



**FILED**

By the Office of the Registrar of Motor Dealers  
on November 20, 2024

Investigation File No.: C-24-01-431

Hearing File No.: **H-24-11-003**

**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:**

Nanaimo Mitsubishi/Vancouver Island Drives  
(DL# 40168)

(the "Respondent")

**AND:**

The Registrar of Motor Dealers

**WHEREAS:**

1. The Respondent is a Motor Dealer as defined in the *Motor Dealer Act* ("the **MDA**"), incorporated in accordance with the laws of British Columbia operating under the name, Nanaimo Mitsubishi/Vancouver Island Drives, and registered with the Vehicle Sales Authority of BC ("**VSA**") under Motor Dealer Licence No. 40168.
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. The Respondent is the subject of an investigation launched by the VSA in response to a complaint made by two consumers, Timmothy and Tristan Wright ("the **Wrights**"). The complaint and investigation findings are outlined in VSA File No. C-24-01-431 and the investigation report of VSA investigations officer, Daryl Dunn ("**IO Dunn**") dated April 18, 2024.

**AND WHEREAS:**

4. On November 2, 2023, The Wrights purchased a 2019 Chevrolet Spark ("the **Spark**") from the Respondent for a price agreed upon by the parties.
5. The Purchase Agreement dated November 2, 2023, prepared by the Respondent and provided to the Wrights, indicates the Spark was "suitable for transportation in compliance with the Motor Vehicle Act". However, one of the pedals in the Spark was missing the rubber cover and was also missing a rear headrest thus making the Spark unsuitable for transportation.
6. The Respondent had conducted a safety inspection on the Spark and the inspection report does not contain any information about the pedal or the headrests.

7. The Wrights were permitted by the respondent to insure the vehicle and drive it from the respondents property.
8. The Registrar asserts that Respondent has contravened the following legislation:
  - a. Section 33(2)(i)(iii) of the *Motor Dealer Act Regulation* "**MDAR**", for aiding or abetting or causing a person to contravene any other law of British Columbia by allowing the Wrights to drive a vehicle that was not suitable for transportation in compliance with the *Motor Vehicle Act* ("**MVA**") by allowing the vehicle to be driven from the property and onto public roads.
  - b. Section 21(2)(f) of the MDAR for failing to make a statement on the purchase agreement that the motor vehicle was not suitable for transportation.
  - c. Section 4(3)(a)(ii) of the BPCPA for committing a deceptive act by stating on the purchase agreement that the Spark was of a particular standard, quality, grade, style or model by stating it met the requirements of the MVA.

**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 **\$25,000.00** 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 **\$896.60** 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 199<sup>th</sup> Street

Langley, BC V2Y 0E2

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

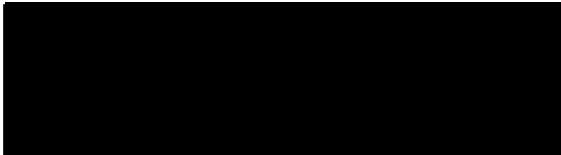
Nanaimo Mitsubishi/Vancouver Island Drives  
2348 Kenworth Rd  
Nanaimo, BC V9T 3Y3

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.

Nanaimo Mitsubishi/Vancouver Island Drives  
(MOTOR DEALER# 40168)

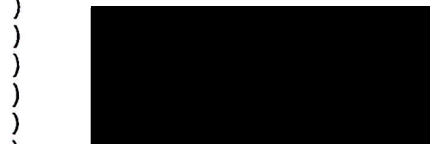
Per:



Justin McElhane  
Name of Authorized Signatory

) **ACCEPTED** by the Registrar of Motor Dealers this  
) 20th day of November 2024.

) "Original signed"



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

Withheld in accordance with section 22 of FOIPPA