



ALBERTA MOTOR VEHICLE  
INDUSTRY COUNCIL

#303, 9945-50 STREET, EDMONTON, ALBERTA T6A 0L4

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April 22, 2016

Served Personally  
Administrative Review – 16-03-012

RANGELAND RV & TRAILER SALES LTD.  
262033 BALZAC BLVD  
ROCKYVIEW COUNTY, AB T4B 2T3

Attention: Dania Filippetto

Dear Ms. Filippetto:

Re: Rangeland RV & Trailer Sales Ltd.  
Automotive Business Licence B1010270

As the Director of Fair Trading (as delegated), I am writing to you pursuant to section 158.1 of the *Fair Trading Act* (FTA). This letter will detail the action being taken under section 158.1.

#### Facts

Taking into consideration your representations and the information collected by AMVIC, I find the facts to be as follows:

- A. The Supplier holds an Automotive Business license and carries on business as an automotive sales business in the Province of Alberta.
- B. On September 15, 2015 the Supplier attended the RVDA pre-RV show meeting. At this meeting AMVIC representatives discussed advertising requirements and the legislation that applies to advertising.
- C. Following the RVDA pre-RV show meeting, the Supplier was given two written warnings by AMVIC on October 23 and 26, 2015, regarding two separate advertising concerns. The advertisements were brought into compliance.
- D. At the 2016 Calgary RV show, AMVIC identified a non-compliant advertisement being handed out by the Supplier. The advertisement was in the form of a brochure. Specifically the brochure did not include:
  - 1) AMVIC logo or text to indicate the business is AMVIC licensed;
  - 2) APR and term where payments were indicated;
  - 3) Rules and conditions regarding the promotional trip being offered were not specified.

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E. The Supplier responded to the proposed administrative penalty via email on April 5, 2016.

## **Legislation**

### **Automotive Business Regulation**

#### **Advertising**

##### **Section 11**

- (1) Every business operator must ensure that the business operator's advertising indicates in a conspicuous manner
  - (b) in the case of print and television advertising, that the business operator holds an automotive business licence under the Act.
  
- (2) A business operator must ensure that every advertisement for an automotive business that promotes the use or purchase of goods or services
  - (d) uses descriptions and makes promises only in accordance with actual conditions, situations and circumstances,
  - (l) includes in the advertised price for any vehicle the total cost of the vehicle, including, but not limited to, all fees and charges such as the cost of accessories, optional equipment physically attached to the vehicle, transportation charges and any applicable taxes or administration fees, but not including GST or costs and charges associated with financing, and

### **Cost of Credit Disclosure Regulation**

#### **Fixed Credit**

##### **Advertisements**

##### **Section 6**

- (2) The information required to be disclosed for the purposes of section 76(1) of the Act is
  - (a) the APR, and
  - (b) the term.

### **Fair Trading Act**

#### **Administrative Penalties**

##### **Notice of administrative penalty**

##### **Section 158.1**

- (1) If the Director is of the opinion that a person
  - (a) has contravened a provision of this Act or the regulations,
  - or
  - (b) has failed to comply with a term or condition of a licence issued under this Act or the regulations,the Director may, by notice in writing given to the person, require

the person to pay to the Crown an administrative penalty in the amount set out in the notice.

(2) Where a contravention or a failure to comply continues for more than one day, the amount set out in the notice of administrative penalty under subsection (1) may include a daily amount for each day or part of a day on which the contravention or non-compliance occurs or continues.

(3) The amount of an administrative penalty, including any daily amounts referred to in subsection (2), must not exceed \$100 000.

(4) Subject to subsection (5), a notice of administrative penalty shall not be given more than 3 years after the day on which the contravention or non-compliance occurred.

(5) Where the contravention or non-compliance occurred in the course of a consumer transaction or an attempt to enter into a consumer transaction, a notice of administrative penalty may be given within 3 years after the day on which the consumer first knew or ought to have known of the contravention or non-compliance but not more than 8 years after the day on which the contravention or non-compliance occurred.

#### **Right to make representations**

##### **Section 158.2**

Before imposing an administrative penalty in an amount of \$500 or more, the Director shall

- (a) advise the person, in writing, of the Director's intent to impose the administrative penalty and the reasons for it, and
- (b) provide the person with an opportunity to make representations to the Director.

