

May 7, 2025

Administrative Review – 25-02-007

Served via email: [REDACTED]

### **Administrative Penalty**

KAFRI MOTORWAYS LTD.  
12120 118 AVENUE  
EDMONTON, AB  
T5L 2J8

### **Attention: Akram Al Kafri**

Dear Akram Al Kafri:

**Re: Kafri Motorways Ltd. – Provincial Automotive Business Licence No. B2019098**

As the Director of Fair Trading (as delegated) (the “Director”), 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 Alberta Motor Vehicle Industry Council (“AMVIC”) investigations department application report (the “Application Report”) prepared by the investigator and the senior manager of investigation. A copy of the Application Report is attached as Schedule “A” to this letter. I have also taken into consideration the information exchanged during the administrative review held via teleconference call on April 1, 2025 and the written representations provided by the Supplier in response to the Proposed Administrative Penalty on April 6, 2025 (attached as Schedule “D”).

### ***Licensee Status***

Kafri Motoways Ltd. (the “Supplier”) holds an automotive business licence and carries on business as an automotive sales business in the province of Alberta. The Supplier operates in Edmonton, Alberta and holds a current AMVIC business licence and is authorized for the business activities of retail sales and wholesale sales.

### ***Administrative Review***

This matter was originally scheduled for Tuesday March 25, 2025 at 9 a.m. however, on March 21, 2025, the Supplier requested an adjournment due to a personal matter and the Director granted the adjournment. An Adjournment Letter dated March 24, 2025 was sent to the Supplier re-scheduling the matter to April 1, 2025 at 10:30 a.m.

An administrative review was held on April 1, 2025, at approximately 10:30 a.m., via teleconference call. Participating in the administrative review were Akram Al Kafri, owner and director for the Supplier; ■■■■■ AMVIC investigator; ■■■■■, AMVIC investigations north; and G. Gervais, Director of Fair Trading (as delegated) (the "Director").

### ***Enforcement History***

On Dec. 9, 2024, the Supplier entered into a voluntary Undertaking and acknowledged that it failed to comply with the provisions of the CPA, Automotive Business Regulation ("ABR") and Vehicle Inspection Regulation ("VIR"). The Undertaking addressed a number of breaches including but not limited to unfair practices, advertising issues, Mechanical Fitness Assessment ("MFA") compliance issues, bill of sale ("BOS") compliance issues, salvage motor vehicle issues and failing to disclose vehicle history information.

The administrative review for the voluntary Undertaking noted above was scheduled for Oct. 22, 2024 and the Notice of Administrative Review letter was dated Sept. 9, 2024. The AMVIC investigator was not assigned the below noted complaint until Sept. 16, 2024, after the Notice of Administrative Review correspondence was sent out.

### ***Summary of Investigation***

#### **Case File 24-08-393**

1. In August 2024, AMVIC received a consumer complaint in regards to the mechanical condition of a vehicle that was purchased from the Supplier.
2. On Aug. 2, 2024, the consumer ("MS") and her partner ("RD") attended the Supplier after seeing a 2009 Mini Cooper S (the "Cooper") for sale on Kijiji posted for "\$5,850+ GST". MS agreed to purchase the Cooper and put down a \$500 deposit to secure the vehicle. The Supplier informed MS that the Cooper was not ready for pick up as it needed a module and that the module had been ordered. MS was shown a four page Motor Vehicle Record of Inspection dated Feb. 11, 2024 but was not shown an MFA as legislatively required as per Section 15(1) of the VIR.
3. MS picked up the Cooper on Aug. 14, 2024 and while the module had been replaced on the Cooper by the Supplier, the incorrect one had been ordered and installed. The following day, MS experienced issues with the Cooper's headlights flashing and the Cooper stalled and had to be towed to the Supplier.
4. MS picked up the Cooper from the Supplier and continued to have mechanical issues. MS took the Cooper to a third party repair facility ("ME").
5. In MS' consumer complaint to AMVIC she provided a detailed account of her interactions with the Supplier, the mechanical failings of the Cooper along with a copy of her BOS, Motor Vehicle Record of Inspection, Carfax, advertisement of the Cooper and invoices from the third party repair facility. MS's complaint stated:

