



## **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 with an effective date of September 17, 2020

by

C.A.R. Holdings dba Forward Auto Gallery (DL#9209)

#### **WHEREAS:**

1. C.A.R. Holdings dba Forward Auto Gallery (DL#9209), (the "Dealer"), is a "registered motor dealer" as defined under the *Motor Dealer Act R.S.B.C. 1996 c. 316* (the "Act").
2. 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").
3. The Registrar has received information after an investigation was conducted by Industry Standards Officer, Daryl Dunn ("ISO Dunn") that:
  - a) The Dealer was advertising vehicles for sale that have been accepted on consignment when the Dealer does not have a valid consignment license;
  - b) The Dealer was advertising vehicles that are not registered to the Dealer both on the Dealer's website and on the American website "Bring a Trailer";
  - c) ISO Dunn requested that the Dealer provide his files for the vehicles that were being advertised on the Dealer website and on Bring a Trailer. Review of these files revealed that out of 13 vehicle files, 8 were consignment vehicles;
  - d) Further review of these files, also showed that the Dealer needs much improvement on his file documentation and recording and the Dealer agrees that going forward it will keep complete and accurate records of every transaction as required by the legislation;

- e) The Dealer was also aware of the investigation by ISO Dunn and was verbally warned of his non-compliance but continued to advertise cars on consignment when he was not licensed to do so; and
  - f) The Dealer is currently in the process of obtaining a consignment license.
4. The Registrar asserts that the above detailed conduct violates the following statutory provisions:
- a) Section 4(1) of the MDA;
  - b) Sections 4(3)(b)(vi) and 5 of the BPCPA; and
  - c) The Code of Conduct provisions at sections 33(2)(a) and (i) of the Motor Dealer Act Regulation

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

- 5. To comply with the Act, the BPCPA and the regulations made thereunder;
- 6. To apply for and complete the necessary steps to obtain its consignment license;
- 7. To make sure it properly records and maintains documentation of vehicle transaction files as required by the legislation;
- 8. To pay an Administrative Penalty, in the amount of **\$5,000** to deter the Dealer from engaging in conduct similar to the aforementioned contraventions of the MDA and the BPCPA in the future, within thirty (30) days of the execution of this Undertaking;
- 9. To reimburse the Registrar a total of **\$1,763.82** representing 100% of the investigation costs incurred to date in relation to this matter, within thirty (30) days of the execution of this Undertaking;
- 10. 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;
- 11. 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;
- 12. 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.

13. That nothing herein is intended to resolve any other complaint or investigation not specifically referenced in this Undertaking;
14. 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 BC  
#280 – 8029 199<sup>th</sup> Street  
Langley, BC V2Y 0E2

In the case of Dealer, to the following address:

C.A.R Holdings dba Forward Auto Gallery  
746 Caledonia Ave.  
Victoria, BC V8T 1E4

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

14. The Dealer has read this Undertaking and has had a reasonable opportunity to seek and obtain legal advice as to its terms.

**DATED** this 17<sup>th</sup> day of September 2020

C.A.R Holdings dba Forward Auto Gallery (DL#9209)

Authorized signatory: "original is signed"

Name: Dana Rhodes

Title: President

**ACCEPTED** by the Registrar of Motor Dealers this 13<sup>th</sup> day of October 2020

"original is signed"

Ian Christman

Registrar of Motor Dealers