

October 16, 2018

DIRECTOR'S ORDER UNDER SECTION 157 OF THE *CONSUMER PROTECTION ACT*

TO

CORY SCHMUCKER

OF

C & C RECREATIONAL INC.

OPERATING AS: TOPAUTO

AND

ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF THE ABOVE

This Director's Order was issued under Section 157(1) of the *Consumer Protection Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by Section 157(3) a person or publisher who is subject to an order under this section may appeal under Section 179.

Pursuant to Section 179, to appeal the order, the person must serve the Minister of Service Alberta with a notice of appeal within **thirty (30) days** after receiving the order. Please include your name, your address for service, details of the order being appealed and your reasons for appealing.

DIRECTOR'S ORDER UNDER SECTION 157 OF THE *CONSUMER PROTECTION ACT*

TO

CORY SCHMUCKER

OF

C & C RECREATIONAL INC.

OPERATING AS: TOPAUTO

AND ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF

C & C RECREATIONAL INC.

ISSUE

On or about August 20, 2018, the Alberta Motor Vehicle Industry Council ("AMVIC") received a registered letter from Trisura Insurance dated August 8, 2018 notifying AMVIC of the cancellation of C & C Recreational Inc. operating as Topauto (the "Licensee") general surety bond (#TMS 903 2382) effective May 10, 2018. As of May 10, 2018, the Licensee (wholesale business licence #B2009679) has been operating without a surety bond, irrevocable letter of credit or cash in the amount of \$50,000 as required. AMVIC has made contact with a representative of the Licensee via telephone calls and emails on numerous dates however, the Licensee has failed to provide the required security as requested by AMVIC. As per the *Consumer Protection Act*:

Consumer Protection Act – Section 130(1)

Security

130(1) When a security submitted by a licensee is no longer in force, the licence is suspended and remains suspended until the licensee submits to the Director a new security that meets the requirements of the regulations.

Automotive Business Regulation - Section 4(2)

Complying with laws

(2) The Director may require an applicant for a class of automotive business licence to furnish a security in a form and amount approved by the Director.

DIRECT COMMUNICATION WITH THE LICENSEE

On August 20, 2018, a phone call was made to Mr. Schmucker informing him AMVIC had received a cancellation letter from Trisura Insurance regarding his general surety bond. He informed the advisor he was in the process of switching insurance companies and would have the updated bond sent to AMVIC by August 23, 2018.

Further to the August 20, 2018 phone call, on August 24, 2018, an email was sent to Mr. Schmucker as a follow up, informing him AMVIC had not yet received a new bond from his new insurance company as per his promise on August 20, 2018. As per the *Consumer Protection Act*:

Consumer Protection Act – Section 104(1)

Licence required - designated businesses

104(1) No person may engage in a designated business unless the person holds a licence under this Act that authorizes the person to engage in that business.

On September 11, 2018, a phone call was made to the Licensee but the advisor was unable to leave a message as the voicemail box was full.

On September 19, 2018, an email was sent to the Licensee informing him that his business will be inactive as he had failed to configure the April to June 2018 quarterly levies and that the surety bond is still outstanding. Licensee was informed if the business is no longer participating in the business activity of consignment sales, he would need to inform AMVIC on that decision.

DIRECTOR'S ORDER

C & C Recreational Inc. operating as Topauto and Cory Schmucker, must immediately:

1. Cease all activities related to operating a wholesale business until such time as AMVIC receives a surety bond, irrevocable letter of credit or cash as required by Section 4(2) of the Automotive Business Regulation.
2. Remove all vehicle related advertisements on Kijiji, Autotrader, Facebook and or any other forms of mass communication.
3. Review the AMVIC website at www.amvic.org/industry-3/licensing/license-classes/ for licensing requirements.

The provincial automotive business licence of C & C Recreational Inc. operating as Topauto is suspended pursuant to Section 130(1) *Consumer Protection Act* until AMVIC receives the appropriate security as required by Section 4(2) of the Automotive Business Regulation.

COMPLIANCE WITH ORDER

ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF THE *CONSUMER PROTECTION ACT* CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE AND MAY BE PROSECUTED PURSUANT TO SECTION 163 OF THE *CONSUMER PROTECTION ACT*.

REFUSAL, SUSPENSION, CANCELLATION, TERMS

SECTION 127(b) (i) – *CONSUMER PROTECTION ACT* STATES:

THE DIRECTOR MAY REFUSE TO ISSUE OR RENEW A LICENCE, MAY CANCEL OR SUSPEND A LICENCE AND MAY IMPOSE TERMS AND CONDITIONS ON A LICENCE FOR THE FOLLOWING REASONS;

- (i) FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 129 OR 157, UNLESS, IN THE CASE OF AN ORDER UNDER SECTION 127 OR 157, THE ORDER HAS BEEN STAYED.

"original signed by"

Gerald Gervais, Registrar
Director of Fair Trading (as delegated)
October 16th 2018