



Citation: Leon's Fine Cars Inc. and Lev Babekov v. Registrar, *Motor Vehicle Dealers Act, 2002*, 2026 ONLAT 17136

Licence Appeal Tribunal File Number: 17136/MVDA

In the matter of an appeal from a Notice of Proposal to Revoke Registrations issued by the Registrar pursuant to the *Motor Vehicle Dealers Act, S.O. 2002, c. 30, Sch. B*

Between:

Leon's Fine Cars Inc. and Lev Babekov

Appellants

And

Registrar, *Motor Vehicle Dealers Act, 2002*

Respondent

DECISION AND ORDER ON MOTION TO STAY PENDING APPEAL

ADJUDICATOR: Laura Hodgson

APPEARANCES:

For the Appellants: Justin Jakubiak, Counsel

For the Respondent: Rishi Nageshar, Counsel

Held by videoconference: May 7, 2026

BACKGROUND

- [1] This is a motion brought by Lev Babekov (“Babekov”) and Leon’s Fine Cars Inc. (the “dealership”) (collectively referred to as the “appellants”) for a stay of the Tribunal’s order dated April 14, 2026, pending an appeal of that order.
- [2] The order directed the Registrar, *Motor Vehicle Dealers Act, 2002* (the respondent) to carry out its proposal to revoke the appellants’ motor vehicle salesperson and dealership registrations. The Tribunal found that the respondent had established that the appellants’ past conduct afforded reasonable grounds for belief that the appellants will not carry on business in accordance with the law and act with honesty and integrity. It was determined that public interest could not be adequately protected by attaching terms and conditions to the registration. The misconduct related to the transfer of six luxury vehicles to the dealership that had been either exported or reported stolen. Babekov was found to have furnished and falsified documents when transferring the vehicle ownership.
- [3] On April 16, 2026, the appellants filed an appeal of this order to the Ontario Superior Court of Justice, Divisional Court, under s. 11 of the *Licence Appeal Tribunal Act, 1999*, S.O. c.12, Sch. G.
- [4] The appellants now seek a stay of the order pending appeal pursuant to s. 9(9) of the *Motor Vehicle Dealers Act, 2002*, S.O. c. 30 (the “MVDA”), which provides that an order of the Tribunal takes effect immediately, “but the Tribunal may grant a stay until the disposition of the appeal.”
- [5] The respondent opposes the appellants’ request for a stay.

ISSUE

- [6] The issue to be determined is whether the order should be stayed pending the disposition of the appeal.

RESULT

- [7] For the reasons that follow the stay is granted with conditions.

PRELIMINARY ISSUES

Recording of Proceeding

- [8] The respondent requested permission to record the proceedings. Because the motion hearing was scheduled with relatively short notice, the respondent did not, pursuant to Rule 13.3 of the *Licence Appeal Tribunal Rules, 2023*, seek permission of the Tribunal at least 10 days before the hearing. The appellants had no objection to the respondent recording the hearing.
- [9] I granted the respondent's request to record. Pursuant to Rule 13.3, the recording does not become part of the Tribunal's record of the hearing, and the respondent must provide a copy to the appellants.

Request to exclude Supplementary Affidavit

- [10] The respondent requested that the appellants' "Supplementary Affidavit of Lev Babekov" dated May 4, 2026, not be considered by the Tribunal. The respondent submits that it would be unfair to permit the appellants to submit additional evidence after receiving the respondent's submissions. This, in their view, permits the appellants to tailor their evidence to address concerns outlined in the respondent's submissions.
- [11] In the appellants' submission, the supplementary affidavit was filed in compliance with the Tribunal's directions with respect to this motion. The appellants noted that the Tribunal's directions, an email from Vice Chair Campbell dated April 22, 2026, stipulated, "The reply submissions shall be no longer than 3 double-spaced pages in length, exclusive of evidence and authorities." This, they submit indicates both reply submissions and evidence were contemplated. Further, the appellants note, the Tribunal should have the benefit of all available information to make its decision.
- [12] I declined to exclude the appellants' supplementary affidavit. It was filed in compliance with the Tribunal's directions. There was no suggestion that the evidence is not relevant to the issues on this motion. The respondent is entitled to cross examine the affiant to test the reliability of his evidence but have chosen not to. A full evidentiary record will assist the Tribunal in reaching its decision and serves the interests of justice.

