
IN THE MATTER OF THE
CONSUMER PROTECTION ACT (CPA)

THIS **UNDERTAKING** is made pursuant to Section 152 of the *Consumer Protection Act* ("CPA").

BY: **EZ MOTORS LTD.**
at or near the city of Red Deer, in the Province of Alberta
(hereinafter called the "Supplier")

TO: **The DIRECTOR OF FAIR TRADING (as delegated)**
(hereinafter called the "Director")

WHEREAS:

- A. At the time of the complaint, the Supplier was licensed by the Alberta Motor Vehicle Industry Council ("AMVIC") to carry on the automotive business activity of used sales, wholesale, repairs: service station and repairs: garage in the Province of Alberta.
- B. An AMVIC investigation (case file 19-09-413) was initiated as a result of a consumer complaint received by AMVIC in September 2019, alleging poor workmanship and a lack of documented billing.
- C. An administrative review was held via teleconference call on Feb. 2, 2021 at approximately 10:09 a.m. Participating in the administrative review was Mr. Erkinjon Zakirov, owner and sole director of the Supplier, Mr. Nick Ibragimov, former service manager for the Supplier, [REDACTED] – AMVIC investigator, [REDACTED] – AMVIC manager of investigations south and G. Gervais – Director of Fair Trading (as delegated).
- D. In mid-2018 the consumer ("MW") discussed having her 1972 Volkswagen bus (the "VW") restored with the Supplier. The Supplier advised MW they did not have the facility to perform the autobody work and the restoration would be completed at an offsite location. MW was provided a verbal quote. On or about April 15, 2019, MW drove the VW to the Supplier to begin the restoration work.
- E. On June 18, 2019, MW was provided with the rural location where the VW was being restored and went to view the progress. The work was being completed in a barn with a dirt floor on an acreage. MW made several requests for estimates and documented billing during the restoration which the Supplier failed to provide.

**Automotive Business Regulation
Estimate
Section 31.6**

(1) A business operator engaged in automotive repairs must, on request from the consumer, provide an estimate for the installation of parts or equipment in or on a vehicle or the repair or service of a vehicle.

- (2) An estimate under subsection (1) must be in writing and, subject to subsection (3), must contain the following information:
- (a) a description of the proposed work;
 - (b) the estimated total cost of the proposed work, including labour and parts or equipment.
- (3) If the information in subsection (2) cannot be provided because diagnostic work is required, the estimate must state the estimated maximum cost of the diagnostic work.

Authorization of work**Section 31.7**

- (1) A business operator engaged in automotive repairs must not install parts or equipment in or on a vehicle or repair or service a vehicle unless the consumer has provided authorization.
- (2) An authorization under subsection (1) must be provided in writing, subject to section 31.8.
- (3) An authorization must contain the following information:
- (a) the name of the consumer, or the consumer's agent, giving authorization;
 - (b) the date of the authorization;
 - (c) a description of the work that the consumer, or the consumer's agent, authorizes to be carried out;
 - (d) the estimated total cost of the work described in clause (c) and confirmation that the consumer, or the consumer's agent, authorizes the cost.

- F. On Sept. 12, 2019, MW told the Supplier to halt the restoration work due to concerns with the workmanship and lack of documented billing. The Supplier issued an invoice to MW in the amount of \$7,806.35 for the autobody work completed and released the VW on Sept. 23, 2019 after MW paid the invoice.
- G. The AMVIC investigation identified that the Supplier is not licensed for the designated activity of autobody repairs and the autobody work was being done at a location not licensed by AMVIC. Further, the location where the autobody work was being completed did not have the appropriate municipal approval from the County of Red Deer.

Consumer Protection Act**Licence required – designated businesses****Section 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.

Vicarious liability**Section 166**

For the purposes of this Act, an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred

- (a) in the course of the employee's employment with the person, or

(b) in the course of the agent's exercising the powers or performing the duties on behalf of the person under their agency relationship.

Automotive Business Regulation

New classes of licence

Section 3

(7) A person who holds an automotive business licence is not authorized to carry on any class or classes of activities that are not specified on the licence.

