition of the Vehicle in September and another on a date not indicated.

d. Sterling Arndt

21. Mr. Arndt is the service manager at Tricity. He deposes that he has been employed at Tricity since July 2, 2025 and that prior to that he owned a CVSE certified automobile service centre. Mr. Arndt deposes that he is a CVSE inspector with 20 years of experience as a service manager and 25 years experience as a mechanic. Mr. Arndt deposes that he is familiar with CVSE standards for vehicles and that Tricity employs higher inspection standards than some CVSE requirements including tire and brake measurements.
22. Mr. Arndt did not personally inspect the Vehicle but he says that he reviewed the March Report and he provided the following observations:
 - a. Two of the Vehicle's tires did not meet Tricity standards but did meet CVSA standards. Those tires were replaced;
 - b. Mr. Arndt described the difference between an oil "leak" and "sweating" with the former constituting continuous leaking and the latter showing the presence of oil but not constant leaking. Mr. Arndt explained that an active leak is a fail for CVSE standards but sweating is not;

- c. A “tune-up due slight miss present” does not result in a fail for CVSE purposes unless the check engine light is illuminated which would indicate a major problem; and
- d. There was a crack in the Vehicle’s windshield which was replaced. CVSE guidelines provide that a cracked windshield will result in a failed inspection where it is more than 50mm in the area swept by wipers or more than 300mm anywhere else on the windshield.

23. In addition to the aforementioned, Mr. Arndt notes that the March Report indicates that the Vehicle had seized brake calipers although he is unable to say whether the brake calipers were in fact seized at the time of the sale of the Vehicle to Mr. Hebein.

24. Mr. Arndt is of the view that the inspection of the Vehicle was thorough and that any other significant problems would have been noted during the inspection and reported on the March Report pursuant to Tricity’s practices.

e. Frederick Courtice

25. Frederick Courtice was retained by the Respondents to provide an opinion regarding the Vehicle’s mechanical condition. Mr. Courtice deposes in an affidavit sworn October 1, 2025 that he is a certified CVSE inspector, a Red Seal mechanic with 40 years experience and that he has been a licensed vehicle inspector since 1992. He continues that he is “completely familiar with the CVSE standards for vehicle safety inspections.” Mr. Courtice is currently employed by OK Tire as a licensed vehicle inspector.

26. Mr. Courtice reviewed the March Report and the accompanying photograph of the Vehicle. He confirms that his role is to provide information to the Registrar and not to advocate on behalf of any party in this matter.

27. Mr. Courtice commented on seven items that were listed in the March Report. He comments that “Although there is a list of items under the hearing ‘Safety’, not all of these items are significant or constitute a failure of a safety.” Mr. Courtice’s findings are summarized as follows:

- a. Brake fluid contamination does not necessarily constitute an immediate safety issue;

- b. Oil filter housing and transmission cooler lines leaking. Small amounts of weeping/leakage is not necessarily a safety concern;
- c. Tires measured at 3/32 inch is the minimum to pass and the measurements on the Inspection Report would pass a CVSE inspection.
- d. A slight miss or hesitation in the engine has a number of potential causes and absent an engine light, is not a safety concern. A tuneup may be recommended as a preventative measure;
- e. Mr. Courtice could not judge whether the cracked windshield would pass or fail a CVSE inspection without seeing the Vehicle;
- f. Windshield wiper streaking or misalignment would not result in a CVSE fail; and
- g. Mr. Courtice could not determine if the Vehicle's brake calipers would result in a CVSE fail without seeing the Vehicle.

f. Rick Hebein Response

28. Mr. Hebein provided a response to the Respondents' sur-reply and Mr. Courtice's affidavit. While I will address his arguments in respect of the allegations in the Hearing Notice later in this decision, I note that in his submissions he provides additional evidence with respect to the condition of the Vehicle, stating that the crack in the windshield "ran from one side of the glass to the other across the driver's field of vision" and that the tires were within millimetres of the legal minimum tread depth.

