Investigation File No.: C-24-11-323
Hearing File No.: H-25-10-002

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:

CHELSEA COUVRETTE and GRAHAM MARSHALL

CONSUMER COMPLAINANTS

AND:

640353 BC LTD dba CHILLIWACK MITSUBISHI

RESPONDENT/MOTOR DEALER

DECISION OF THE REGISTRAR OF MOTOR DEALERS RE: PENALTY AND COSTS

Date and location of decision: **August 21, 2026, at Langley, British Columbia**

By way of written submissions

Appearances for:

The Authority: Claudia Arrieta – Legal Counsel

The Respondent: David R. Parker – Legal Counsel

I. Introduction

1. On May 28, 2026, I issued a decision ("the Decision") in which I found that the Respondent committed or engaged in two distinct deceptive acts or practices in respect of a consumer transaction with consumers Chelsea Couvrette and Graham Marshall contrary to section 5(1) of the *Business Practices and Consumer Protection Act* ("BPCPA"). Following this finding, I directed the parties to provide me with further written submissions with respect to penalty and costs.

II. Positions of the Parties

a. The Authority

2. The Authority concedes that due to the passing of time, I am without jurisdiction to issue an administrative penalty on the Respondent. It also suggests that conditions on the Respondent's motor dealer registration would not be effective as the Respondent is already required to abide by the legislation that governs registrants' conduct. The Authority argues that the appropriate penalty in the circumstances is a suspension of the Respondent's motor dealer registration for a period ranging between 15 and 45 days as well as any other compliance action that I see fit to impose.

3. In addition, the Authority claims its investigation and legal costs in the amount of $7,577.36. It says that the full amount of the costs is reasonable and reflects the work necessary to prove the allegations in the case. In support of that claim for reimbursement the Authority has provided an affidavit sworn June 23, 2026 by Alan Mullen, the Authority's Director of Investigations and Licensing.

b. The Respondent

4. The Respondent submits that a suspension is not appropriate in this case as it would be disproportionate to the established contraventions. It says that a Compliance Order would be a more suitable penalty as it would provide the Respondent with an opportunity to correct further instances of similar behaviour.

5. As to the Authority's claim for reimbursement of its costs, the Respondent says that any recovery should be limited to the costs incurred in relation to the proven contraventions only and that the total claimed should therefore be reduced by two thirds.

III. Compliance Action

6. The parties agree that the principles governing the appropriate application of compliance action are as set out by Registrar Christman in *Re: Affordable Auto* (19-12-001, August 12, 2020) at paragraph 7 as follows:

(a) As a regulator, compliance selection is to ensure a regulated person complies with the laws in the future in order to protect the public,

(b) The regulator does not punish past conduct, that is left to the courts applying the criminal law process,

(c) The tools at my disposal are used to deter future misconduct, this includes administrative penalties. Such penalties are used to deter future misconduct and must not drift into the realm of punishing past misconduct,

(d) Any selected penalty amount must also not be seen as the cost of doing business as that does not have a deterring effect,

(e) Compliance selection must be proportionate to the specific non-compliance, in consideration of the licensee's specific circumstances and history while balanced with the need for general deterrence and to protect the public,

(f) Past precedence's [sic] are useful guides but are not binding authority. It may be that a penalty amount needs to be increased to reflect a changed marketplace or where prior penalties have shown to be ineffective at either specific or general deterrence, and

(g) Where there can be no assurance of future compliance applying any of the statutory tools and the public would be at risk if the person remained in the industry, the Registrar has a duty to remove the person from the industry, and thus remove the risk to the public.

7. The Respondent argues that in addition to the factors in *Affordable Auto, supra*, I must also consider the Authority's Regulatory Philosophy and Enforcement Principles ("RPEP"). The stated purpose of the RPEP is to "reduce or mitigate the potential risks associated with consumer motor vehicle transactions with British Columbia licensees, with the goal of maintaining and enhancing consumer protection and confidence within the motor vehicle sales industry."

