



## **UNDERTAKING**

### **IN THE MATTER OF THE *MOTOR DEALER ACT* R.S.B.C. 1996 c. 316 and the *BUSINESS PRACTICES AND CONSUMER PROTECTION ACT* S.B.C. 2004, c. 2**

THIS UNDERTAKING is made, jointly and severally, with an effective date of  
October 25, 2019,

by:

**Darrell Midgley (Unlicensed)**

#### **WHEREAS:**

1. Section 1(1) of the *Motor Dealer Act* R.S.B.C. 1996 c. 316 ("Act") defines "salesperson" as:
  - (a) an individual, other than a motor dealer, who, on behalf of a motor dealer and for or in the expectation of a fee, gain or reward,
    - (i) solicits, negotiates or arranges for the sale of a motor vehicle to a person, or
    - (ii) in any way participates in the soliciting, negotiating or arranging for the sale of a motor vehicle to a person, or
  - (b) an individual who is a motor dealer and who
    - (i) solicits, negotiates or arranges for the sale of a motor vehicle to a person, or
    - (ii) in any way participates in the soliciting, negotiating or arranging for the sale of a motor vehicle to a person
2. Section 1(1) of the Act defines "wholesaler" as a person who, in the course of business, engages in the sale, exchange or other disposition of a used motor vehicle to a motor dealer or another wholesaler.
3. Section 2 of the Salesperson Licensing Regulation ("SLR") prohibits any person from acting as a salesperson without holding a valid salesperson licence.

4. The "Registrar of Motor Dealers" ("Registrar"), as defined under the Act, is responsible for the administration and enforcement of the Act, its regulations, and prescribed provisions of the *Business Practices and Consumer Protection Act* S.B.C. 2004 c. 2 (the "BPCPA").
5. The Registrar has received information and investigated that Darrell Midgley:
  - a) Has been engaged in activities that deem him to be a salesperson, within the meaning of the Act;
  - b) Is not a licensed salesperson; and
  - c) Engaged in consignment sales of motor vehicles.
6. The Registrar asserts that the above detailed conduct violates the following statutory provisions:
  - a) Section 13.1 of the *Motor Dealer Act*;
  - b) Section 2 of the Salesperson Licensing Regulation;
  - c) Sections 2, 4, and 6 of the Motor Dealer Consignment Sales Regulation;
  - d) Section 2 of the Wholesaler Licensing Regulation;
  - e) The Code of Conduct provisions at section 33 of the Motor Dealer Act Regulation; and
  - f) Section 4 and 5 of the *Business Practices and Consumer Protection Act*.

**NOW THEREFORE** Darrell Midgley undertakes, acknowledges, and agrees with the Registrar:

7. To comply with the Act, the BPCPA and the regulations made thereunder;
8. To cease and desist from engaging in the activities deemed to be that of a motor dealer and salesperson;
9. To cease and desist from involving unlicensed salespersons in respect of the sale of a motor vehicle;
10. To cease and desist from participating in any consignment sales;
11. To pay an Administrative Penalty, in the amount of \$15,000 to deter him from engaging in conduct similar to the aforementioned contraventions of the MDA and the BPCPA in the future;

12. To reimburse the Registrar a total of \$1,516.58 representing 50% of the investigation costs incurred to date in relation to this matter, within thirty (30) days of the execution of this Undertaking;
13. That this Undertaking is binding until such time as it is either terminated in writing by the Registrar or terminated by Order of the Supreme Court of British Columbia;
14. That in addition to being rendered liable to further penalties and proceedings as provided for under the BPCPA, that it is an offence under the BPCPA to fail to comply with any part of this Undertaking that has not been previously terminated;
15. That the Registrar, upon breach of any part of this Undertaking, may 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.
16. That nothing herein is intended to resolve any other complaint or investigation not specifically referenced in this Undertaking;
17. That any communication with the Registrar in connection with this Undertaking shall be made to the following

Registrar of Motor Dealers  
Vehicle Sales Authority of BC  
#280 – 8029 199<sup>th</sup> Street  
Langley, BC V2Y 0E2  
Fax: (604)-574-5883

And in the case of the Darrell Midgley to the following address:

████████████████████  
████████████████████

Withheld - personal address.  
Section 22 FOIPPA.

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

18. He has read this Undertaking and has had a reasonable opportunity to seek and obtain legal advice as to its terms.

**DATED** this 24 day of October 2019

Signature: "original is signed"  
Darrell Midgley

**ACCEPTED** by the Registrar of Motor Dealers this 25 day of October 2019

"original is signed"  
Ian Christman  
Registrar of Motor Dealers