*“On August 2nd my partner and [sic] saw a 2009 Mini Cooper S for sale on Kijiji posted for \$5850 plus GST We immediately went to the dealer to view the vehicle at the Kafri lot at 12120 118 ave NW. Khaled was the only sales person there and the only sales person I have dealt with since. The vehicle had to be boosted to start and Khaled told us there was an issue with the Module so the windows did not work properly however he assured us the module was already ordered and they would install the new module and a new battery prior to finalizing the sale he told us it would be ready to go at the latest on Monday (Aug 5th) but that he would try to get it ready sooner. He told us there would have to be a deposit made of \$500 to hold this vehicle and that with the extra fees and GST the total would be \$6400. Khaled also allowed me to view an inspection report dated Feb 11 2024 and the Carfax that was pulled a few months prior. I requested a copy of these documents with the deposit agreement and he photocopied one sheet and attached it, I did not realize until later that it was not the complete report. On Aug 3rd, 8th, 9th, 12th and 13th I followed up with Khaled both via phone and text expressing to him that I needed a vehicle and he was not providing any updates on when it would be ready. On Aug 14th he texted and said I could come pick it up, unfortunately this day I had two of my children with me who made it difficult to fully review all information. Upon pick up Khaled notified me that he had ordered and installed the wrong module and so the headlights were flashing when the car was on. In the daylight it appeared to be just the passenger headlight so I believed it to be fine and safe to drive. I did add onto the Bill of sale that the new module was to be supplied. On Aug 15th I texted Khaled that the headlights were an issue as I was driving the night before and none of the headlights worked in the dark and they flashed in the daytime. I expressed that I needed the new module as soon as possible as this was a safety issue and I was unable to drive the car in the evenings. Again on Aug 15th at 5pm just 26 hours after picking up the vehicle I was driving and the vehicle stalled, this stall happened without shifting or breaking it was while my foot was on the accelerator. It then started up again drove forward a bit and stalled again. I was left in the middle of a busy intersection in rush hour traffic unable to move. I had my partner push the vehicle to the side of the road out of the intersection and called AMA to have it towed to Kafri Motorways to find out the issue. On Aug 16th Khaled called and said there was no issue with the car, no codes and it started fine. I explained again what happened and texted him photos of the code that came up on the dash when it stalled. He told me it was the module issue and that it would be fixed once the new module was installed. two [sic] hours later he sent me a photo of proof that he just ordered the module. this [sic] was two days after he had already told me the module was ordered. The estimated arrival for the module was Aug 29 - Sep 10. He told me I could come pick up the car and drive it while we waited. I let him know I was bringing the car to the Mini Edmonton dealership for an oil change and an inspection. Aug 19th The [sic] vehicle stalled again while driving it this time I waited 10 min and was able to drive it to the mini Dealership. Once at the dealership I informed them of the Module issue, the headlight issue, requested a complete inspection and a fluid change. They informed me there was a recall on the vehicle and that the module [sic] going to be looked at. They preformed [sic] an FRM test, I owered [sic] the headliner, checked the sunroof and replaced drainage hoses, removed the FRM control unit found corrosion, replaced FRM control, repaired 3 wires, programmed the FRM contol [sic] unit. They also removed and inspected the JBE control unit on the right side and found no issues. They applied a film on the frm control unit reinstalled all parts. They completed a full oil service changed the oil filter and gasket. They then completed a 55 point inspection and found the both rear shocks to be obviously leaking. They released the car back*

