



ALBERTA MOTOR VEHICLE  
INDUSTRY COUNCIL

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July 10, 2018

**Served Personally**  
Administrative Review – 18-04-027

### **Administrative Penalty**

1366675 ALBERTA LTD.  
O/A EASY MOTORS  
12560 FORT ROAD NW  
EDMONTON, AB  
T5B 4H8

**Attention: Stanley Igiwa, Matthae Igiwa, and Saffa Nasu**

Dear Sirs:

**Re: 1366675 Alberta Ltd. operating as Easy Motors**  
**Automotive Business Licence No. B1028163**

As the Director of Fair Trading (as delegated), I am writing to you pursuant to section 158.1(1) of the *Consumer Protection Act* ("CPA") to provide you with written notice of the administrative penalty issued under that section.

### **Facts**

The evidence before me in relation to this matter consists of the material contained in an Application Report prepared by the AMVIC investigations department (the "Application Report") and attached as **Schedule "1"**. The Supplier provided written representations on June 27, 2018, in response to the Proposed Administrative Penalty attached **Schedule "3"**. Based on all the evidence, I find the facts in this matter to be as follows.

### ***Licencee Status***

1366675 Alberta Ltd. operating as Easy Motors. (the "Supplier") holds an automotive business licence and carries on business as an automotive sales and wholesales business in the Province of Alberta.

## History

In September of 2014, AMVIC had four separate consumer complaints regarding 1366675 Alberta Ltd. operating as Peace Motor, which included several breaches of section 132(2) of the *Fair Trading Act* (now *Consumer Protection Act*). As a result of these matters 1366675 Alberta Ltd. o/a Peace Motor entered into an Undertaking (attached within **Schedule 1**).

1366675 Alberta Ltd. operated as Peace Motor from October of 2008 until December of 2014, when 1366675 Alberta Ltd. changed its trade name to Easy Motors. However, the directors and shareholders of 1366675 Alberta Ltd. have remained the same since 2008 (attached as **Schedule "2"** is the Corporate Registries information of 1366675 Alberta Ltd. operated as Peace Motor).

In July of 2016, AMVIC assessed an administrative penalty of \$10,000.00 against the Supplier. The administrative penalty found the Supplier breached multiple sections of the *Fair Trading Act* (FTA) regarding unfair practices, was not maintaining his business records as required by the legislation, and was providing consumers improperly completed Mechanical Fitness Assessments (MFA). The Supplier appealed the decision of the Director of Fair Trading (as delegated) and on March 27, 2017 a consent agreement was reached and the administrative penalty was reduced to \$5,000.00.

## Summary of Investigation

1. On October 5, 2017, AMVIC received a complaint from a consumer who purchased a 2008 Ford E350 Econoline van from 1366675 Alberta Ltd. o/a Easy Motors on January 11, 2017. Shortly after purchasing the van from the Supplier, the consumer observed mechanical issues on the vehicle, at which time the consumer parked the van until he had time to complete the mechanical work required. In the fall of 2017, the consumer started to look further into the vehicle and took it to a mechanic, who advised there was a suspicion that a rollback on the odometer had been completed. At this time the consumer filed his complaint with AMVIC.
2. On October 13, 2017, Consumer Service Officer (CSO) [REDACTED] sent an email to the Supplier at [REDACTED] requesting a Supplier Response to Consumer Complaint be completed. The email address listed above is the email address provided to AMVIC by the Supplier and is proven to be Mr. Stanley Igiwa's working email address.
3. After a Supplier receives a request for a Supplier Response from AMVIC they have five days to respond. As of October 18, 2017, CSO [REDACTED] had not received a response from the Supplier therefore the complaint was forwarded to the Investigations department.
4. On October 19, 2017, Investigator [REDACTED] (Investigator) was assigned the file for further investigation. On October 20, 2017, the Investigator forwarded the CSO's initial email requesting Mr. Igiwa complete the attached documents.



5. On October 20, 2017, Mr. Igiwa responded to the Investigator's email requesting a copy of the Bill of Sale however, he neglected to complete the documentation that was initially requested by the Investigator. On October 21, 2017 the Investigator responded to Mr. Igiwa's email and forwarded a copy of the Bill of Sale and a copy of the Car Proof.
6. On October 30, 2017, the Investigator had still not received the appropriate documentation from Mr. Igiwa. The Investigator sent Mr. Igiwa another email on October 30, 2017 requesting he complete the documentation by the end of the week.
7. On November 3, 2017, the Investigator was informed by AMVIC Investigator [REDACTED] that Mr. Igiwa was out of the country. After receiving this information, the Investigator phoned Easy Motors and spoke to two of Mr. Igiwa's employees regarding his previous emails. Neither of the employees provided the Investigator with their names and both stated that, Mr. Igiwa is the sole person that has the authority to complete Supplier Responses, when requested by AMVIC. They also indicated they did not have access to Mr. Igiwa's computer or files, however, Mr. Igiwa did have access to the internet and his emails while out of the county and that he was still conducting company business while he was away.
8. On November 29, 2017, under the belief that Mr. Igiwa was back in Canada, the Investigator emailed Mr. Igiwa the initial documentation, Bill of Sale, and Car Proof. The Investigator indicated that he expected a response by "next Wednesday" (December 6, 2017). The Investigator also indicated to Mr. Igiwa that in the future he will have to designate someone to handle AMVIC complaints when he is unable to.
9. On December 4, 2017, two other AMVIC investigators met with Mr. Igiwa at Easy Motors and informed him that he needed to speak with the Investigator [REDACTED] Mr. Igiwa was again advised that he needed to provide AMVIC with a copy of the supplier response and further documentation which can be found in Exhibit G (within **Schedule 1**). At this time, Mr. Igiwa asked the Investigator for another copy of the Supplier Response documents. Following this conversation the Investigator forwarded the initial email sent by the CSO on October 13, 2017 to Mr. Igiwa with the noted attachments.
10. The Supplier has not provided a response to date.
11. On June 27, 2018, the Supplier provided AMVIC with a copy of their written representations (Attached as **Schedule "3"**) in response to the proposed Administrative Penalty dated June 8, 2018.