8. The RPEP is proactive in nature, focusing on education at the outset but reserving progressive enforcement for issues involving serious risk to the public. A spectrum of enforcement options are available to the Authority under the RPEP from education to suspension or revocation. As noted in the RPEP, each occurrence of non-compliance is unique and an appropriate response is tailored to the circumstances and the licensee. The goal in reaching the appropriate enforcement option is deterrence, and not punishment.

IV. Discussion

9. I turn to the specific factors in this case. In the Decision, I found that the Respondent entered into two separate purchase agreements with two different consumers for the same vehicle. Further, ownership of the subject vehicle had already been transferred from the Respondent to Ms. Couvrette at the time the Respondent entered into the second purchase agreement with Mr. Marshall. On this basis, I found that the Respondent had committed or engaged in two separate deceptive acts contrary to section 5 of the BPCPA.

10. In considering the Authority's position that the Respondent's motor dealer registration should be suspended, the starting point is section 8.1(4)(b) of the *Motor Dealer Act* ("MDA") which provides that where the Lieutenant Governor in Council makes a regulation under subsection (2), contravention of a prescribed provision of Part 2, 4 or 5 of the BPCPA by a person is grounds for the Registrar to determine that it is not in the public interest for the person to be registered or to continue to be registered. Section 29(1)(a) of the *Motor*

Dealer Act Regulation ("MDAR") prescribes sections 4 through 6 of the BPCPA for the purposes of section 8.1 of the MDA. Based on these provisions, the Registrar may suspend or revoke a motor dealer's registration following a breach of section 5 of the BPCPA.

11. Further, section 5 of the *Motor Dealer Act* ("MDA") authorizes the Registrar to suspend or cancel a motor dealer's registration if it is of the opinion that it is not in the public interest for the motor dealer to continue to be registered.

12. Suspension of a motor dealer's registration is a significant regulatory remedy. Its purpose is not to punish past misconduct, but to protect the public, promote compliance with the regulatory regime, and maintain confidence in the motor dealer industry. In determining whether a suspension is appropriate, I must consider what regulatory response is necessary to protect the public interest and ensure future compliance.

13. A recurring principle in this tribunal's jurisprudence when considering both revocation and suspension of a motor dealer's registration is the concept of governability. The question is not limited to whether misconduct occurred in a particular transaction. Rather, the assessment must consider whether the dealer can be relied upon to comply with statutory and regulatory requirements going forward. Indicators of poor governability include misleading the regulator, failing to produce required records, breaching undertakings or conditions, avoiding regulatory oversight, repeated misconduct, and demonstrating disregard for previous compliance measures. Where a dealer's conduct raises serious concerns about governability, suspension may be necessary to protect the public interest.

14. Previous decisions also reflect an escalating regulatory approach. Available responses range from education, verbal and written warnings, license conditions and administrative penalties, through to suspension and, in the most serious cases, revocation. Suspension becomes increasingly appropriate where lesser interventions have failed to achieve compliance or where conditions alone are unlikely to address the underlying concerns.

15. In assessing whether suspension is warranted, relevant aggravating factors may include dishonest or deceptive conduct, falsified documentation, misconduct affecting multiple consumers, failure to cooperate with an investigation, failure to produce records, prior disciplinary history, breach of previous undertakings or conditions, and evidence that earlier regulatory interventions have not been effective.

16. Conversely, mitigating factors may include the absence of prior discipline, cooperation with the investigation, admissions of wrongdoing, restitution to affected consumers, implementation of corrective measures, evidence of meaningful compliance reforms, and a low risk of future non-compliance. An isolated incident may warrant a different regulatory response than a pattern of ongoing misconduct.

17. Finally, the expiration of the administrative penalty limitation period under either section 170 of the BPCPA or section 26.10 of the MDA does not create a presumption in favour of suspension. The availability of a suspension turns on whether the facts and circumstances justify that regulatory response. The mere unavailability of an administrative penalty cannot, without more, support the imposition of a suspension.