to me on Aug 21. Aug 22 I drove the car to and from work, 20km total trip, with no issues. Aug 23rd I drove the vehicle on the highway to pick up my child, it was a 120km trip one way and I made it 74.4km before the vehicle stalled while I was driving 100km/hr with two kids in the vehicle. I was hoping it was a one off so I let the vehicle cool off for 10 min before driving again. It stalled again 38km later on a dirt road without service, I was able to get it started again pick up my child and make it another 49kms before it stalled again. I then parked it for 2 hours to let the entire car cool off before trying to make it home with my kids. We made it 20kms before it stalled again, then 12kms, then 9kms, 9kms again and finally 9kms where I was in range to call AMA and have it towed. This had a 240km trip that should have taken 3 hours take us 8hrs and I had to have my children sit on the side of the highway with me. I notified Khaled that it was not a module issue at 3:45pm on friday and notified him at 4:07 that I was having it looked at by the mini dealership again. Khaled then called and said he believed it to be the fuel pump and said he would fix it, I told him I was not comfortable having his tech do more work, he then asked me to have them diagnose the issue but not fix it, I told him that I was not comfortable having his tech fix it as they already messed up the module issue and I wanted it to be done correctly. At 8pm it was towed to the Mini Edmonton dealership where it sat until Monday Aug 26th. Aug 27th 9:09am I was notified by the Mini dealership that the fuel pump failed including the high pressure, low pressure and the fuel pump line and was quoted \$3851 with a 3-4 day lead time to get it fixed. I immediately notified Khaled when I received the message at 10am and did not receive a response from him until 11:45pm where he states "we can have the parts soon and do it, can you send me the info so we can match the parts number" Aug 28th 7:26am I responded telling him again that I had the dealership start the repair. I requested that Kafri motorway pay me the cost that it would have cost them for the module and the pump and line as I was aware that it would have cost them less to do the work themselves so I thought this compromise would be a good deal, I get the peace of mind that it was done correctly and the 2 year warranty and Kafri is only out the same amount of money they were going to pay any ways and they save the labor and towing costs. 10:21am Khaled responded that they would not do that, they said to return the car and they would refund my money or that they would cover the towing to have it brought to them for the repair, however at this time I had already had the repairs done and had paid out the additional \$3,629.11 and had my car back in my possession. Throughout the day Khaled texted me back and forth blaming me for the issue, saying he is not responsible, saying I should let him fix it. The statement from the Mini Dealership: Scanned vehicle fault stored for high pressure pump, performed test plan. Attached fuel pressure gauge, measured 3.2 spec is 4.5 bar to 5.5 bar low pressure pump did not pass. Performed test on high pressure pump, high pressure pump also did not pass test plan. low [sic] pressure and high pressure pumps are required. Found low pressure feed line to high pressure pump barely on this is unsafe and line must be replaced. based [sic] on our findings we do not recommend driving the vehicle in its current condition. further [sic] use may pose a risk and/or cause further damage. continued [sic] use is at your own risk we advise addressing the issues as soon as possible. Due to this statement I had the work done ASAP This [sic] statement also bothered me as Kafri had the vehicle and should have checked this the first time they inspected it after it stalling. They also notified us that this vehicle was a rebuild due to an accident, in the accident photos it shows a t-bone at the rear of the vehicle near the fuel filler port, the low pressure fuel pump and the fuel pump line. An inspection of these parts should have been completed to verify the vehicles road worthiness or these parts could have been installed initially by Kafri At [sic] this point I

*stated [sic] looking up AMVIC and looked through the sale documents. I noticed that he did not charge me the \$5850 for the car as advertised he charged me \$6080, I also noticed he over charged GST on that \$6080, it should have been \$304 and he charged \$320 I noticed that the Odometer [sic] reading on the bill of sale, 198,122, was not the same as in the car, The [sic] actual odometer reading was 198484kms and that the inspection report he provided was expired. My bill of sale states "30 day warranty engine and transmission just fix" "No Refund No Rental Car" " new module to be provided" At 2:42pm Khaled advised that they would refund the money for the module \$303 only and requested my email. As of 4:00pm I have not received anything yet and I do not agree that they should only be responsible for \$303. Over 14 days of finalizing the purchase of this vehicle it has been in the shop 3 times and I have only been able to drive it for part of 3 days total."*