ANALYSIS

- [13] The legal requirements for a stay pending appeal are well settled and are not in dispute: a) Is there a serious issue to be tried? (b) Will the applicant suffer irreparable harm if the order is not granted? (c) Where does the balance of convenience lie? (*RJR-MacDonald Inc. v. Canada (Attorney General)*, 1994 CanLII 117 (SCC)). The jurisprudence also states that no one of these factors is determinative and the overarching question is whether it is in the “interests of justice” to grant a stay (*BTR Global Opportunity Trading Limited v. RBC Dexia Investor Services Trust*, 2011 ONCA 620, 283 O.A.C. 321, at para. 16).

There is a Serious Issue to Be Tried

- [14] At this stage there is only a preliminary assessment of the merits of the appeal (*Platinum Cars Inc. v. Registrar, Motor Vehicle Dealers Act*, 2024 CanLII 2077 (ONSC)). The Supreme Court stated in *RJR*, that a “prolonged examination of the merits is generally neither necessary nor desirable” on this kind of motion. Parties agreed that the threshold is low, and the appeal must be neither frivolous nor vexatious.
- [15] In their Notice of Appeal to the Divisional Court, the appellants allege various grounds of appeal including that the Tribunal failed to give meaningful consideration to the alternative of suspension, and that the Tribunal erred in its application of the “reasonable grounds for belief” standard under sections 6 and 9 of the MVDA.
- [16] The respondent submits that the appellants have failed to meet the necessary threshold. It asserts that the appellants have only pointed to vague general grievances. In its submission, the Tribunal appropriately considered alternatives to revocation and there was no error in application of the legislation.
- [17] After reviewing the Tribunal’s reasons and the Notice of Appeal and applying an extremely limited review of the case on its merits, I find the appellants have satisfied this relatively low threshold. The Notice of Appeal has specified arguable grounds of appeal, and the appeal is neither vexatious nor frivolous. It is not my role to determine the likelihood of success or failure of the appeal. In the circumstances here, the appellants have cleared the low bar to establish that there is a “serious issue to be tried”.

Irreparable Harm Established

- [18] Irreparable harm is the sort of harm that “either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other.” It is the nature of the harm that is to be considered, not its magnitude (*RJR supra* at p.341). Evidence of irreparable harm must be clear and not speculative and supported by evidence (*Carrasco v. College of Massage Therapists of Ontario, 2025 ONSC 4581 (CanLII)* at par 44).
- [19] The appellants rely on the affidavit and supplementary affidavit of Babekov with supporting documentation to submit that, unless a stay is granted, there will be irreparable harm. There is, they assert, a substantial risk of insolvency or bankruptcy before the appeal is heard, rendering the appeal practically moot. Additionally, there will be an irreparable loss of reputation and goodwill.
- [20] Babekov provided evidence of the dealership’s current line of credit balance of \$714,807.70 owing and its current chequing account balance of \$5525.87. In his affidavit he also itemized the dealership’s ongoing fixed expenses. The affidavit specifies that, without a stay the dealership will be compelled to liquidate its inventory through wholesale auction. This, Babekov asserts means that vehicles will be sold at “distress or below market prices” thus materially impairing the appellants’ ability to satisfy its financial obligations. According to his affidavits Babekov has no material income “sufficient to service the dealership’s obligations or preserve it as a going concern.” He also states that there will be irreparable harm in the form of lost reputation and customer goodwill.
- [21] In the respondent’s submission the appellants have not established permanent and non compensable harm will occur. It refers to the appellant’s evidence of irreparable harm as “bald assertions”. It characterizes the appellants’ motive as profit maximization rather than preservation of the dealership pending appeal. It disputes some of the appellants’ listed expenses and argues that there is no evidence that the dealership can not remain afloat pending disposition of the appeal. It also asserts that the appellants’ statement that there are no other income sources is “just a statement”. Lastly, in the respondent’s view any loss of customer confidence or reputation is shaped by the Tribunal’s findings not the appellants’ ability to operate pending appeal. Also, the loss of returning customers in the luxury vehicle industry during the short appeal period is not a significant consideration.
- [22] I am satisfied that the appellants have, on a balance of probabilities, established that they will be unable to maintain the dealership and will