## **Legislation**

### **Consumer Protection Act ("CPA")**

#### **Duty to maintain records**

##### **Section 132**

- (1)** Every licensee and former licensee must create and maintain
  - (a)** complete and accurate financial records of its operations in Alberta for at least 3 years after the records are made, and
  - (b)** other records and documents described in the regulations for the period specified in the regulations.
- (2)** Every licensee and former licensee must make the records referred to in subsection (1) available for inspection by an inspector at a place in Alberta and at a time specified by the inspector.

#### **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 Consumer Protection Act and the Automotive Business Regulation?**

The Supplier has been given the opportunity to implement changes to ensure business practices were brought into compliance with the legislation. However, it is evident the Supplier has not made any changes to his business practices since entering into an Undertaking in 2014. In the agreed Undertaking signed by the Supplier in 2014, the Supplier acknowledged that they were required to provide all documentation requested by the Regulator as per section 132 of the FTA (now CPA). Mr. Igiwa responded to the investigators email on October 20, 2017, while he was out of the country. I find that Mr. Igiwa had access to the internet and his emails and was still able to conduct company business while he was away. The Supplier advised that "Mr. Mike" responded to the complaint via fax on October 22, 2017, however, I find that no faxed response was received by AMVIC from the Supplier as stated in the written representations provided. In addition, the Supplier did not provide any documentation which supports his claim that the documents were faxed to AMVIC, nor a copy of the documents he claims were provided to AMVIC. Based on the evidence before me it is evident that the Supplier has no regard for the Regulator or the legislation and continues to contravene section 132 of the CPA.

As outlined in Schedule 1, the Supplier was asked five separate times to provide AMVIC with specific documentation. Contrary to the Supplier's written representations, I find that a complete Supplier response and the further additional documents have not been received by AMVIC to date despite numerous requests by the investigator. There exists an onus on the Supplier to do their due diligence and ensure they are complying with the law. As stated in the Supreme Court of British Columbia in *Windmill Auto Sales & Detailing Ltd. v. Registrar of Motor Dealers*, 2014 BCSC 903 addressed the issue of the onus and responsibility the Supplier has when operating within regulated industry. The court at paragraph 59 stated:

*"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 its obligations under the regime, as well as the obligations, and the authority, of the regulator."*

The amount of the administrative penalty must be sufficient in that the Supplier and other Suppliers do not view the amount of the penalty as a cost of doing business that is preferable to following the law.



## Action

I find that the administrative penalty of \$7000.00 is reasonable given the previous contraventions of section 132(2) of the CPA by the supplier and given the previous enforcement by AMVIC in which the Supplier entered into an undertaking in 2014 and received an administrative penalty in 2017. In accordance with section 158.2(a) of the CPA and based on the above facts, I am requiring 1366675 Alberta Ltd. o/a Easy Motors to pay an administrative penalty for contravening section 132(2) of the CPA.

Taking into consideration the representations made by AMVIC's investigation department and the representations made by the Supplier, the administrative penalty being imposed is **\$7,000.00**. This penalty amount takes into consideration the factors outlined in section 2 of the *Administrative Penalties (Fair Trading Act) Regulation*, AR 135, 2013. In particular, the Director took into account:

1. The seriousness of the contravention or failure to comply;
2. Whether or not the person who receives the notice of administrative penalty has a history of non-compliance;
3. Absence of intent of the business to become compliant : The previous history of non-compliance identified in a previous undertaking and administrative penalty for similar circumstances;
4. The degree of wilfulness or negligence in the contravention or failure to comply;
5. The maximum penalty under section 158.1(3) of the CPA of \$100,000.

### **The amount of the administrative penalty is \$7,000.00.**

Pursuant to section 3 of the *Administrative Penalties (Fair Trading Act) Regulation*, **you are required to submit payment within thirty (30) days of the date of service of this notice. Failure to pay the administrative penalty will result in a review of the licence status. Payment may be made payable to the "Government of Alberta" and sent to AMVIC at:**

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

If payment has not been received in this time period, the Notice may be filed in the Court of Queen's Bench and enforced as a judgement of that Court pursuant to section 158.4 of the *Consumer Protection Act* and further disciplinary action will be considered.

Section 179 of the CPA (formerly the *Fair Trading Act*) 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 CPA (formerly 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 \$1,000.00.

Yours truly,

"original signed by"

Gerald Gervais, Registrar  
Director of Fair Trading (as Delegated)

/cz

Encl. – Application Report – Investigations

cc: [REDACTED] Investigations, AMVIC