



Claim No.: 16-10-020
Neutral Citation: 2017-BCMDCCFB-013

IN THE MATTER OF THE *MOTOR DEALER ACT R.S.B.C. 1996 C. 316* and the *MOTOR DEALER CUSTOMER COMPENSATION FUND REGULATION B.C. REG. 102/95, O.C. 271/95*

FILED BY:

Clyde Jack

Claimant

INVOLVING:

**GN Motors Sales "N" Rentals Limited
Dealer License 10734/cancelled**

Motor Dealer

DECISION OF THE MOTOR DEALER CUSTOMER COMPENSATION FUND BOARD

By way of written submissions.

[1] On February 14, 2018, the claim for compensation from the Motor Dealer Customer Compensation Fund (the "Fund") filed by Clyde Jack (the "claimant") was presented to the Motor Dealer Customer Compensation Fund Board (the "Board") for hearing.

Decision

[2] This claim has been denied.

Claim summary

[3] This claim is for \$49,122.34 and is based on the transaction between the claimant and GN Motors Sales "N" Rentals Limited (the "GN Motors") on July 19, 2014, in which the claimant purchased a 2014 Ford F150 (the "Ford") from GN Motors. As part of the transaction, GN Motors agreed to pay out the claimant's 2010 Chrysler Town and Country (the "Van"). GN Motors failed to fulfil this promise and the Van was later repossessed. \$22,840.54 remained outstanding on the Van loan after it was repossessed and sold.

[4] GN Motors also sold to the claimant a 2015 Forest River RPOD 178 trailer (the "Trailer"), despite the claimant's repeated objections to purchasing the Trailer. GN Motors promised to pay for the Trailer for a year. The Trailer was later repossessed. The amount outstanding on the Trailer loan after it was repossessed was not provided.

[5] The claimant was told by GN Motors that he would only pay for the loan for 5 years. The claimant was not provided copies of the purchase agreement or the finance agreement. Recently, the claimant contacted Scotia Bank regarding the loan and was told there were 5 more years remaining on the term of the loan.

[6] The claim was initially heard by the Board on December 1, 2017. The claim hearing was adjourned because the Board found that it required additional information to adjudicate this claim.

Legislative authority and the Board's findings

[7] In reviewing the eligibility of the claimant's alleged loss, the Board applied Section 5 of the *Motor Dealer Customer Compensation Fund Regulation* (the "Regulation") which outlines the losses that are eligible for compensation from the Fund.

[8] The Board reviewed the documents on file, copies of which were provided to the claimant and to the motor dealer at the pre-hearing stage and to which both parties had an opportunity to respond. The documents under review included the Claim Application and the supporting documents provided by the claimant, the Investigation Report dated October 18, 2017, and the Addendum to the Investigation Report dated January 10, 2018.

[9] The Board reviewed the claimant's allegations with respect to each vehicle involved in the claim and found as follows:

(i) a 2014 Ford F150 (the "Ford"), purchased by the claimant from GN Motors

The Board found that there are no documents to support the claimant's allegation that the Ford was financed for 5 and not for 8 years.

(ii) a 2010 Chrysler Town and Country (the "Van"), previously owned by the claimant

The Board found no evidence to support the claimant's allegation that financial responsibility for payment of the loan amounts on the Van transferred to GN Motors, or that GN Motors assumed responsibility to pay out the lien on the Van. The Board found conclusive evidence that the claimant acted as a vendor and sold the Van to another individual.

(iii) a 2015 Forest River RPOD 178 trailer (the "Trailer"), sold to the claimant by GN Motors despite the claimant's objections to purchasing it

The claimant did not provide any documentation to prove that the claimant made any payments for the Trailer.

[10] In light of the above, in the absence of the documentation to support the claimant's alleged losses, the Board **denied** this claim.

[11] The Board has jurisdiction to assess claims which fall within the specific terms of the Regulation only. Claimants may have other legal remedies available to them and are encouraged to do their own investigations into, or speak with a lawyer about, other possible remedies. Attached is the Vehicle Sales Authority of BC (the "VSA") Fact Sheet *Where to go for help*.

Investigation cost recovery by the VSA

[12] Pursuant to section 22(b) of the *Motor Dealer Act* (the "MDA"), costs incurred in investigating claims against the Fund must be paid from the Fund.

[13] The Board reviewed two VSA Investigation Cost Recovery Invoices for this claim - Invoice #16020-1 for \$348.50 and #16020-1-A for \$268.42. The Board approved the invoiced investigation costs in the total amount of \$616.92 for recovery by the VSA from the Compensation Fund.

[14] Pursuant to section 24(2)(b) of the MDA, if a claim is paid out of the Fund, the motor dealer who caused the claim must pay the Registrar the costs of investigating the claim. Since this claim is denied, the investigation costs will not be charged to GN Motors.