therefore suffer irreparable harm if the stay is not granted. I am satisfied that the appellants' evidence establishes irreparable financial harm that would not be curable through a damages award. I disagree with the respondent's characterization of the appellants' motives as profit maximization rather than survivability. The appellants have established that unless a stay is granted, if their appeals are successful, they will not be able to recover their financial losses.

- [23] The appellants provided specific and concrete evidence with respect to its ongoing expenses. They are not bald assertions. I appreciate that the respondent disputes the quantification of certain expenses. In oral submissions the appellants acknowledged that, while some of the expenses (maintenance and utilities) could be reduced if the business is not operational pending appeal, most itemized expenses remain ongoing. It provided evidence of a significant line of credit and low funds in its business account. I accept the appellants' evidence that, even if it sells its vehicles at an auction, it will be difficult to cover ongoing fixed expenses or pay its debts. I also accept the appellants' evidence that it has no other material income sources to preserve the dealership during the appeal period. The respondent chose not to challenge the appellants' evidence through cross examination and provided no affidavit evidence to the contrary.
- [24] I agree with the respondent that any reputational harm or loss of good will does not amount to irreparable harm here. Any harm to the appellants' reputation or customer confidence flows from the Tribunal's findings not from an inability to operate pending appeal. As noted in *Carrasco supra* at 43, reputational harm is not irreparable but is addressed by "vindication on appeal". I also agree with the respondent that nonoperation during the relatively short appeal period would likely not, in the luxury car business, result in lost repeat customers.
- [25] In summary, I accept that it was established on the balance of probabilities that, if the stay is not granted and the appeal is successful, the appellants will suffer irreparable harm in that they will experience financial loss that will not be recoverable. The appellants have demonstrated that there is a real risk that there will be disastrous consequences beyond financial loss or inconvenience.

Balance of Convenience Favours the Stay being granted

- [26] This branch of the test requires the weighing of the interests of the appellants against the public interest. The MVDA is consumer protection legislation. The appellants' registrations have been revoked on the basis that the past conduct affords reasonable grounds to believe that they will not conduct business with honesty, integrity or in accordance with the law. In directing the Registrar to carry out its proposal, the Tribunal found that there was a direct nexus between the misconducts and the appellants' business as a motor vehicle salesperson and dealership and that Babekov demonstrated a lack of insight, honesty and integrity.
- [27] The appellants submit that any public interest concerns can be addressed through interim conditions during the appeal process and suggests third party compliance monitoring, temporary registration as wholesale dealer only and a limited stay period. It asserts that monitoring by a third party, at the appellants' expense, could appease any concerns with respect to regulatory compliance during the appeal period. Changing the dealership registration to wholesale would limit direct consumer contact in this period yet still permit the appellants to sell vehicles and maintain the dealership. Lastly, imposing a time limit will ensure the appeal is pursued with diligence. The appellants highlighted that this is not a case of continued non-compliance with the MVDA or ongoing consumer harm. The appellants have held their registrations for 24 years with, besides the current matter, only one regulatory infraction in 2022. The current misconduct they assert was a serious, but one time event triggered by a third party.
- [28] The respondent submits that public interest outweighs any harm to the appellants because the misconducts are on the far end of the spectrum of seriousness and public interest requires that the stay be denied. The respondent asserts that no conditions could alleviate the risk to the public. The respondent noted that there was no evidence provided that any of the proposed third-party monitoring companies were available to provide their services here. Additionally, they submit that, given the appellants' lengthy history in the industry the misconducts are not a matter of inexperience or inability that would benefit from third party monitoring or a change in registration classification. Rather, it submits the behaviour at issue was simply fraudulent and tied to integrity and honesty. The respondent also asserts that public confidence in the MVDA regulatory process requires the revocation ordered not be stayed.
- [29] In support of its position, the respondent relies on the decision of the Divisional Court in *Platinum Cars*, supra, where the court concluded that public interest outweighed the financial harm that the appellants would experience if a stay was

