

MotoRex Board of Directors 2005

CHMUN XIX

Crisis

Committee Background

The 1990's marked a boom in American car culture, especially around imported sports cars and tuner vehicles. Popularity grew for Japanese, European, and other foreign models that offered premium performance and customization options. Films like *The Fast and The Furious* showcased the trendy import tuner scene. However, many of these specialty vehicles did not meet U.S. regulations and were banned from import. Within this environment, a gray market emerged for companies willing to modify foreign market vehicles to try to get them EPA and DOT compliant. But the process was complex and expensive, limiting the availability of JDM (Japanese domestic market) cars. One company aimed to capitalize on America's growing demand for rare imports from Japan.

MotoRex USA was founded in 1991 by Hiroaki Nanahoshi as the official importer of Nissan Skyline GT-R models into the United States. The company worked to bring the high-performance Skylines into compliance with U.S. regulations by converting them to left-hand drive, installing emissions equipment, and crash testing them, allowing MotoRex to legally import the coveted Skylines that had been previously banned in the U.S. market. Initially, MotoRex successfully imported several hundred R32 and R33 Skyline GT-Rs from 1989-1998 by completing the required modifications and obtaining approval from the National Highway Traffic Safety Administration (NHTSA). However, in 1999, MotoRex attempted to import 240 R34 Skyline GT-Rs without properly converting them to comply with Federal Motor Vehicle Safety Standards (FMVSS). The company submitted falsified crash test data to the NHTSA in order to get import approval. The fraud went undetected for years until a whistleblower from inside MotoRex came forward in 2003 and reported the company to the NHTSA.

When the news broke, MotoRex executives initially claimed no wrongdoing and that the cars met all federal standards. However, federal investigation quickly uncovered that the crash test data was fabricated and the R34 Skylines did not actually meet safety and emissions standards. The public denial and lack of accountability from MotoRex executives further damaged the company's reputation. Many staff members resigned or were forced out of jobs as import approval was revoked and business dissolved. Founder Hiroaki Nanahoshi stepped down as CEO, citing health issues. Other senior

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leadership figures distanced themselves from the scandal. This discovery sent shockwaves through the tuner car community, as it meant hundreds of Skylines were now illegal contraband cars. It also nearly bankrupted MotoRex, as the company was fined over \$100,000 and forced to recall and export all 240 illegally imported R34s. The Skylines made up a major portion of MotoRex's business. Losing the ability to import and sell the lucrative R34 models ultimately led MotoRex to dissolve as a company in 2005.



Topic A: Restoring Released Cars' Import Status:

In the late 1990s, MotoRex USA illegally imported hundreds of specialty Nissan Skyline GT-R sports cars into the United States by falsifying required crash test data and compliance documentation. Considered rare and coveted foreign models, the high-performance Skylines did not originally meet Federal Motor Vehicle Safety Standards (FMVSS) for import eligibility.

MotoRex lied about completing the necessary modifications and submitted fabricated data to the National Highway Traffic Safety Administration (NHTSA) in order to get import approval. This resulted in over 240 R34 Skyline GT-R models being released into the U.S. market between 1999-2002, despite the cars clearly not meeting regulations. Enthusiasts eagerly purchased the specialty Skylines at premium prices through standard buyer-seller purchase agreements, unaware of the behind-the-scenes regulatory fraud committed by MotoRex. For several years, the company profited massively by exploiting the booming tuner car trend and demand for rare imports from Japan. However, when whistleblowers exposed MotoRex's unlawful import tactics in 2003, the NHTSA ordered an immediate recall of all 240 illegally sold R34 Skylines. But a recall was impossible, since the cars had already been resold and were now privately owned. This left scores of Skyline owners in a profoundly difficult position. Their vehicles physically resided in the U.S. but could not be legally registered or driven due to lacking proper import paperwork and compliance. The rare sports cars existed in regulatory limbo with no clear path forward. Making matters more complex, the Skylines could not feasibly be modified after purchase to meet FMVSS standards. Doing so would require entirely re-engineering things like the steering columns to switch them from right-hand to left-hand drive. The cost and effort would be astronomical for hundreds of vehicles. So in 2005, the dissolved MotoRex company and its Board of Directors now face an intricate web of regulatory and legal obstacles in trying to reinstate legitimate import status for the affected vehicles. The EPA, DOT, DMV, CBP and other agencies all have a stake in the matter in addition to the NHTSA.



One potential option is identifying a small number of Skylines that could feasibly be modified to comply with FMVSS after-the-fact and re-certifying those specific vehicles. However, the time and costs would be prohibitive for more than a token few cars.