- H. The investigation further revealed that the Supplier had hired a third party subcontractor to complete the autobody restoration on the VW. The third party subcontractor hired by the Supplier did not have the required training certification to complete autobody repairs. This subcontractor was paid \$4,000 to complete the autobody work on behalf of the Supplier. MW was misled by the Supplier that they could supply the services when they could not.

Consumer Protection Act

Unfair practices

Section 6

(4) Without limiting subsections (2) and (3), the following are unfair practices if they are directed at one or more consumers or potential consumers:

- (a) a supplier's doing or saying anything that might reasonably deceive or mislead a consumer;
 - (k) a supplier's representation that the supplier can supply goods or services if the supplier cannot;
- I. The autobody work completed on the VW by the unlicensed and unqualified subcontractor caused MW to incur substantial additional costs to not only complete the restoration, but to fix the work that had been incorrectly completed to the VW.
- J. The Supplier fully admits to and regrets engaging in the aforementioned activity. Mr. Zakirov took responsibility for not checking on the qualifications of the subcontractor and assuming he was qualified to complete the restoration autobody work. Mr. Zakirov has been in business since 2010 and asserted it was not the Supplier's intention to mislead MW.
- K. During the time period of this complaint, as the sole director of the Supplier, Mr. Zakirov indicated he was not hands on with the day to day operations of his company.
- L. The Supplier acknowledged and took responsibility for the general conduct described in the AMVIC investigation, and committed to working with the regulator to be a positive contributor to the local economy and automotive industry. The Supplier appreciates the education and efforts by AMVIC to support his business.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

1. The Supplier acknowledges and admits that it failed to comply with the provisions of the CPA and ABR, and undertakes to the Director that the Supplier will make every effort to ensure that it does not engage in acts or practices similar to those described above.
2. The Supplier will undertake not to do or say anything that might reasonably deceive or mislead a consumer or represent that they can supply goods or services if the Supplier cannot during the course of a consumer transaction as per Section 6(4)(a) and Section 6(4)(k) of the CPA.
3. The Supplier will undertake to provide a consumer, upon request, an estimate for the installation of parts or equipment in or on a vehicle or the repair or service of a vehicle as well as not to install parts or equipment in or on a vehicle or repair or service a vehicle unless the consumer has provided authorization as per Section 31.6 and 31.7 of the ABR.
4. The Supplier will further undertake to ensure they maintain accurate business records and documents as per legislative requirements. Licensed businesses and registered salespersons have an obligation to ensure that records and documents created and received in relation to an activity authorized by the licensee accurately reflect the true nature of the transaction.
5. The Supplier acknowledges that he will not engage in designated business activities unless he holds a licence under this Act that authorizes him to engage in that business activity as per Section 104(1) of the CPA.
6. To ensure that the Supplier is in full compliance with the CPA and its related regulations, the Supplier agrees to assist AMVIC with an industry standards inspection which will take place before **Dec. 31, 2021**.
7. The Supplier shall pay the sum of **\$500** to AMVIC, an amount that represents a portion of the costs AMVIC has incurred investigating the matters herein. Such payment is to be made to AMVIC within **thirty (30) days** from the date of signing this Undertaking.
8. This Undertaking will remain in force,

Unless:
 - a. Terminated by the Director or varied with the consent of the Supplier;
 - b. Varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking; or
 - c. Terminated by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair; however, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.
9. The Supplier acknowledges the Director may, upon breach of any term of the Undertaking, institute such proceedings and take such action under the CPA as they may consider necessary.

10. The Supplier acknowledges this Undertaking is a public document and will be maintained in the public record by the Director of Fair Trading (as delegated) as required by Section 157.1 of the CPA.
11. The Supplier acknowledges that they were advised by AMVIC, and are aware that they are entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges they are entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Supplier, has on the 4 day of February, 2021.

EZ MOTORS LTD.

PER: "original signed by"
Erkinjon ZAKIROV

ACCEPTED by the Director of Fair Trading on the 23 day of February, 2021.

PER: "original signed by"
Gerald Gervais, Registrar
DIRECTOR OF FAIR TRADING
(as delegated)