6. During the course of the AMVIC investigation, an audio recorded statement was taken from MS. In addition to the details she had already provided, MS advised that:
- The Cooper was rebuilt as she had seen it on the Carfax but she was not explained what this meant. She asked the Supplier several times what "rebuilt" meant but no explanation was given.
  - She was not shown an MFA.
  - The Motor Vehicle Record of Inspection stated the clutch pedal assembly and clutch master cylinder were "not applicable", yet the Cooper is a standard and does have a clutch therefore she questioned the authenticity of the document later on.
  - When she informed the Supplier that the Cooper had stalled, she was told it must have been caused by something she had done.
  - When the Cooper continued to stall and she informed the Supplier, she was told to bring back the Cooper for repair, however she did not want their mechanic working on the Cooper as she had lost confidence in them.
  - She was not told she could return the vehicle for a refund. It was only after she the repairs were completed at ME that she was told she could return the Cooper to the Supplier for a refund. MS did not want to do this as she had already spent a large amount of money on the Cooper.
  - She has received \$1,500 from the Supplier in compensation.
7. The Supplier provided a Supplier response to AMVIC dated Sept. 15, 2024 as well as the consumer transaction documents. The Supplier stated:

*"The customer purchased a vehicle from Kafri Motorways.  
Shortly after the purchase, the customer reported that the vehicle stopped working and had it towed to our mechanic shop.  
Our mechanics inspected the vehicle and found no issues.  
We advised the customer to take the vehicle to the Mini Cooper dealer for further inspection.  
The Mini Cooper dealer provided a repair estimate of \$4000.  
We requested the dealer's report to evaluate the issue and offered to cover the repair costs if done at our shop.*

*Additionally, we offered to reimburse the customer for all related expenses including inspection fees, gas, and Uber rides if the vehicle was returned to us.*

*The customer declined our offer to repair the vehicle at our shop and refused to return the vehicle for a full refund, including coverage for inspection fees and related expenses.*

*The customer opted to repair the vehicle at Mini Cooper despite the high cost.*

*After negotiation, we provided the customer with \$1500 in cash and \$500 in store credits as compensation.*

*The customer chose to proceed with repairs independently, and the vehicle was not returned.*

*The customer's decision to repair the vehicle at Mini Cooper at a cost of \$4000 was deemed impractical given the vehicle's purchase price of \$6000.*

*The issue was resolved through compensation and the customer did not return the vehicle for a refund."*

8. The AMVIC investigation identified that the Supplier purchased the Cooper from Copart auction through an insurance company on Dec. 7, 2023 for a purchase price of \$1,532.21. A one page undated listing for the Cooper, presumed to be the auction announcement, lists some of the vehicle details as follows:

- *"Title Code: AB-BOS-SALVAGE*
- *Odometer: 198,121 km (ACTUAL)*
- *Primary Damage: REAR END*
- *Estimated Retail Value: \$7,469.12 CAD*
- *Secondary Damage: SIDE*
- *Repair Est: \$6,117.69 CAD*
- *Notes: FRONT DAMAGE"*

9. The AMVIC investigation identified issues with the completion of the Supplier's BOS and parts of the BOS being non-compliant with Section 31.2 of the ABR. The BOS in the consumer transaction reflects that MS was charged \$6,080 plus the goods and services tax ("GST") for a total of \$6,400. The Cooper had been advertised for \$5,850 plus GST. Although MS put down a \$500 deposit it is not reflected on the BOS. The calculation of the GST of \$320 is not accurate and should be \$304. If all-in pricing legislation had been adhered to the price of the Cooper should have reflected \$5,850 plus 292.50 for the GST for a total of \$6,142.50. MS was overcharged \$257.50. Other BOS issues include the registration number of the salesperson is not listed and the odometer reading of the Cooper is inaccurate. The BOS listed the odometer as 198,122 kilometres ("kms") but according to MS the actual mileage was 198,484 kms. Section 31.2(1)(u) of the ABR requires the BOS to contain a statement that an MFA has been issued under the Vehicle Inspection Regulation (AR 211/2006). The Supplier's BOS does not contain this statement. The BOS further does not list the deposit that MS put down towards the Cooper.