18. The authorities suggest that suspension is generally appropriate where there is a meaningful need for specific or general deterrence, where the dealer's conduct raises concerns about integrity or governability, or where previous compliance measures have proven ineffective. By contrast, where the evidence demonstrates that conditions, compliance measures, or administrative penalties are sufficient to address the regulatory concerns and protect the public interest, suspension may not be necessary.

19. Ultimately, the determination is a contextual one. I must consider the nature and seriousness of the misconduct, the dealer's compliance history, the degree of cooperation, the risk of future non-compliance, and the effectiveness of lesser regulatory measures. The appropriate sanction is the least intrusive remedy that adequately protects the public interest while promoting future compliance.

20. The Authority says that a suspension is appropriate because of the serious nature of the two contraventions and to address the need for deterrence and protection of the public. It also suggests that the Respondent has not assumed responsibility for the contraventions of taken steps to address them with the consumers. Finally, the Authority points to the Respondent's compliance history which includes a determination following a Registrar's hearing on April 16, 2026 that it had engaged in or committed a deceptive act or practice, a verbal warning on May 5, 2025 and another verbal warning and education on March 19, 2025.

21. The Respondent takes the position that this was not a serious contravention. I disagree. The Respondent entered into two purchase agreements to sell the same vehicle to two

different consumers. The second sale occurred after ownership was transferred to Ms. Couvrette. The Respondent justifies these actions, saying that it was necessary to enter into the second purchase agreement with Mr. Marshall because he agreed to be the sole loan holder which was required for the vehicle's financing. Whatever the reason, it was done without Ms. Couvrette's knowledge or consent and the purchase agreement with Mr. Marshall was for a vehicle whose ownership had already been transferred to Ms. Couvrette. The Respondent gained a financial advantage as a result of its conduct insofar as the creation of the second purchase agreement secured financing and payment for the vehicle.

22. I do agree however that the contraventions in this case do not appear to be systemic or repeated in nature. While there are two contraventions, they are related to the purchase of a single vehicle. I do not consider there to be a pattern of deceptive conduct engaged in by the Respondent.

23. Turning to the Respondent's compliance history, I do not consider the noted enforcement actions as aggravating factors. Each of the three instances relied on by the Authority occurred after the conduct under consideration here. As such, they cannot demonstrate a failure to learn from prior enforcement action or a disregard of earlier regulatory direction. Their relevance is confined to providing contextual information regarding the Respondent's overall compliance record.

24. Finally, I have considered the previous decisions of this tribunal provided by the parties. While helpful, each can be distinguished on their individual circumstances. I will not re-state the facts of each of the decisions but I note that the decisions provided share similar traits such as intentional and/or repeated misconduct. For example, the Registrar described the contravention in *SG Power Products* as a "chronic problem." In *VSA v. 715 Motor Haus Ltd. and others* the motor dealer's failure to safeguard records contributed to 16 fabricated financing applications being prepared. In *Webster v. Pioneer Garage Limited,* the motor dealer engaged in an unconscionable act or practice and had an extensive compliance history while the motor dealer in *Pham et al v. Super Sale Auto Ltd.* was found to have breached an undertaking while also failing to cooperate with the Authority's investigation.

25. Having considered all of the factors in this case including the previous decisions of the Registrar, I am not of the view that a suspension of the Respondent's registration is warranted in this case. While this was a serious contravention, the lack of enforcement history and the circumstances surrounding the sale of the vehicle are such that there is room for enforcement that falls short of suspension while ensuring protection of the public. I do not view the Respondent as demonstrating a lack of governability.

26. The enforcement options beyond suspension of registration are limited given that the limitation period for issuing an administrative penalty has passed. While the Authority says that the imposition of conditions on the Respondent's registration is not sufficient to regain compliance, I take a somewhat contrary view. Section 155(4)(c) of the BPCPA provides that a Compliance Order may include an order that a person take specific action to remedy an act or practice by which the person has contravened the Act. The Respondent says in its submissions that is willing to make changes to address the contravention and that it is committed to complying with a Compliance Order.

