

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

TO

Gord Moors and Chris Thin

OPERATING AS

Blusky Enterprises Ltd. o/a AUTOMAXX
(the "Business")

AND ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF

Blusky Enterprises Ltd. o/a AUTOMAXX

ISSUE

On or about February 6, 2017, the Alberta Motor Vehicle Industry Council ("AMVIC") Industry Standards Officer completed a routine inspection at Automaxx located at 424-16 Avenue NE, in the City of Calgary, in the Province of Alberta. As a result of the non-compliant findings, a follow up inspection was completed on or about July 16, 2018. Upon completion of the second inspection, it was found that the licensee made little to no attempts to become compliant as directed after first inspection.

- The licensee's signage continues to promote "100% Approval" and "Everyone Approved" (Exhibit "A"), contrary to:

Advertising

11(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

General Codes of Conduct

12 Every business operator must comply with section 6 of the Act and in addition must

(f) not make any representation that savings, price benefits or advantages exist if they do not exist or if there is no evidence to substantiate the representation

- The licensee continues not adhering to the all in pricing requirements (Exhibit "B1.1, B1.2, B2.1, B2.2, B3.1, B3.2, B4, B5"), contrary to:

Advertising

(2) A business operator must ensure that every advertisement for an automotive business that promotes the use or purchase of goods or services

(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

- Vehicles displayed and advertised for sale continue to not be identified by a stock number (Exhibit "C1, C2")

Advertising

(2) A business operator must ensure that every advertisement for an automotive business that promotes the use or purchase of goods or services

(m) includes the stock number of the specific vehicle that is advertised as being available for sale at the time the advertisement is placed.

- The Licensee's Mechanical Fitness Assessments continue to be non-compliant. One Mechanical Fitness Assessment was expired (Exhibit "D"), one Mechanical Fitness Assessment was signed after the Bill of Sale (Exhibit "E"), and one Mechanical Fitness Assessment was missing the dealers information (Exhibit "F"), contrary to:

Vehicle Inspection Regulation (A/R 211/2006);

Sale of used motor vehicle

15(1) *Subject to subsection (2), a dealer in used motor vehicles shall, before entering into a contract to sell a motor vehicle, give to the buyer a used motor vehicle mechanical fitness assessment that contains the following:*

- (a) a statement identifying the type of motor vehicle as a truck, motorcycle, bus, van, light truck, automobile or other type of motor vehicle*
- (b) a statement showing the make, model, year, vehicle identification number, odometer reading in kilometres or miles, licence plate number and province of registration of the vehicle*
- (c) the name and address of the dealer selling the vehicle and the name of the technician who issued the mechanical fitness assessment*
- (d) a statement that the mechanical fitness assessment expires 120 days after the date on which it was issued*
- (e) a statement certifying that at the time of sale the motor vehicle
 - (i) complies with the Vehicle Equipment Regulation (AR 122/2009), or*
 - (ii) does not comply with the Vehicle Equipment Regulation (AR 22/2009) and containing a description of the items of equipment that are missing or do not comply with the Vehicle Equipment Regulation (AR 122/2009)**
- (f) the signature of the technician who conducted the mechanical fitness assessment*
- (g) the date the mechanical fitness assessment was issued*

(1.1) Despite section 1(1)(r), for the purposes of subsection (1), "technician" means a person who,

- (a) in the case of a mechanical fitness assessment of passenger vehicles and light trucks, holds a subsisting trade certificate in the designated trade of automotive service technician under the Apprenticeship and Industry Training Act, or
- (b) in the case of a mechanical fitness assessment of heavy vehicles and equipment, holds a subsisting trade certificate in the heavy equipment technician branch or the truck and transport mechanic branch of the designated trade of heavy equipment technician under the Apprenticeship and Industry Training Act.

(2) Subsection (1) does not apply to a used motor vehicle sold by a dealer

- (a) to another dealer,
- (b) to a person or partnership engaged in the business of repairing, dismantling or wrecking motor vehicles, or
- (c) through a sale by public auction within the meaning of section 119 of the Fair Trading Act.

Expiry of mechanical fitness assessment

16 A dealer's mechanical fitness assessment provided under section 15(1) for a used motor vehicle expires 120 days after the date on which it was issued

Automotive Business Regulation;

General Codes of Conduct

Section 12 (o) Comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.

- As confirmed by Dexe Sproule (Assistant Manager), falsified cash downpayments are being used for the deposit to assist the consumer to qualify for financing (Exhibit "G.1, G.2, G.3, G.4), contrary to the *Consumer Protection Act*;

Unfair practices

6(1.1) It is an offence for a supplier to engage in an unfair practice

(2) It is an unfair practice for a supplier, in a consumer transaction or a proposed consumer transaction,

- (b) to take advantage of the consumer as a result of the consumer's inability to understand the character, nature, language or effect of the consumer transaction or any matter related to the transaction

- (c) to use exaggeration, innuendo or ambiguity as to a material fact with respect to the consumer transaction

(3) It is unfair practice for a supplier

- (a) to enter into a consumer transaction if the supplier knows or ought to know that the consumer is unable to receive any reasonable benefit from the goods or services

(b) to enter into a consumer transaction if the supplier knows or ought to know that there is no reasonable probability that the consumer is able to pay the full price for the goods or services

- Licensee advertises for all five locations, however fails to disclose where the advertised vehicles is located (Exhibit "H"), contrary to the *Automotive Business Regulation*;
12 Every business operator must comply with section 6 of the Act and in addition must
 - (a) not make any representations, statements or claims that are not true or are likely to mislead a consumer

As per the *Consumer Protection Act*;

6(2) It is an unfair practice for a supplier, in a consumer transaction or a proposed consumer transaction

(b) to use exaggeration, innuendo or ambiguity as to a material fact with respect to the consumer transaction

Automotive Business Regulation;

General Codes of Conduct

Section 12 (a) Comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.

DIRECTOR'S ORDER

That the Business must immediately:

1. Review the *Consumer Protection Act* related regulations; and
2. Amend its business practices in order to be in full compliance with the *Consumer Protection Act* and related regulations.

NON 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*.

"original signed by"

Gerald Gervais
Registrar, Director of Fair Trading (as Delegated)
August 28th, 2018