#### **Analysis – Did the Supplier fail to comply with the provisions of the Automotive Business Regulation (ABR) and Cost of Credit Disclosure Regulation (COC)?**

This administrative penalty is based on a breach of the FTA and specifically disclosure that is required under the COC. AMVIC has been very diligent with the industry in requesting full compliance in automotive advertising. Information pertaining to advertising is contained in numerous AMVIC newsletters, AMVIC bulletins, and on the AMVIC website. Additionally, AMVIC has attended the RVDA pre-RV show meeting the past two years to support the industry and as a proactive measure to ensure all advertisements are compliant with all laws and regulations.

The Supplier was made aware of the advertising requirements at the RVDA pre-RV show meeting. However, non-compliant advertising placed by the Supplier was identified by AMVIC shortly after. The business brought their advertisements from October 2015 into compliance. At the 2016 Calgary RV show the Supplier continued to disregard the legislation and their advertising for the show was not in compliance. In a recent decision of the Supreme Court of British Columbia, the following comment was made by Justice Skolrod\*:

*"In my view it is incumbent upon a party that operates within a regulated industry to develop at least a basic understanding of the regulatory regime, including obligations under the regime, as well as the obligations, and the authority, of the regulator."*

In October of 2015, AMVIC inspectors had identified advertisements that were placed with an online advertiser that were not compliant. While the Supplier appears to have removed these advertisements, the advertisements should have been complaint when placed by the Supplier. The onus resides with the Supplier to ensure their advertisements are compliant with the legislation. The responsibility does not fall on the advertising medium to ensure compliance.

The Supplier responded to the proposed administrative penalty. It is clear in the response that the Supplier has not taken responsibility with regards to compliant advertising by becoming familiar with the FTA and the advertising requirements that fall under the legislation. In addition to the issue raised in the administrative penalty regarding the COC, the Supplier indicated in her response that she is still confused with the advertising requirement of all in pricing. All in pricing is a simple concept to follow and be compliant with. The advertised price can be summarized as including the total cost except GST and financing costs.

#### **Action**

In accordance with section 158.1(a) of the FTA and based on the above facts, I am requiring Rangeland RV & Trailer Sales Ltd. pay an administrative penalty. This is based on my decision that Rangeland RV & Trailer Sales Ltd. contravened section 11(1)(b)(2)(d) of the ABR and section 6(2)(a)(b) the COC.

Taking into consideration all of the representations made by Nicole L. - AMVIC Manager of Industry Standards, Stephen V. - AMVIC Industry Standards Officer and the written response received by Ms. Filippetto, the administrative penalty amount is \$1,000.00. The amount takes into consideration the failure of the business to become compliant. This business has been warned previously with regard to advertising.

**The amount of the administrative penalty is \$1,000.00**

Pursuant to section 3 of the *Administrative Penalties (Fair Trading Act) Regulation*, **this administrative penalty must be paid within 30 days of service of this notice. Payment may be made to the Government of Alberta and sent to AMVIC at:**

Suite 303, 9945 – 50th Street  
Edmonton, AB T6A 0L4.

Section 179 of the FTA allows a person who has been served a notice of administrative penalty to appeal the penalty. To appeal the penalty, the person must serve the Minister of Service Alberta

Minister of Service Alberta  
103 Legislature Building  
10800 - 97 Avenue NW  
Edmonton, AB  
Canada T5K 2B6

with a notice of appeal within 30 days after receiving the notice of administrative penalty. The appeal notice must contain your name, your address for service, details of the decision being appealed and your reasons for appealing.

Pursuant to section 180(4) of the FTA, service of a notice of appeal operates to stay the administrative penalty until the appeal board renders its decision on the appeal or the appeal is withdrawn.

Under section 4 of the *Administrative Penalties (Fair Trading Act) Regulation*, the fee for appealing an administrative penalty is the lesser of \$1000 or half the amount of the penalty. As such, the fee for an appeal of this administrative penalty, should you choose to file one, would be \$500.00.

Yours truly,

"original signed by"

JOHN BACHINSKI  
Director of Fair Trading (as Delegated)

JB/kl

cc: Nicole L [REDACTED], Manager of Industry Standards, AMVIC  
\*Windmill Auto Sales & Detalling Ltd. v. Registrar of Motor Dealers, 2014 BCSC 903