III. Positions of the parties

a. The Authority

29. The Authority's position can be separated into two categories. First, it says that Tricity and Mr. Carter committed or engaged in a deceptive act or practice in respect of a consumer transaction by misrepresenting the Vehicle's standard or quality and by making misrepresentations about a material fact or alternatively failing to state a material fact, the effect of which was misleading.

30. The Authority further argues that the Vehicle was not suitable for transportation and as such, Tricity was required, and failed to include a statement indicating that in the Purchase Agreement and that by allowing Mr. Hebein to drive the Vehicle from the dealership, it aided, abetted or caused him to contravene the MVA.

31. The Authority seeks the following:

- (a) Administrative penalties issued to Tricity and Mr. Carter in the amount of \$15,000 and \$1,000 respectively pursuant to sections 26.04 of the MDA and 164 of the BPCPA;
- (b) An order that Tricity reimburse money to Mr. Hebein or otherwise compensate Mr. Hebein pursuant to sections 26.02(4) of the MDA and 155(4) of the BPCPA; and
- (c) An order that Tricity and Mr. Carter jointly and severally reimburse the Authority its actual costs, including legal costs, incurred in relation to this matter.

b. Mr. Hebein

32. Mr. Hebein advances a consumer claim in which he seeks compensation of approximately \$13,000.00 representing his down payment, warranty payments and monthly loan payments made to date in respect of his purchase of the Vehicle. He also seeks reimbursement of any out-of-pocket repair expenses and that he be “relieved of any remaining balance on the vehicle loan”.

c. The Respondents

33. Tricity and Mr. Carter deny the allegations and relief sought by both the Authority and Mr. Hebein. More specifically, they say that the evidence does not support a finding that on the day of its purchase, the Vehicle was unsuitable for transportation or otherwise non-compliant with the MVA. As such, it was not necessary to make a disclosure in that manner on the Purchase Agreement and further, it did not aid, abet or cause Mr. Hebein to breach the MVA by allowing him to operate the Vehicle on a highway.

34. Similarly, Tricity and Mr. Carter deny that they engaged or committed a deceptive act or practice in relation to Mr. Hebein’s purchase of the Vehicle. They say that the Vehicle was suitable for transportation at the time of sale as was evidenced by the test drive with Mr. Hebein.

IV. Analysis

a. Section 21(2)(f) MDAR – Failure to state Vehicle not suitable for transportation on purchase agreement

35. Section 21(2) of the MDAR describes the information that must be included in a written representation, including a purchase agreement, respecting a motor dealer's sale of a used motor vehicle. Here the Authority argues that Tricity and Mr. Carter failed to include in the Purchase Agreement a statement that the Vehicle was not suitable for transportation. To the contrary, the Purchase Agreement clearly declares that the Vehicle was suitable for transportation and in compliance with the MVA.

36. To determine whether a vehicle is suitable for transportation, I am to look to the evidence of those with the requisite training and experience to confirm whether, at the time of sale, a vehicle is properly equipped as required by the MVA and its regulations. I may then apply that evidence to the provisions of the MDA and MDAR over which I have the authority to administer.

37. In deciding whether a vehicle is suitable for transportation, the enquiry must first start with section 222 of the MVA which provides as follows:

222. A person must not sell, offer for sale, expose or display for sale or deliver over to a purchaser for use a motor vehicle, trailer or equipment for them that is not in accordance with this Act and the Regulations.

38. Further, section 8.01 of the *Motor Vehicle Act Regulations* ("MVAR") provides:

8.01 No person who is engaged in the business of selling motor vehicles shall keep for sale, or sell or offer for sale, any new or used motor vehicle unless the motor vehicle is equipped as required by these regulations.

39. In *Pham et al v. Super Sale Auto Ltd. et al*, 2019-BCRMD-021, the Registrar summarized the legal requirements that a motor dealer must meet with respect to vehicles that are not suitable for transportation at paragraph 6 as follows:

(a) The MVA prohibits any person, including a motor dealer, from displaying for sale, advertising for sale or selling a motor vehicle that is intended to be operated on the highways, where certain safety components of that vehicle do not meet the minimum standards in that Act or its Regulations: section 222 of the MVA.