Finality of decision

[15] Decisions of the Board cannot be appealed. According to Section 16(2) of the *Motor Dealer Act* (the "MDA"), "A decision, order or ruling of the Board ... is final and conclusive and is not open to question or review in court except on a question of law or excess of jurisdiction".

[16] Reconsideration: According to Sections 16(2), 18.1 and 18.2 of the MDA, the Board may, at its discretion, reconsider its decision. The Board will consider a request for reconsideration from a party to a claim, provided that the request is made in writing and includes relevant evidence that was not previously considered by the Board and was not known or available to the party before the hearing. All parties to a claim will be notified if the Board decides to reconsider its decision. An application for reconsideration must be made in writing within 30 days of the decision.

[17] Judicial Review: The Board's decision may be challenged on a question of law or excess of jurisdiction in the BC Supreme Court pursuant to the *Judicial Review Procedure Act*. According to Section 57 of the *Administrative Tribunals Act*, an application for judicial review must be made within 60 days of the date the decision is issued. We suggest contacting a lawyer to obtain legal advice regarding this option.

Date: February 27, 2018



Darlene K. Hyde
Chair, Motor Dealer Customer Compensation Fund Board

Attachment
DH/ag



Where to go for help...

...if you're looking for **translation services**:

[Society of Translators and Interpreters of British Columbia](#)
[Mosaic BC](#)
[The Yellow Pages](#) (under 'Translators and Interpreters')

...if you're looking for **legal advice**:

Access Pro Bono

For those that cannot afford a lawyer, legal advice in most areas of law is given through free clinics held throughout Vancouver. Appointments can be booked by phone at 604-878-7400 or 1-877-762-6664, or online at www.accessprobono.ca.

Dial-a-Law

A free service available in English, Chinese and Punjabi that offers general information on a variety of law topics. Publications can be accessed online at www.dialalaw.org. Dial-a-Law can be reached at 604-687-4680 or 1-800-565-5297.

Lawyer Referral

Gives the opportunity to discuss a case with a lawyer for up to 30 minutes for a small fee. The consultation will determine if there is a legal problem. The service operates by telephone and can be reached at 604-687-3221 or 1-800-663-1919.

Clicklaw

Provides legal information, education and help in a variety of languages. Available online at <http://www.clicklaw.bc.ca/>

Legal Services Society

A non-profit organization that provides legal information and advice for low income families. For general inquiries, call 604-601-6000 or access their website at www.legalaid.bc.ca.

UBC Law Students' Legal Advice Program

UBC law students provide advice under the supervision of a practicing lawyer throughout the Lower Mainland. Call 604-822-5791 to book an appointment or visit their website at <http://www.lslap.bc.ca/main/>.

The Law Centre

The Law Centre provides legal assistance to people in the Greater Victoria area who cannot afford a lawyer. Call 250-385-1221 for further assistance, or visit their website at www.thelawcentre.ca.



Where to go for help...

...if you're looking for **consumer protection information**:

Consumer Protection BC

A non-profit corporation established to strengthen consumer protection in BC. They enforce consumer protection laws (except regarding motor dealers, lawyers and some other professions) and encourage fair business practices. Complaint handling and resource guides are available on their website at www.consumerprotectionbc.ca. They are also accessible at 1-888-564-9963.

Better Business Bureau (BBB)

Includes an accredited business and charity directory, consumer tips, alerts, and guides. Those in the Lower Mainland call 604-682-2711; the rest of BC call toll free at 1-888-803-1222. More information can be found online at www.mbc.bbb.org/consumers.

Canadian Motor Vehicle Arbitration Plan (CAMVAP)

Helps consumers resolve disputes with a manufacturer on vehicle defects or warranty through arbitration. All services are free. To see if you qualify, visit www.camvap.ca or call 1-800-207-0685.

Canadian Consumer Association

Gives information on consumer issues and provides tools and resources. Also offers a step-by-step roadmap on how to make a consumer complaint. Visit them at www.consumerinformation.ca.

Mediate-BC

Specializes in dispute resolution through mediation and offers mediation information and services, as well as a directory of available mediators. They can be contacted by going to their website at www.mediatebc.com.

Civil Resolution Tribunal (CRT)

CRT's online Solution Explorer will diagnose your problem and give you legal information and self-help tools. If the dispute remains unresolved, a formal complaint process can be started. For small claims disputes of \$5,000 and under, the use of the CRT for dispute resolution is mandatory. For more information, visit <https://civilresolutionbc.ca/>.

Office of the Information and Privacy Commissioner for B.C. (OIPC)

Oversees B.C.'s access and privacy acts and works to protect the privacy rights of B.C. residents. They can investigate privacy and access complaints. More information can be found on their website at www.oipc.bc.ca.

Office of the Ombudsperson

Investigate complaints about unfair administrative actions from provincial public authorities. Call them toll-free at 1-800-567-3247 or visit www.bcombudsperson.ca for more information.

Note: This fact sheet provides general information and is not intended to be legal advice.