Petitioning Congress to pass special amnesty legislation for all remaining affected vehicles is another avenue, but could set a concerning precedent. Alternatively, assisting owners in properly exporting the Skylines out of the U.S. to legalize them abroad also remains on the table.

In the end, the Board's decisions on how to untangle this regulatory mess will impact hundreds of enthusiasts and set precedents for years. Skyline owners anxiously wait for resolution after being caught in the middle of MotoRex's unlawful actions. Careful navigation of legal and ethical factors is required to lead as many cars back to road-legal status as possible.

Questions to Consider:

- What are the requirements to bring the Skylines into FMVSS compliance?
- How willing will the NHTSA and other governmental agencies be to help fix the situation?
- What precedent could be set by finding a path to amnesty for the vehicles?
- What are the pros and cons of exporting the cars out of the country?

Useful Links:

1. Importation and Certification FAQs
 - a. <https://www.nhtsa.gov/importing-vehicle/importation-and-certification-faqs>
2. WHY SKYLINES ARE ILLEGAL IN THE U.S.A. – THE MOTOREX SCANDAL
 - a. <https://fastandfuriousfacts.com/why-skylines-are-illegal-in-the-u-s-a-the-motorex-scandal/>
3. MotoRex Redux: An R33 GT-R Enters The Country Legally
 - a. <http://www.23gt.net/2015/10/motorex-redux-r33-gt-r-enters-country.html>



Topic B: Returning Debts Owed from Selling Illegal Skyline GT-Rs:

In the 1990s and early 2000s, demand for exclusive high-performance imports surged in the tuner car scene. Companies like MotoRex illegally imported restricted models by falsifying compliance documentation required by the National Highway Traffic Safety Administration (NHTSA). MotoRex's key product was the Nissan Skyline GT-R, importing over 240 vehicles between 1999-2002.

Amidst the dissolution of MotoRex in 2005, some overseas creditors have threatened litigation against the company's remaining assets and any revenues from liquidation. However, pursuing litigation abroad presents complex jurisdictional challenges. The Board must determine if any grounds exist to protect assets from foreign seizure or garnishment. They could petition American courts to block overseas lawsuits on the basis that alleged import agreement breaches occurred on U.S. soil. One option may be negotiating conditional non-pursuit agreements with certain lenders, pending defined repayment timelines. This could stall litigation threats while buyout plans are arranged. Some defrauded customers unaware of purchase invalidity have alternatively requested the Board assist with discretely re-exporting affected vehicles abroad to mitigate losses. The feasibility and legality of aiding re-exportation requires careful review. If possible, a partial refund pool could be reserved for consumers willing to forfeit titles and agree to confidential export assistance. Any re-exportation assistance would need approval from customs agencies like CBP.

Competitors like Rivsu, Kaizo, and M2K Motorsports engaged in similar unlawful tactics to import coveted models such as the Toyota Chaser, Nissan Silvia, and Mazda RX-7. However, most dissolved operations in the early 2000s amidst increased federal scrutiny over falsified compliance documentation. Some owners faced individual criminal charges. Remaining inventory was forcibly recalled or exported out of the country. Unlike MotoRex, few competitors took proactive steps to repay creditors or compensate defrauded customers. The lack of accountability from copycat importers further highlighted the need for MotoRex to handle debts ethically.



MotoRex secured overseas financing to acquire Skylines upfront, selling them in the U.S. for \$80,000-\$100,000 each and reaping huge profits. Buyers were oblivious to the regulatory fraud. When whistleblowers exposed MotoRex's schemes in 2003, the NHTSA mandated recall and export of all Skylines, shutting down operations. Now in 2005, with MotoRex dissolved, approximately \$5 million in debts remain. These debts include overseas lenders owed financing on unsellable cars, defrauded customers seeking refunds, vendors owed for modification work, government agencies with disposal costs, former investors, and employees owed compensation. With limited assets, repaying all creditors in full is impossible.

Questions to Consider:

- Which creditors should receive priority for repayment?
- What legal options exist to protect limited company assets?
- Could any grounds be found for debt dismissal or consolidation?
- How could remaining assets be maximized for dispersion?

Useful Links

1. 19 U.S. Code § 1618 - Remission or mitigation of penalties
 - a. <https://www.law.cornell.edu/uscode/text/19/1618>
2. Track Car Importing
 - a. <https://www.importavehicle.info/2016/01/track-car-importing-how-to-import-track.html>
3. A Tsunami of Nissan GT-Rs is heading for Monterey
 - a. <https://insider.hagerty.com/trends/a-tsunami-of-gt-rs-is-heading-for-monterey/#:~:text=In%20a%20turn%20of%20events,street%2Dlegal%20GT%2DRs.>



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