(b) The [MVAR] specifically prohibits anyone in the business of selling or leasing motor vehicles from doing so unless certain safety components of the motor vehicle meet the minimum standards of that Regulation: section 8.01 of the MVAR.

(c) The MVA prohibits a person from operating a motor vehicle on the highways unless it is compliant with the MVA and its regulations. The MVA also places a duty on the owner of a motor vehicle not to allow its operation on the highways unless the motor vehicle is compliant with the MVA. If a motor vehicle is not compliant with the MVA, it may not legally be operated on the highways and is therefore legally “not suitable for transportation” as that term is found in the MDAR: section 219 of the MVA. (emphasis added)

(d) For a motor dealer to sell a motor vehicle that is “not suitable for transportation” it must ensure it is not sold for use on the highways by declaring the motor vehicle as “not suitable for transportation” and is sold for parts only or for another purpose other than transportation on:

- (i) any advertisement for the motor vehicle;
- (ii) the purchase agreement;
- (iii) the motor vehicle itself; and
- (iv) any other written representation about the motor vehicle.

Sections 21(2)(e) and (f), 22 and 27(b) of the MDAR.

(e) A failure to properly advertise and inform a consumer that a motor vehicle is “not suitable for transportation”, can be viewed as a misrepresentation, also known as a deceptive act or practice under the BPCPA.

40. Turning to the evidence, there are several opinions as to whether the Vehicle was in compliance with the MVA and its regulations. While those opinions differ in many respects,

what is consistent among them all is that none of the individuals physically inspected the Vehicle prior to it being purchased by Mr. Hebein. The opinions are based on a review of the March Report and for some, a photograph of the Vehicle.

41. The February Report makes reference to a "Safety Inspection" but it does not indicate what aspects of the Vehicle were inspected or the result. That document was also prepared more than one year prior to Mr. Hebein's purchase. Given these factors, I place little weight on this document in deciding whether the Vehicle was suitable for transportation at the time of sale.
42. I note that Mr. Hebein test drove the Vehicle prior to purchasing it. Mr. Carter accompanied him during that test drive. The only issues arising at that time were the replacement of the Vehicle's tires and windshield and it was agreed that would be done by Tricity at its cost. This was reflected in one of the telephone calls between Mr. Carter and Mr. Hebein ("Carter Affidavit #2, Exhibit K"). There is no evidence that any other mechanical issues with the Vehicle were identified at that time by Mr. Hebein or Mr. Carter.
43. There is a conflict in the evidence between Mr. Carter and Mr. Hebein as to the extent of the windshield crack. In his first affidavit, Mr. Carter says that the crack was "not large" and located on the passenger side and did not obscure the driver's visibility. Mr. Hebein in his October 7, 2025 submission says that "the crack at sale ran from one side of the glass to the other across the driver's field of vision." Mr. Hebein points out that a crack of that description would prohibit the Vehicle from being operated.
44. In considering this conflict in the evidence, I note that there is no indication in the Hearing Notice or Mr. Hebein's consumer complaint as to the extent of the windshield crack. In the recorded conversation between Mr. Carter and Mr. Hebein following the purchase of the Vehicle, there is no mention by Mr. Hebein of any concern about driving the Vehicle due to the state of the windshield. Finally, the Owner's Certificate of Insurance included with Mr. Hebein's consumer complaint indicates that the ownership of the Vehicle passed to Mr. Hebein on March 1, 2024 which is an indication that despite his position that the cracked windshield prohibited operation of the Vehicle, he did so in any event. It was not until the October 7, 2025 submission that Mr. Hebein provided his recollection of the crack in the windshield. Given the circumstances and the lack of corroborating evidence, I prefer

the evidence of Mr. Carter over that of Mr. Hebein with respect to the extent of the cracked windshield.

