



Citation: **First Class Global Trade Ltd. v. Registrar under the *Motor Vehicle Dealers Act, 2002*, 2024 ONLAT MVDA 15736**

**Licence Appeal Tribunal File Number: 15736/MVDA**

Appeal from a Notice of Proposal of the Registrar under the *Motor Vehicle Dealers Act, 2002* (the "Act"), to refuse the registration of a motor vehicle dealer pursuant to s. 9 of the Act.

Between:

**First Class Global Trade Ltd o/a First Class Global Trade**

**Appellant**

-and-

**Registrar under the *Motor Vehicle Dealers Act, 2002***

**Respondent**

## **DECISION AND ORDER**

**ADJUDICATOR:** Laura Hodgson, Member

### **APPEARANCES:**

**For the Appellant:** Raymond Colautti, Counsel

**For the Respondent:** Jose Alvarez-De-Lugo, Counsel

**Heard by videoconference:** September 19, 2024

## OVERVIEW

- [1] First Class Global Trade Ltd appeals from a Notice of Proposal issued by the Registrar under the Act on February 28, 2024 (the “NOP”). The respondent proposes to refuse the registration of the appellant as a wholesale motor vehicle dealer.
- [2] The appellant appeals the NOP pursuant to s. 9(2) of the Act. Mr. Mohamed Naasani is the sole director, officer and shareholder of the appellant corporation. He submits that there is no evidence of financial irresponsibility or that, based on past conduct, he will not carry on business in accordance with the law and with integrity and honesty.

## ISSUES

- [3] The issues to be decided are:

**Issue 1;** Has the respondent established that having regard to the financial position of Mr. Naasani, the appellant cannot reasonably be expected to be financially responsible in the conduct of its business?

**Issue 2;** Has the respondent established that Mr. Naasani’s past conduct affords reasonable grounds for belief the appellant will not carry on business in accordance with the law and with integrity and honesty?

## RESULT

- [4] Based on all the evidence, I find the respondent has established there is reason to believe that the appellant will not be financially responsible in the conduct of business. For the reasons set out below, I confirm the NOP to refuse registration.

## EVIDENCE AND ANALYSIS

### **Issue 1: The appellant cannot reasonably be expected to be financially responsible in the conduct of its business**

- [5] Under section 6(1)(d)(ii) of the Act the respondent can refuse registration if “having regard to the financial position of its officers or directors or an interested person in respect of its officers or directors, the applicant cannot reasonably be expected to be financially responsible in the conduct of its business”.

- [6] The respondent submits that based on Mr. Naasani's failure to make any payments of a fine owed to the respondent following a 2014 discipline decision, his declaration of bankruptcy in 2015 and his current financial position, he can not reasonably be expected to be financially responsible in the conduct of his proposed business.
- [7] Mr. Naasani was first registered as a dealer under the Act in 1994. In October of 2014, the respondent issued a discipline decision finding that Mr. Naasani violated regulatory obligations including failing to make material fact disclosures on numerous bills of sale. The appellant was ordered to pay a fine of \$17,100.00 payable in four installments with the first installment due on January 1, 2015.
- [8] No payments were ever made and a Notice of Proposal to revoke registration was issued and came into effect in May 2015. There was no appeal to this Tribunal from the Notice of Proposal.
- [9] On April 30, 2015, Mr. Naasani filed an assignment in bankruptcy. His total debts were \$189,002.00 which included \$90,000.00 owed to the Canada Revenue Agency. Mr. Naasani was discharged from that bankruptcy on January 31, 2016.
- [10] Mr. Naasani applied for his new company, First Class Global Trade, to be registered as a dealer in June of 2019. Mr. Naasani was required to reapply in October 2019 and then again in June of 2022.
- [11] There were various reasons for the multiple applications and delay, including Mr. Naasani being unwell for a short period and providing incomplete answers and illegible or redacted documentation. Delay in processing the new application also resulted from confusion with respect to monies allegedly owed by Mr. Naasani. On January 12, 2020, while processing his application, the respondent was advised by the Ministry of Finance that Mr. Naasani owed \$165,765.46 in unremitted Retail Sales Tax. It was not until November 26, 2021, that the respondent received confirmation from the Ministry that, following the issuance of the certificate of discharge from bankruptcy in January of 2016, the debt was no longer collectable. It was many months later that the respondent advised the appellant that, because the unpaid tax debt was deemed uncollectable, the new application could proceed.
- [12] There was further delay relating to confusion about the fine imposed on Mr. Naasani by the respondent following the 2014 discipline decision. It appears that the respondent initially took the position that the fine remained outstanding because it was not included in Mr. Naasani's list of debts at the time of bankruptcy. As early as December 10, 2019, Mr. Naasani's trustee in bankruptcy provided confirmation that, although the respondent was not listed as a creditor on the Statement of Affairs, the debt was dischargeable as it occurred prior to the date of bankruptcy (April 30, 2015). The trustee in

bankruptcy again clarified this in correspondence to the respondent in October of 2023. The appellant's frustration with the delays in the application process and the confusion with respect to his alleged debts is understandable. It is not however germane to the issues of this appeal.