### **Supplier's Representations in relation to 24-08-393**

10. During the administrative review, after the AMVIC investigator presented the evidence, the Supplier did not have questions for the AMVIC investigator, however commented that they did explain what rebuilt meant and that the salesperson showed MS the salvage report. When the Director sought

clarification whether Mr. Al Kafri was present during that conversation or during the consumer transaction, he advised he was not. The AMVIC investigator further did not take a statement from the salesperson involved in the consumer transaction.

11. After the AMVIC investigator put forward the evidence in relation to AMVIC investigation (case file 24-08-393) and the alleged breaches, the Director sought some clarification from the Supplier and they advised the following:
  - The Supplier stated they have been in business since 2014 and employ two employees, of which both are salespeople. Last year the Supplier's volume of sales was approximately 100 vehicles. The monthly sales vary from month to month. AMVIC's database, Open Regulate, shows that the Supplier was first licensed effective Sept. 11, 2017.
  - Failing to supply an MFA prior to entering a consumer transaction was an error or oversight and the Supplier believed that the salvage inspection was enough.
  - Despite the AMVIC investigator pointing out the BOS issues, the Director had to go over them again for the Supplier, as the issues were not obvious to them. Since their last administrative review, the Supplier indicated they have made changes to their BOS.
  - The Supplier indicated that the Cooper had been advertised for \$6,900 however, did not provide any evidence to support this claim.
12. On April 1, 2025, after the administrative review, but before the Director had issued his decision in writing, the Supplier provided additional information via email. The Administrative Assistant to the Registrar and Deputy Registrar advised the Supplier that the Director would not be reviewing the additional information provided after the administrative review until he had made his decision. The Supplier had the opportunity to provide the information to the Director prior to the administrative review and did not take that opportunity. The Director sent the Proposed Administrative Penalty to the Supplier on April 3, 2025, which provided the Supplier the opportunity to submit additional written representations before a final decision regarding the Administrative Penalty was made. On April 6, 2025, the Supplier provided written representations in response to the Proposed Administrative Penalty (see Schedule "D").

## Legislation

### **Automotive Business Regulation**

#### **General codes of conduct**

##### **Section 12**

Every business operator must comply with section 6 of the Act and in addition must  
(o) comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.

### **Bill of sale**

#### **Section 31.2**

(1) A business operator engaged in automotive sales must use a bill of sale that includes the following:

- (a) the name and address of the consumer;

- (b) the number of the government-issued identification that the business operator uses to confirm the identity of the consumer;
- (c) the name, business address and licence number of the business operator;
- (d) if a salesperson is acting on behalf of the business operator, the name and registration number of the salesperson;
- (e) the make, model and model year of the vehicle;
- (f) the colour and body type of the vehicle;
- (g) the vehicle identification number of the vehicle;
- (h) the date that the bill of sale is entered into;
- (i) the date that the vehicle is to be delivered to the consumer;
- (j) an itemized list of all applicable fees and charges the consumer is to pay, including, without limitation:
  - (i) charges for transportation of the vehicle;
  - (ii) fees for inspections;
  - (iii) fees for licensing;
  - (iv) charges for warranties;
  - (v) taxes or levies, including GST;
- (k) the timing for payment by the consumer of the fees and charges under clause (j);
- (l) an itemized list of the costs of all extra equipment and options sold to the consumer in connection with the vehicle or installed on the vehicle at the time of sale;
- (m) the total cost of the vehicle, which must include the fees, charges and costs listed under clauses (j) and (l);
- (n) the down payment or deposit paid by the consumer, if any, and the balance remaining to be paid;
- (o) if the consumer is trading in another vehicle to the business operator in connection with the purchase of the vehicle,
  - (i) information about the vehicle being traded in, and
  - (ii) the value of the trade-in allowance incorporated into the cost of purchase of the vehicle;
- (p) the balance of any outstanding loan that is incorporated into the cost of purchase of the vehicle;
- (q) if, in connection with the purchase of the vehicle, the business operator enters into a credit agreement with the consumer or arranges a credit agreement for the consumer, the disclosure statement required under Part 9 of the Act;
- (r) an itemized list of any items or inducements the business operator agrees to provide with the vehicle at no extra charge;
- (s) the odometer reading of the vehicle at the time the bill of sale is entered into, if the vehicle has an odometer and the odometer reading is available to the business operator;
- (t) the maximum odometer reading of the vehicle at the time of delivery to the consumer if the vehicle has an odometer and
  - (i) the odometer reading is not available to the business operator at the time the bill of sale is entered into, or
  - (ii) the vehicle is a new, specifically identified vehicle;