45. Mr. Hebein returned to Tricity on March 12, 2024 to have the previously ordered new windshield and tires installed. Based upon the odometer recordings on the Purchase Agreement (154,583km) and the March Report (155,508km), the Vehicle had been driven approximately 1000km in the 12 days after being purchased by Mr. Hebein.
46. The March Report lists several mechanical issues with the Vehicle that were repaired by Tricity including the previously identified windshield and tire replacement. Other than the windshield and tires which were noted at the time of purchase, it is unclear when the other mechanical issues became known to Mr. Hebein.
47. The Authority relies on the evidence of Mr. Plecas, specifically an email exchange with Jim MacMillan, in which Mr. Plecas asks Mr. MacMillan whether, based upon the March Report, any of the issues “would warrant a failure or unsafe designation from CVSE.” Mr. MacMillan’s response is limited to commenting that the “windshield cracks, seized calipers, leaking lines and lights would all be **FAIL** items on a provincial inspection.” Mr. MacMillan does not qualify his response in any way and there is no indication that he sought further information from Mr. Plecas regarding the Vehicle such as the location or extent of the windshield crack or the timing of the brake calipers becoming seized or of the lights becoming inoperable. Mr. MacMillan’s evidence is with respect to the mechanical condition of the Vehicle as at March 12, 2024 and is therefore not conclusive as to whether the “fail items” existed at the time of sale.
48. Mr. Arndt’s opinion concerning the Vehicle is also based solely on the March Report. His view was that not all the items on the report were “significant issues” while also questioning when the seized brake caliper occurred noting that a vehicle could have no seized caliper one day and a seized caliper the next. I am reminded by the Authority that Mr. Arndt’s evidence should be viewed in light of his employment with Tricity. In that respect, I turn to the evidence of Frederick Courtice.
49. Mr. Courtice also reviewed the March Report and a photograph of the Vehicle. In his affidavit, Mr. Courtice does not provide an opinion as to whether the Vehicle would have passed a CVSE provincial inspection based on the information in the report. Rather, he

addresses each of the issues listed and provides an opinion that some would not necessarily constitute a safety concern while others would require a physical inspection of the Vehicle. Mr. Courtice's evidence was not challenged by the Authority.

50. I pause to note however that Mr. Hebein does take issue with the evidence of Mr. Courtice. He argues that little weight should be placed on his evidence given that he did not physically inspect the Vehicle. He also makes his own detailed submissions as to the mechanical condition of the Vehicle. While I have considered the lack of physical inspection by any of the witnesses in this matter, I find that Mr. Courtice has reasonably restricted his opinion to those issues in the March Report that he is able to while deferring any opinion on matters that require a personal inspection of the Vehicle. Mr. Courtice's opinions are consistent with his experience.
51. Nowhere in Mr. Hebein's submissions does he indicate that he has any experience or knowledge of auto mechanics. In that respect, I prefer the evidence of Mr. Courtice, Mr. Arndt and Mr. MacMillan as a base from which to analyze the question of whether the Vehicle was compliant with the legislation and by extension, suitable for transportation. All are experienced mechanics and all have provided opinions that flow from the same evidence – the March Report.
52. The Authority acknowledges that a motor dealer is not required to conduct full inspections of vehicles prior to sale but argues that failure to do so constitutes a corresponding failure to exercise due diligence and as such, any uncertainties as to when the mechanical deficiencies occurred here should not be resolved in the Respondents' favour. However, this argument suggests that it is for the Respondents to disprove the allegation which is contrary to the burden of proof which is with the Authority.
53. The evidence in support of its allegations includes that of Mr. Hebein, Mr. Plecas and by extension, Mr. MacMillan. Having considered this evidence, I do not find it to be sufficient to discharge the burden of proof.
54. After test driving the Vehicle, Mr. Hebein identified only a cracked windshield and tires with low tread as requiring remediation. The opinions of Mr. Arndt and Mr. Courtice were that the tire tread was acceptable but that it could not be determined if the condition of the windshield complied with the MVA and MVAR without seeing the location and extent of the

crack. Both Mr. Arndt and Mr. Courtice set out in their respective affidavits the criteria that would be applied to determine if a cracked windshield was compliant.