- [13] In his application for registration and before the Tribunal, Mr. Naasani indicated that he declared bankruptcy because of the large fine he owed the respondent. As noted, the fine owed to the respondent was not one of the debts listed by the appellant on his statement of affairs at the time of bankruptcy. In his testimony Mr. Naasani also stated that his divorce proceedings and an error made by the Ministry of Finance required him to declare bankruptcy.
- [14] According to his registration documentation, following his bankruptcy Mr. Naasani was unemployed for over seven years. Although Mr. Naasani provided no evidence with respect to current employment or income, a senior registration officer with the Ontario Motor Vehicle Industry Council (OMVIC) testified that, in the spring of 2023, she assisted Mr. Naasani in registering as a salesperson under the Act. She believed he planned to work with a registered dealership.
- [15] In the final Business Plan provided with his application to be a dealer, the appellant indicated that he planned to finance his business with credit from his personal credit card and via a personal line of credit. The last documentation provided to the respondent indicated a credit card debt of \$4,000.00. At the time of his application, Mr. Naasani did not have an accountant.
- [16] Before the Tribunal, the respondent did not argue that monies from the 2014 fine were still owed by Mr. Naasani. In the respondent's submission, the fact that the appellant did not start his fine repayment prior to declaring bankruptcy and has now failed to demonstrate that he is in a financially responsible position precludes him from registration as a dealer under the Act.
- [17] According to the appellant, the respondent cannot consider Mr. Naasani's 2014 disciplinary fine and prior bankruptcy on his new application. To do so, it is argued, would thwart Mr. Naasani's efforts to reestablish himself. The appellant submits that, because of the discharge from bankruptcy, the respondent must consider that Mr. Naasani has complied with the 2014 disciplinary decision and is now financially stable.
- [18] There is no basis for the respondent or this Tribunal to not consider, among other things, that Mr. Naasani failed to pay any installment of the 2014 fine imposed by the Respondent and then, in 2015, declared bankruptcy. Before the tribunal, Mr. Naasani failed to fully explain his financial history or take responsibility for prior financial missteps. The evidence of his failure to make

any payment toward the fine owed and his declaration of bankruptcy establishes that Mr. Naasani was not previously financially responsible in the conduct of business.

[19] Mr. Naasani's current financial position also does not establish that the appellant company can reasonably be expected to be financially responsible in the conduct of business. Mr. Naasani presented no evidence of steps he plans to take to avoid financial issues in the future or to assist with the financial management of his new business. There is no evidence of any recent employment or supervised experience in effectively managing financial transactions. Lastly, Mr. Naasani's financial plan, which fully relies on his personal credit card (to which monies are currently owed) and his personal line of credit also raise concerns with respect to Mr. Naasani's current financial position.

[20] In all the circumstances, Mr. Naasani's financial history, his lack of insight into prior financial errors and his current financial position establish that the appellant cannot reasonably be expected to be financially responsible in the conduct of business. The respondent has established the appellant is not entitled to registration pursuant to section 6(1)(d)(ii) of the Act.

**Issue 2: Past conduct of Mr. Naasani does not afford reasonable grounds for belief that the appellant's business will not be carried on in accordance with the law and with integrity and honesty**

[21] Under section 6(1)(d)(iii) of the Act, the respondent can refuse registration if past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law, with integrity and with honesty. The respondent submits that because of the Mr. Naasani's prior discipline proceedings in 2014, the appellant's business is disentitled to registration under this subsection.

[22] The respondent has failed to establish reasonable grounds for belief that the appellant will not carry on business in accordance with the law and with integrity and honesty. While I do not accept the appellant's explanation that the prior discipline related to "clerical errors", I also do not accept that the 2014 discipline decision addressed issues with Mr. Naasani's integrity and honesty. The 2014 decision states that Mr. Naasani failed to comply with his regulatory obligations, but his conduct did "not cross the threshold into disgraceful conduct". Further, in considering Mr. Naasani's past conduct, I note that in the decade prior to the 2014 disciplinary proceeding there were no customer complaints or disciplinary action against him.

[23] In his application materials to the respondent, Mr. Naasani indicated that he now fully understands his obligations under the legislation and has completed the OMVIC Dealer Certification Course.

- [24] In all the circumstances, I do not find that the respondent has established reasonable grounds for belief that the appellant business will not be carried on in accordance with the law and with integrity and with honesty.

**CONCLUSION and ORDER**

- [25] After fully considering the past and present financial position of Mr. Naasani I conclude that the respondent has established that the appellant cannot reasonably be expected to be financially responsible in the conduct of business according to s. 6(1)(d)(ii) of the Act.
- [26] Pursuant to s. 9(5) of the Act, the Tribunal directs the Registrar to carry out its proposal to refuse the registration of the appellant.

**Released:** October 16, 2024



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**Laura Hodgson**  
Adjudicator