



Investigation File No.: C-24-03-248  
Hearing File No.: H-25-08-005

**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:

**ERLYN GARROW**

COMPLAINANT

AND:

**LEGACY AUTO SALES INC. dba LEGACY AUTO GROUP**

RESPONDENT/MOTOR DEALER

AND:

**0976736 BC LTD. dba SURREY MITSUBISHI**

RESPONDENT/MOTOR DEALER

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**DECISION OF THE REGISTRAR OF MOTOR DEALERS**

**RE: COSTS**

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**Date and location of decision: March 6, 2026, at Langley, British Columbia**

**By way of written submissions**

1. In written reasons dated January 15, 2026 (“the Decision”), I found that Legacy Auto Sales Inc. dba Legacy Auto Group (“Legacy”) and 0976736 BC Ltd. dba Surrey Mitsubishi (“Surrey Mitsubishi”) contravened various provisions of the *Motor Dealer Act* (“MDA”), the *Motor Dealer Act Regulation* (“MDAR”) and the *Business Practices and Consumer Protection Act*, (“BPCPA”). I deferred consideration of whether a Compliance Order

should be issued in respect of the Authority's claim for reimbursement of its actual costs, including actual legal costs, pending receipt of written submissions from the Authority and the Respondents.

2. The Authority's position is that the Respondents should be ordered to pay 100% of its costs on a joint and several basis. In support of this position, the Authority has provided an affidavit sworn January 20, 2026 from its Director of Investigations and Licensing, Alan Mullen, who deposes that the Authority's costs total \$10,373.29.
3. In his affidavit, Mr. Mullen deposes that the total costs are made up of "internal costs" totaling \$1,872.49, billed external legal counsel fees, disbursements and taxes totaling \$7,022.40 ("Billed Legal Fees") and a further \$1,478.40 in unbilled legal fees, disbursements and taxes ("Unbilled Legal Fees") which Mr. Mullen anticipated would be billed subsequently.
4. Mr. Mullen deposes that the Billed Legal Fees are supported by six invoices issued by the Authority's legal counsel between August 1, 2025 and December 31, 2025 ("the Invoices"). Copies of the Invoices have not been provided by the Authority in support of its position.
5. The Respondents raise several arguments in response to the Authority's position. First, they say that without being provided unredacted copies of the Invoices, it is not possible for me to determine whether the hours spent were objectively reasonable in respect of the proven allegations compared to the allegations that were dismissed. The Respondents say that I should draw an adverse inference because of the Authority's failure to provide the Invoices. Second, they say that failure to provide the Invoices denies them their statutory right to contest them under the *Legal Profession Act* and the Supreme Court Civil Rules. Finally, they say that given the divided success at hearing, any costs awarded should be proportionately apportioned.
6. The legislative authority for an order reimbursing the Authority's costs are sections 26.02(4)(d) of the MDA and 155(4)(d) of the BPCPA. Those provisions provide that the Registrar may include in a compliance order an order that a person reimburse to the Registrar all or part of the actual costs, including actual legal costs, incurred for the inspection or investigation of the person. As noted by the Authority, the applicable provisions here operate as a reimbursement mechanism as opposed to a means by which a party may seek costs in a civil litigation context through a system of tariffs.

7. The core question to be addressed is whether I can properly determine whether the Authority is entitled to reimbursement of its actual costs, including actual legal costs, for its investigation of the Respondents without the benefit of the Invoices and whether failure to provide those to the Respondents denies them procedural fairness.
8. The Respondent refers to the decision in *Williston Navigation Inc. v. BCR Finav No.3*, [2007] BCJ No. 269 (BCSC) in support of its argument that a trier of fact cannot determine if an award of costs is objectively reasonable without unredacted invoices from legal counsel. In *Williston*, the court heard a petition to set aside an arbitration award and an accompanying costs award of \$250,000. While the application for leave to appeal the arbitration award was dismissed, the court found that the arbitrator's summary determination of costs without ordering production of the solicitor's file breached the rules of natural justice which in turn constituted an arbitral error as defined in the *Commercial Arbitration Act* ("CAA"). The court remitted the costs award back to the arbitrator for reconsideration pursuant to section 30 of the CAA.
9. The CAA was subsequently repealed and replaced by the *Arbitration Act* on September 1, 2020. Notable changes in the new legislation included the omission of "arbitral error" as a defined term and the addition of section 50 which authorizes an arbitral tribunal to summarily determine the amount of costs in an award.
10. The decision in *Williston* was considered in the March 24, 2020 decision in *Behroyan (Re)*, 2020 CanLII 36926 (BC REC). In that case, following an order by the Financial Services Tribunal, a discipline committee of the Real Estate Council of British Columbia ("the Council") reconsidered sanctions against a licensee as well as enforcement expenses. Section 44 of the *Real Estate Services Act* ("RESA") authorizes the Superintendent of Real Estate after a discipline hearing to order a licensee to "pay the expenses, or part of the expenses, incurred by the Authority in relation to either or both of the investigation and the discipline hearing to which the order relates."
11. In its decision, the committee addressed the licensee's argument that it could not award enforcement expenses without there first being disclosure of the actual invoices on which the expenses were based as well as being provided an opportunity for cross-examination in relation to the expenses. The committee found that the licensee's position relied on decisions that related to "costs" awards while the RESA provided for reimbursement of

enforcement expenses. The committee distinguished costs and expenses from one another at paragraph 94 of its decision, noting the one-way nature of expenses which unlike costs, may be ordered only against licensees.