55. Mr. MacMillan does not provide the same degree of detail or depth of analysis as Mr. Arndt and Mr. Courtice. After viewing the March Report, he simply opines that “windshield cracks, seized calipers, leaking lines and lights” would result in a failed provincial inspection. There is no indication that Mr. MacMillan requested additional information upon which to base his opinion and he does not provide any supporting criteria upon which his opinion is made. Similarly, there is no indication that Mr. MacMillan considered or was even aware that the March Report’s findings were made 12 days and 1000km of driving after the Vehicle was purchased. Overall, I prefer the evidence of Mr. Arndt and Mr. Courtice over that of Mr. MacMillan as to whether the Vehicle was compliant with the MVA and the MVAR at the time of sale.

56. I find that it has not been established on a balance of probabilities that at the time of sale the Vehicle was not compliant with sections 222 of the MVA and section 8.01 of the MVAR. On that basis, I similarly decline to find that the Vehicle was not suitable for transportation and as such, Tricity and Mr. Carter did not contravene section 21(2)(f) of the MDAR by failing to indicate on the Purchase Agreement that the Vehicle was not suitable for transportation. This allegation is dismissed.

b. Section 33(2)(i)(iii) MDAR – aiding and abetting the contravention of any law of British Columbia or another jurisdiction

57. A licensee or registrant while acting in the course of business must not aid, abet or cause a person to contravene any law of British Columbia or of another jurisdiction. This provision requires motor dealers to act lawfully, not cause anyone else to break the law, as well as not counsel or assist someone to break the law: *Re: Tibbo* 2019-BCRMD-030 at para.21.

58. This provision frequently operates in conjunction with section 219 of the *Motor Vehicle Act* (“MVA”) which prohibits a person from driving or operating a motor vehicle on a highway unless it is equipped in all respects in compliance with that Act and its regulations. Therefore, if a motor dealer sells a motor vehicle that is not compliant with the MVA or its

regulations and aids, abets or causes consumer to drive that vehicle on a highway contrary to section 219 of the MVA, the motor dealer is in breach of section 33(2)(i)(iii) of the MDAR.

59. The starting point in an analysis of this allegation is that the motor dealer must have sold a vehicle that is not compliant with the MVA or its regulations. As noted above, I have found that the evidence is not sufficient to support such a finding and as such, the allegation that Tricity and Mr. Carter contravened section 33(2)(i)(iii) of the MDAR is dismissed.

c. Section 5(1) BPCPA – deceptive act or practice

60. The Authority says that Tricity and Carter committed or engaged in a deceptive act or practice in respect of a consumer transaction contrary to section 5(1) of the BPCPA in two different ways. They are by making oral, written, visual, descriptive or other representations that:

- a. the Vehicle was of a particular standard or quality when it was not within the meaning of section 4(3)(a)(ii) of the BPCPA; and
- b. use exaggeration, innuendo or ambiguity about a material fact, or that fail to state a material fact, where the effect is misleading, within the meaning of section paragraph 4(3)(b)(iv) of the BPCPA.

61. Section 5(1) of the BPCPA prohibits suppliers from committing or engaging in a deceptive act or practice in respect of a consumer transaction. Where a deceptive act or practice is alleged by a consumer, section 5(2) provides that the burden of proof shifts to the supplier to demonstrate that the deceptive act was not committed or engaged in. However, before the burden shifts, there must be evidence indicating that the deceptive act or practice has been committed: *Crown Auto Body and Auto Sales Ltd. v. Motor Vehicle Sales Authority of British Columbia*, 2014 BCSC 894 (BCSC) at paragraphs 26-27. In other words, a bare allegation is not enough. There must be some evidence that the deceptive act or practice has been committed.