27. The findings in the Decision raise concerns regarding the Respondent's transaction controls, oversight of financing arrangements, accuracy of consumer documentation, and compliance systems generally. The proven conduct demonstrates a risk that future consumers and lenders may be similarly misled if adequate internal controls are not established and complied with.

28. Pursuant to section 155 of the BPCPA, I am satisfied that it is necessary and appropriate to issue a Compliance Order to address the Respondent's non-compliance. The purpose of the order is not to punish past conduct but rather to ensure that future vehicle sales and financing transactions are conducted in a manner that complies with the MDA, the BPCPA and their respective regulations. Accordingly, the following Compliance Order is issued pursuant to section 155(4)(c) of the BPCPA:

    a. Within 60 days of this Order, the Respondent must develop and implement written policies and procedures governing:
        - vehicle sales where financing has not yet been approved;
        - transactions involving a substituted purchaser, co-purchaser, co-borrower or guarantor; and
        - cancellation, rescission, amendment or replacement of purchase agreements.

b. Within 60 days of this Order, the Respondent must develop and implement a written training program for its existing and new sales staff (managers and salespeople) in respect of the policies and procedures referenced in sub-paragraph (a) above; and

c. The policy and training program referenced in sub-paragraphs (a) and (b) above must be provided to and be deemed satisfactory by the Registrar.

29. If the Respondent has already developed and implemented the policies and procedures and written training program referenced above, it may provide copies of those in satisfaction of the requirements of sub-paragraphs (a) and (b) of the Compliance Order, subject to my review as set out in sub-paragraph (c).

V. Costs

30. The Authority seeks an order that the Respondent reimburse its costs. In support of this Mr. Mullen deposes that the Authority's actual costs, including legal fees and investigation costs, total $7,577.36. Of that amount, $1,933.06 represents investigation costs while the balance of $5,644.30 is attributable to actual legal costs.

31. The Authority refers to section 26.02(4)(d) of the MDA as authority for its claim of reimbursement and it further relies on the decision in *Wild Grizzly Transport Ltd.,* 2018-BCRMD-022 as providing the following guiding principles:

[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

32. I pause to note here that section 26.02 of the MDA provides for the issuance of a Compliance Order, including an order for reimbursement of costs, in relation to contraventions under the MDA. As the proven contraventions in this case are of the BPCPA only, a claim for reimbursement of costs must follow section 155(4)(d) of that legislation which provides as follows:

(4) The director may include one or more of the following orders in a compliance order:

…

(d) that a person reimburse to the director all or a portion of the actual costs of any inspection, including actual legal costs, incurred by the director for the inspection of that person in respect of the contravention referred to in the compliance order.

33. While section 155(4)(d) does not expressly refer to "investigation" costs, the inspection powers described in sections 150 and 151 of the BPCPA are broad in nature and include inquiries into a person's business affairs or conduct as well as the examination, production and gathering of records for the purpose of determining compliance with the Act. As a result, work that may be described as an "investigation" is, in substance, part of the statutory inspection process authorized by the BPCPA. The proper question is therefore not whether the costs are labelled as investigation costs, but whether they were reasonably incurred while exercising the Director's delegated inspection powers. Where that nexus is established, both investigation-related staff costs and the actual legal costs

expressly referenced in s. 155(4)(d) may properly be ordered as reimbursement because they constitute costs incurred for the inspection that led to the finding of contravention that is included in the Compliance Order.

34. Here, Mr. Mullen deposes that the total amount sought is divided between legal and investigation costs. The Authority in its submissions describes its investigation as relating to two complainants and three alleged contraventions of the BPCPA. Evidence of the Authority's investigation has been previously documented in the September 26, 2025 and March 27, 2026 affidavits of Investigation Officer Joel Jordan. Based on the evidence, I am satisfied that the investigation costs as presented were incurred while exercising the Director's delegated inspection powers. The question then is to determine whether the investigation and actual legal costs are reasonable in the circumstances.