- (u) any mechanical fitness assessment that has been issued under the Vehicle Inspection Regulation (AR 211/2006);
- (v) any disclosure statement or documentation respecting a vehicle's previous use, history or condition, including disclosure statements or documentation required under the laws of another jurisdiction;
- (w) a declaration that the business operator has disclosed to the consumer the information required under section 31.1.

**(2)** The business operator must ensure that all restrictions, limitations and conditions imposed on the consumer under the bill of sale are stated in a clear and comprehensible manner.

### **Vehicle Inspection Regulation**

#### **Sale of used motor vehicle**

##### **Section 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 122/2009) 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.

### **Consumer Protection Act**

#### **Interpretation of documents**

##### **Section 4**

If a consumer and a supplier enter into a consumer transaction, or an individual enters into a contract with a licensee and the licensee agrees to supply something to the individual in the normal course of the licensee's business, and

- (a) all or any part of the transaction or contract is evidenced by a document provided by the supplier or licensee, and
- (b) a provision of the document is ambiguous,

the provision must be interpreted against the supplier or licensee, as the case may be.

## **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.

### **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.

### **Analysis – Did the Supplier fail to comply with the provisions of the ABR and VIR?**

The material which formed the Application Report was the result of a consumer complaint received by AMVIC, case file 24-08-393.

#### A. Non-compliant BOS (ABR Section 31.2(1)(2))

On Oct. 31, 2018, amended legislation was put into effect with regards to BOS requirements. Between Sept. 25, 2018 and Nov. 6, 2018 AMVIC sent out a number of industry bulletins, updated the AMVIC website with information regarding the amended legislation, sent multiple bulletins to inform the industry and the public regarding the changes, updated social media regularly, sent out a special edition of the IMPACT newsletter to the industry regarding the legislative changes and all AMVIC employees had an email signature attached to staff emails regarding the legislative changes. These are just a few of the initiatives that AMVIC took to ensure all licensees were advised of the legislative changes that were coming into effect on Oct. 31, 2018 regarding the BOS.

The BOS in the consumer transaction with MS has a number of deficiencies which do not comply with Section 31.2 of the ABR. The BOS does not reflect the \$500 deposit MS provided the Supplier towards the cost of the Cooper as required by Section 31.2(1)(n) of the ABR. The BOS does not include the salesperson registration number of the salesperson acting on behalf of the Supplier as required by Section 31.2(1)(d) of the ABR. The odometer reading on the BOS is inaccurate, indicating the Cooper had 198,122 kms on it when in reality the odometer reading at the time of sale was 198,484 kms, 362 kms more than the BOS indicates. Section 31.2(1)(u) of the ABR requires the BOS to contain a statement that an MFA has been issued under the Vehicle Inspection Regulation (AR 211/2006). The Supplier's BOS does not contain this statement. Section 31.2(1)(s) of the ABR requires the odometer reading to be included on the BOS if it is available to the business operator. The Supplier had the Cooper in its possession at the time of the sale and therefore 31.2(1)(s) of the ABR would be applicable in this matter. The Supplier was therefore required to include the odometer reading on the BOS and the odometer reading must be accurate.