not granted. I find this case is distinguishable. There, the court found that the respondent had established, through affidavit evidence, that the appellant had continued to advertise after their registrations were revoked and had failed to comply with prior orders. This type of ongoing issues of governability is not at play here.

[30] I also disagree that confidence in the regulatory process requires that the stay be denied. Section 9(9) of the MVDA specifically permits this Tribunal to grant a stay until the disposition of the appeal. When the fairness and integrity of the appeal process require a stay for the appeal period there should be no loss of public confidence in the process.

[31] I do agree with the respondent that, in the circumstances here, public interest is a significant concern. While there was no ongoing noncompliance or customer complaints, the nature of the misconduct is very serious. Babekov furnished and falsified documents regarding the trade of six motor vehicles. In its reasons, the Tribunal specifically found that there was consumer harm given one of the vehicles involved had previously been stolen from a residence and none of the vehicles transferred to the dealership were legitimate.

[32] I find, however, that conditions could adequately protect the public during the limited period of the appeal process. Public interest can be protected by imposing conditions requiring third party monitoring, changing the dealership classification to wholesale and limiting the stay period. Third party monitoring will, among other things, ensure the appellants maintain all books and records as required by the MVDA. Clearly, if as the respondent suggests, there is no available third party to monitor the appellants, a party would bring a motion to have the matter return before the Tribunal. Temporarily changing the dealership classification to wholesaler would limit the appellants interactions to other registrants rather than the consumer public. Lastly, limiting the stay period will help ensure the appeal proceeds expeditiously. Given the public can be protected by the imposition of conditions, the balance of convenience weighs in the appellants' favour.

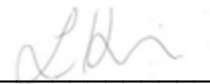
Conclusion

[33] The first two branches of the test favour the granting of the stay. While the misconduct at issue is serious, I find that, with conditions, the public interest can be protected and therefore, the balance of convenience branch of the test also favours the granting of the stay.

ORDER

- [34] Pursuant to s. 9(9) of the MVDA, the Tribunal's Order dated April 14, 2026, is stayed pending the disposition of the appeal filed by the appellants to the Divisional Court, subject to the following terms and conditions.
- a. During the period of the stay, the dealership shall only be registered within the "Wholesaler" class of registration as defined by Ontario Regulation 333/08 under the MVDA.
 - b. The appellants shall retain and pay for an independent OMVIC approved compliance consultant. Their mandate shall include:
 - i. Verifying provenance and ownership status of each vehicle before disposition;
 - ii. Reviewing any retail bill of sale completed during this period;
 - iii. Ensuring the maintenance of complete deal files and records; and
 - iv. Reporting regularly and directly to OMVIC.
 - c. This stay is granted for a period of nine months from the date of this decision. During that time, the appellants shall perfect the appeal and take all necessary steps to ensure a hearing before the Divisional Court is scheduled as soon as is reasonably possible. At the end of nine months, the stay may be extended either on consent of the parties or on motion by the appellants.

Released: May 20, 2026



**Laura Hodgson
Adjudicator**