12. The committee considered the procedural fairness factors identified by the Supreme Court of Canada in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999 CanLII 699 \(SCC\)](#), [1999] 2 S.C.R. 817) and at paragraph 113 found that they should be afforded to the licensee as follows:

The decision to require that the Licensee pay enforcement expenses is not inherently punitive; it is primarily about whether and to what extent the Council's investigative and hearing expenses, arising as a result of the Licensee's misconduct, should be borne by the Licensee, instead of by all licensees. A decision about enforcement expenses will be important to Licensee, but its importance is financial in nature, and is distinct from the Committee's decision to limit his licence to provide real estate services to the public.

13. The committee went on to find at paragraph 116 of its decision that the practice for determining whether investigation and legal expenses were reasonable involved "examining total amounts in the context of the duration, nature and complexity of the hearing and its issues." As to the absence of invoices, the committee continued at paragraph 116 as follows:

Where the Committee has received enough information to assess the reasonableness of enforcement expenses, based on the documentation provided and the hearing that has taken place, a discipline committee under the RESA will generally not require actual invoices, or fully-unredacted invoices that waive solicitor-client privilege, or live testimony. As a matter of procedural fairness, the Licensee is entitled to know and respond to the information supporting enforcement expenses that the Council provides to the Committee. But in deciding on a fair and efficient process on this collateral issue of enforcement expenses, discipline committees need not afford licensees a right of cross-examination with respect to expenses. Enforcement expenses are not factual issues relating to the professional conduct at issue; they are administrative consequences of a hearing where a licensee has committed

professional misconduct. Discipline committees are entitled to devise flexible procedures that achieve a certain balance between the needs for fairness, efficiency and predictability of outcome: *Knight v. Indian Head School Division No. 19, 1990 CanLII 138, [1990] 1 S.C.R 653 at 685 (S.C.C.)*.

14. In the present case, the Authority's request for reimbursement of costs arises out of a discipline process that is guided by the MDA and BPCPA, similar to that in *Behroyan*. As such, the analysis is distinguishable from that in *Williston* which arose out of a private arbitration and which involved a significant costs award. The costs as set out in Mr. Mullen's affidavit are modest by comparison and constitute investigation and legal expenses arising out of the enforcement hearing in this matter. While the Respondents must be afforded procedural fairness in a manner consistent with the decision in *Baker*, the degree must reflect the circumstances of this case.
15. In this context, requiring disclosure of the Invoices, which often contain information that is protected by solicitor-client privilege, is not necessary to allow a licensee to know the case it has to meet and to be able to provide a response. Disclosure of the Invoices here would exceed the degree of procedural fairness owed to the Respondents. The affidavit evidence is sufficient for that purpose and I find that I am able to determine the appropriate amount of costs without reference to the Invoices and that in doing so, the Respondents will have been afforded an appropriate degree of procedural fairness.
16. As I have found that procedural fairness does not require disclosure of the Invoices by the Authority, I do not find it to be warranted in the circumstances to draw an adverse inference due to its failure to provide them. The Respondents' argument that they are being "asked to pay for specific services which they cannot verify (nor, for that matter, can the trier of fact)" mischaracterizes the Authority's claim and the language of the relevant statutory provisions. The Authority has been billed by its lawyer and are therefore responsible for paying for those legal services. The Respondents are being asked to reimburse the Authority for those costs.
17. The Respondents say that without having access to the Invoices, they will be denied their statutory right under section 70(1) of the *Legal Profession Act* ("LPA") and Rule 14(2) of the Supreme Court Civil Rules to contest them.

18. As noted above, the Authority is not seeking to have the Respondents pay the Invoices. This is a claim for reimbursement by the Authority from the Respondents for expenses incurred including legal fees. Section 70(1) of the LPA is not engaged in this case as that provision grants the person charged with a lawyer's bill or a person who has agreed to indemnify a person charged with a lawyer's bill to have it assessed. In the present context, the Authority would theoretically be able to challenge the Invoices, but the Respondents would not as they are not "a person charged" and they are not agreeing to indemnify the Authority for its lawyer's bill. They are facing a potential order that they pay the Authority's investigation costs, which the MDA and BPCPA expressly say can include actual legal costs, and not a tariff of costs.
19. The Supreme Court Rules are similarly not engaged as there is no proceeding before the BC Supreme Court. Rule 14(2) of the Supreme Court Rules refers to an assessment of party and party costs under Appendix B and as such has no application here.
20. Having found that the Invoices are not required to make my determination, I turn to the decision in *Re: Wild Grizzly Transport Ltd.*, 2018-BCRMD-022 which provides guidance in determining the quantum of costs as follows:

[12] The request for costs must be reasonable. The legislative authority to recover actual costs is not a blank cheque to incur any costs. The requested costs should reflect the work necessary to prove the allegations in the case and bring it forward. Considerations would include but are not limited to:

- (a) The complexity of the case and the need for outside expert assistance such as a forensic accountant.
- (b) The depth of the case. Was the investigation over a one-time breach or multiple breaches of the legislation. Did the investigation involve one or multiple consumers/complainants? Did the investigation require reviewing several months or years of transaction/documentary records?
- (c) The number of witnesses interviewed or who testified.
- (d) The amount of documentary evidence necessary to bring the case forward.

(e) The need to create explanatory material to make sense of and to present the evidence; such as charges, diagrams, and accounting spreadsheets.

(f) The need for the Registrar to issue interim orders to compel the disclosure of evidence

21. The Respondents submit that without the Invoices, I am unable to consider two specific factors in *Wild Grizzly*, namely the complexity of the case and the amount of documentary evidence necessary. As the trier of fact in this matter, having had the benefit of reviewing each of the parties' submissions, I find that I am uniquely positioned to consider these two factors and the absence of the Invoices will not undermine my ability to do so.
22. This was a case of moderate complexity, involving the relationship between two motor dealers in a single consumer transaction. In response to the Notice of Claim, the Respondents raised various technical legal challenges alleging breaches of procedural fairness as well as supplementary submissions from legal counsel. These factors led to this matter involving a greater degree of complexity than in other cases.
23. As noted above, this was effectively a one-time contravention by two motor dealers engaged with one another to advance a single consumer transaction. The hearing was held by written submissions with the Authority relying on one witness. The Respondents' submissions were lengthy, exceeding 150 pages and included a variety of unsworn witness statements and other evidence. There were no interim or other orders necessary.
24. The Respondents argue that the divided success following the hearing should be a consideration in my assessment. I agree. The relevant provisions of the MDA and BPCPA provide that an order for reimbursement of all or part of the Authority's costs may be made. I refer to my previous decision in *Re: 715 Motor Haus Ltd.* (November 17, 2025) where I found that the Authority should be reimbursed 50% of its actual investigation and legal costs as follows:

54. As noted in *Wild Grizzly*, supra, actual costs does not mean any costs. While I do not consider that the costs should necessarily bear a pro rata reflection of the outcome of a hearing, the fact that three of the four allegations were dismissed at hearing is a factor that must be considered. I also note that these three allegations share a common theme in that I found that there was no

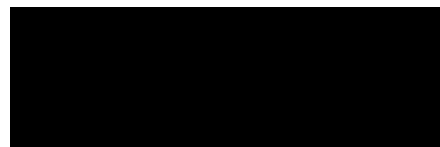
evidence to prove that either Respondent altered or fabricated the various financial records.

25. Here, the Hearing Notice alleges six contraventions each against Legacy and Surrey Mitsubishi. Following the hearing, I found that a total of six contraventions were proven – four by Legacy and two by Surrey Mitsubishi - with the remaining six being dismissed. This is a factor that bears consideration in my determination along with the other factors discussed above.
26. As noted previously, Legacy and Surrey Mitsubishi were to a certain extent, linked to one another in the subject consumer transaction and the evidence indicated that they shared ownership. To that extent, the shared nature of their business operations and conduct significantly reduced the extent to which costs can be meaningfully disentangled on a purely per-allegation basis.
27. Although only half of the allegations were proven, those proven allegations captured the core conduct of the matter. The shared ownership and collective involvement in the subject transaction means that responsibility for the proven conduct is not neatly divided.
28. As noted above, Mr. Mullen deposes that the Authority's actual costs, including actual legal costs, total \$10,373.29. Having considered all the circumstances, I order the Respondents to reimburse the Authority's costs, including actual legal costs, in the amount of \$7,000.00. A Compliance Order will be issued in that regard.
29. Legacy and Surrey Mitsubishi are jointly and severally liable to pay the costs of the Authority: section 155(6) BPCPA and section 26.02(6) MDA.
30. This decision may be reconsidered pursuant to sections 26.11 and 26.12 of the MDA and sections 181 and 182 of the BPCPA. A Request for Reconsideration must be submitted in writing within 30 days of receiving the compliance order and notice of administrative penalty. The request may be filed electronically to [hearings@vsabc.ca](mailto:hearings@vsabc.ca) or by mail to the Authority.

31. 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 6<sup>th</sup> day of March, 2026

"Original signed"



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Patrick Poyner  
Registrar of Motor Dealers