In addition, the GST calculated on the BOS is not accurate and the Supplier charged the consumer more GST than was applicable to the sale of the Cooper. This is a business practice that is concerning to the Director. Based on the previously entered into voluntary Undertaking, this was also an issue of concern during that administrative matter. Creating and maintain accurate records is required by the Supplier and ensuring the correct amount of GST is being calculated and charged to the consumer is important for a business owner.

The Supplier's written representations (see Schedule "D") did not address the BOS compliance issues identified above however, the Supplier provided information about a "\$300 sales fee" stating:

*"The customer was aware that the \$300 sales fee was included in the total amount but it was not itemized separately on the Bill of Sale. This was a verbal agreement between us, and she agreed to the final all-in price at the time of purchase."*

In the opinion of the Director the Supplier has breached Section 31.2 of the ABR as the BOS did not meet the legislative requirements.

#### B. MFA Compliance Issues (VIR 15(1))/General Code of Conduct (ABR Section 12(o))

The MFA is required as per Section 15(1) of the VIR. The VIR is a regulation under the *Traffic Safety Act* ("TSA"). The requirement to provide an MFA is required under the TSA and is therefore in the

jurisdiction of Alberta Transportation. Although the MFA falls under the requirement of Alberta Transportation, it comes into AMVIC's purview in the course of our mandated duties as per a number of legislated sections that apply to following all legislation applicable to the sale of motor vehicles such as Section 12(o) of the ABR and Section 127(b)(v.1) of the CPA.

The Supplier is required to provide a consumer a valid MFA prior to entering into a consumer transaction. The Supplier entered into a consumer transaction with MS on Aug. 14, 2024 but never provided MS with an MFA and there is no record that an MFA was ever completed.

Having a consumer sign and date the MFA is the best way to document that a consumer was shown the MFA prior to entering into a transaction. By failing to give MS an MFA for the Cooper before entering into a contract to sell her the vehicle, the Supplier has breached Section 15(1) of the VIR and Section 12(o) of the ABR.

### C. Other Considerations

AMVIC follows a progressive enforcement model when enforcing consumer protection laws. Administrative action may include a written warning, condition(s) added to the licence, charges under the legislation, Administrative Penalty, Director's Order, Undertaking and suspension or cancellation of a licence as outlined in the CPA. When determining an appropriate enforcement measure, the Director will consider several factors before making his decision to ensure what level of enforcement is appropriate to the contravention.

The Supplier has been subject to the following enforcement action:

- Dec. 9, 2024 – voluntary Undertaking

The Director considered other enforcement actions. The Director cannot consider entering into an Undertaking as the Director just recently entered into a voluntary Undertaking with the Supplier for similar breaches.

The amount of the Administrative Penalty cannot be viewed as a cost of doing business but rather as a deterrent for continuing to engage in non-compliant business practices.

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.*

A recent Service Alberta and Red Tape Reduction Appeal Board rendered a decision (attached as Schedule "B") regarding the importance of the legislation that regulates the automotive industry as well

as the importance of the members within the regulated industry to operate within the regulatory framework. Paragraph 39 of the Service Alberta and Red Tape Reduction Appeal Board decision states:

*“Regulations are not merely a formality. They exist to protect consumers and fulfil the mandate of the CPA as described in its preamble.”* [Paragraph 39.b.]

*“...it is [the Supplier’s] responsibility to be compliant with regulations at all times.”* [Paragraph 39.c.]

*“...regulations are not optional, they serve an important social purpose”.* [Paragraph 39.d.]