62. A “deceptive act or practice” is defined by section 4(1) of the BPCPA as meaning in relation to a consumer transaction:

(a) an oral, written, visual, descriptive or other representation by a supplier, or

(b) any conduct by a supplier that has the capability, tendency or effect of deceiving or misleading a consumer or guarantor.

63. Section 4(3) of the BPCPA provides examples of conduct that the British Columbia Legislature has deemed to constitute deceptive acts and practices. This includes but is not limited to misrepresenting the standard or quality of a motor vehicle or failing to state a material fact in relation to a consumer transaction: sections 4(3)(a)(ii) and 4(3)(b)(vi).

64. A deceptive act or practice may be innocent, negligent, or deliberate conduct by a dealer or salesperson: *Webster et al v. Pioneer Garage Limited dba Fraser Valley Pre-Owned*, 2017-BCRMD-013 at paragraph 15

65. Where a consumer seeks damages in the form of compensation or reimbursement under the BPCPA that are the result of a supplier committing a deceptive act or practice, common law considerations of reasonable reliance, a connection between the breach and the harm and the quantum of damages arising out of the harm must be met by the consumer: *Webster*, supra.

i. Representations that the Vehicle was of a particular standard or quality when it was not

66. The Hearing Notice does not particularize how the Respondents represented that the Vehicle was of a particular standard or quality when it was not. For example, it does not indicate that the representation was oral, ie a statement by Mr. Carter, or written, ie the Purchase Agreement.

67. To determine whether a representation constitutes a deceptive act, it is necessary to compare the alleged representation of the standard or quality of the Vehicle against its actual standard or quality. It cannot be left to the Registrar to decide what the representation is that would, if proven, constitute a deceptive act or practice.

68. As the Hearing Notice does not sufficiently particularize the representation that the Authority says constitutes a deceptive act or practice, I dismiss this allegation.

69. In the event that the representation in respect of this allegation was the Respondents indication in the Purchase Agreement that the Vehicle was suitable for transportation and in compliance with the MVA when it was not, I have found previously in this decision that there is insufficient evidence to support such a finding and I would therefore similarly find that this allegation had not been proven on that basis.

ii. Representation as to a material fact or failure to state a material fact

70. Similar to the previous allegation, the Hearing Notice does not identify or particularize the representation that used exaggeration, innuendo or ambiguity about a material fact, or the material fact that was not stated, the effect of which was misleading.

71. A material fact is a detail that influences a person's decision to purchase a vehicle. If, for example, it is alleged that a motor dealer made a representation that constituted an exaggeration of the material fact or failed to state the material fact altogether, the material fact must be identified and it must be shown that the buyer was misled by the exaggeration or the failure to state.

72. Here, the allegation in the Hearing Notice lacks the necessary particularization to identify the representation or the material fact. On that basis, I dismiss this allegation against the Respondents.

V. Summary of Findings

73. I dismiss each of the allegations as set out in the Hearing Notice against Tricity and Mr. Carter.

74. As I have found no contraventions of either the MDA or BPCPA, no consumer remedy is available to Mr. Hebein and I dismiss his claim for compensation or reimbursement.

75. The Authority claims its actual costs, including actual legal costs. Sections 26.02 of the MDA and 154 of the BPCPA provide that reimbursement of the Authority's costs may be included in a compliance order issued by the Registrar. As a compliance order may only be issued where a person is contravening, is about to contravene, or has contravened the

legislation, a finding that there has been no contravention results in there being no compliance order issued and therefore no costs are recoverable by the Authority.

VI. Right of Review of Decision

76. This decision may also be reviewed by petition to the BC Supreme Court pursuant to the *Judicial Review Procedure Act* within 60 days of receiving this decision: section 7.1 of the MDA and section 57 of *the Administrative Tribunals Act*.

Signed this 9th day of December, 2025

"Original signed"



Patrick Poyner
Registrar of Motor Dealers