35. The Authority says that this case was of moderate complexity with two consumer complainants and two proven contraventions of the BPCPA. This was a written hearing with five witnesses, a pre-hearing conference and a pre-hearing application by the Respondent. The Authority says that the costs as presented are reasonable and reflect the work necessary to prove the allegations and bring the matter to hearing.

36. The Amended Hearing Notice alleges one contravention each of the MDA and MDAR as well as three distinct allegations of contraventions of the BPCPA. The allegations under the MDA and MDAR were both dismissed at hearing and were factually distinct from the BPCPA allegations. Taken individually, this equates to five alleged contraventions, two of which were ultimately proven at the hearing. I agree with the Authority that this matter was of moderate complexity given the pre-hearing matters and the evidentiary issues.

37. The Respondents says that any order of costs should be limited to the established contraventions, citing the language of section 26.02(4)(d) of the MDA which limits recovery of costs in respect of the contravention referred to in the compliance order. It says that appropriate costs order is equal to one third of the amount claimed or $2,525.78. While this language is also included in and applies equally to a claim for reimbursement under section 155(4)(d) of the BPCPA, I do not find that its application is as simple as applying a pro rata reduction. In deciding a claim for reimbursement of costs, I must determine what is reasonable in all of the circumstances. It is not practical to say what portion of the total time is applicable to one allegation versus another or what portion is shared between

proven and unproven allegations. For that reason, I look to the decision in *Re: Wild Grizzly Transport, supra,* for guidance. In that decision, Registrar Christman confirmed that the amount of the costs sought must be reasonable and should "reflect the work necessary to prove the allegations in the case and bring it forward." This does not mean that the costs should always be tied to the number of contraventions proven. A situation may present itself where all contraventions alleged are proven yet the amount of costs are significantly higher than the circumstances would warrant thereby justifying a reduced order. Conversely, where only one or two of several contraventions are proven, an award that exceeds a pro rata amount may still be appropriate where work was necessarily shared between proven and unproven contraventions.

38. Here, two of the five contraventions were proven. This was a written hearing of moderate complexity with a somewhat higher than usual number of witnesses as well as two pre-hearing matters. While I am of the view that an award equal to the full amount of costs sought is not appropriate, the Respondent's position does not adequately reflect the investigation and actual legal work expended by the Authority. Having considered all of the circumstances including the contraventions proven, I am of the view that it is appropriate to order that the Respondent reimburse the Registrar's costs in the amount of $4,000.00.

VI. Compliance Order – BPCPA s. 155

39. As I have found that the Respondent has contravened the BPCPA, I am authorized under section 155 to issue a Compliance Order to address the non-compliance. The following are the terms of my Compliance Order:

    a. 640353 BC Ltd dba Chilliwack Mitsubishi is ordered to abide by the MDA, the BPCPA and their respective regulations;

    b. Within 60 days of this Order, 640353 BC Ltd dba Chilliwack Mitsubishi must develop and implement written policies and procedures governing:
       - vehicle sales where financing has not yet been approved;
       - transactions involving a substituted purchaser, co-purchaser, co-borrower or guarantor; and
       - cancellation, rescission, amendment or replacement of purchase agreements.

c. Within 60 days of this Order, 640353 BC Ltd dba Chilliwack Mitsubishi must develop and implement a written training program for its existing and new sales staff (managers and salespeople) in respect of the policies and procedures referenced in sub-paragraph (a) and (b) above;

d. The policies referenced in sub-paragraphs (a) and (b) above must be provided to and be deemed satisfactory by the Registrar; and

e. 640353 BC Ltd dba Chilliwack Mitsubishi is ordered to reimburse the Registrar $4,000.00 representing its actual costs, including actual legal costs, incurred for any inspection or investigation of the Respondent in this matter.

VII. Right of Review of Decision

40. This decision may be reconsidered pursuant to sections 181 and 182 of the BPCPA. A Request for Reconsideration must be submitted in writing within 30 days of receiving the compliance order. The request may be filed electronically to hearings@vsabc.ca or by mail to the Authority.

41. 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 21st day of August 2026

[redacted]

Patrick Poyner
Registrar of Motor Dealers