In reviewing all the evidence and determining the contraventions of the legislation, in the opinion of the Director, the Supplier’s business practices do not meet the standard expected of a business in the automotive industry. The automotive industry in Alberta is a regulated industry and it is the Suppliers responsibility to ensure they are complying with the legislation which regulates the automotive industry. As stated in the Supreme Court of British Columbia in *Windmill Auto Sales & Detailing Ltd. vs. Registrar of Motor Dealers*, 2014 BCSC 903 which 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.”*

A recent Service Alberta Appeal Board rendered a decision (attached as Schedule “C”) and addressed the onus and responsibility of salespeople and suppliers. The appeal panel at paragraph 91 stated:

*“At the same time, we recognize that AMVIC is not there to hold a party’s hand through the administrative process. Nor is it there to train applicants in terms of being administratively efficient. AMVIC is there to protect the public. The onus is on salespersons and car dealerships to remain current with AMVIC and to comply with the regulatory framework in place at any given time.”*

The Supplier had compliance issues with their BOS and failed to provide an MFA prior to entering into a consumer transaction. The Supplier’s actions as outlined above leverages the Supplier’s knowledge, and does not foster a level playing field between the consumer and the Supplier which eliminates the consumer’s ability to make an informed purchasing decision.

The aggravating factors in this matter include the resulting impact adversely affecting the consumer given the mechanical failings of the Cooper and the non-compliance with the rather straightforward requirements of the legislation.

The mitigating factors in this matter that can be taken into consideration is that the Supplier offered to have MS return the Cooper and refund her, and when MS did not take this offer, the Supplier provided her with \$1,500 and an in-store credit of \$500 in compensation.

In the Supplier's written representations (see Schedule "D") the Supplier outlined the resolutions offered by the Supplier to the consumer, which were taken into consideration by the Director as mitigating factors as outlined above.

This Administrative Penalty is taking into account the number and seriousness of the contraventions of the legislation found during the investigation; the cost of investigating the Supplier's activities; the aggravating and mitigating factors listed above; and the non-compliant business practices.

### **Action**

In accordance with Section 158.1(a) of the CPA and based on the above facts, I am requiring that Kafri Motorways Ltd. pay an Administrative Penalty. This is based on my opinion Kafri Motorways Ltd. has contravened Sections 12(o) and 31.2 of the ABR, and Section 15(1) of the VIR.

Taking into consideration all the representations made by the Supplier and the representations made by AMVIC's investigations department, the amount of the Administrative Penalty is **\$4,000**.

The amount takes into consideration the factors outlined in Section 2 of the Administrative Penalties (*Consumer Protection Act*) Regulation, AR 135/2013 and the principles referenced in *R v Cotton Felts Ltd., (1982), 2 C.C.C (3d) 287 (Ont. C.A.)* as being applicable to fines levied under regulatory legislation related to public welfare including consumer protection legislation. In particular the Director took into account the above listed aggravating and mitigating facts as well as:

1. The Supplier's history of non-compliance;
2. The seriousness of the contraventions or failure to comply;
3. The harm on the persons adversely affected by the contraventions or failure to comply;
4. The aggravating and mitigating factors listed above;
5. The maximum penalty under Section 158.1(3) of the CPA of \$100,000; and
6. The deterrent effect of the penalty.

### **The amount of the Administrative Penalty is \$4,000.**

Pursuant to Section 3 of the Administrative Penalties (*Consumer Protection 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 King's Bench and enforced as a judgement of that Court pursuant to Section 158.4 of the CPA and further disciplinary action will be considered.

Section 179 of the CPA 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 and Red Tape Reduction

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

with a notice of appeal within **thirty (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, 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 (*Consumer Protection Act*) Regulation, the fee for appealing an Administrative Penalty is the lesser of \$1,000 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. Should you choose to appeal this Administrative Penalty, you must send the appeal fee to the Minister of Service Alberta and Red Tape Reduction at the above noted address, made payable to the "Government of Alberta".

Yours truly,

"original signed by"

Alberta Motor Vehicle Industry Council (AMVIC)  
Gerald Gervais  
Director of Fair Trading (as Delegated)

GG/ks  
Encl.

cc: [REDACTED], Senior Manager of Investigations, AMVIC