



Citation: Srivamathevan Namasivayam and 2443818 Ontario Limited v. Registrar, *Motor Vehicle Dealers Act, 2002*, 2025 ONLAT MVDA 17407

Licence Appeal Tribunal File Number: 17407/MVDA

In the matter of an appeal from a Notice of Proposal to Revoke Registrations under section 9 of the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Sch. B (the "Act"), and an Immediate Temporary Suspension Order issued under section 10 of the *Act*.

Between:

Srivamathevan Namasivayam and 2443818 Ontario Limited o/a Babi Used Cars

Appellants

And

Registrar, *Motor Vehicles Dealers Act, 2002*

Respondent

DECISION and ORDER

VICE-CHAIR: Jeffery Campbell

APPEARANCES:

For the Appellant: Srivamathevan Namasivayam, Director

For the Respondent: Rishi Nageshar, Counsel

Heard by Teleconference: August 7, 2025

OVERVIEW

- [1] On July 7, 2025, the Registrar under the *Act* (the “Registrar”) issued a Notice of Proposal to Revoke Registration (“NOP”) under s. 9 of the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Sch. B (the “*Act*”) and an Immediate Temporary Suspension Order (“ITSO”) under s. 10 of the *Act*. Both the NOP and the ITSO were issued to Srivamathevan Namasivayam and 2443818 Ontario Limited o/a Babi Used Cars (collectively the “Appellants”) with respect to their registrations as a motor vehicle salesperson and as a motor vehicle dealer.
- [2] On July 23, 2025, the Appellants appealed the NOP to the Licence Appeal Tribunal (the “Tribunal”).
- [3] Srivamathevan Namasivayam (“Mr. Namasivayam”) is the sole director of 2443818 Ontario Limited o/a Babi Used Cars.
- [4] The hearing of the appeal commenced on August 7, 2025.

Extension of the ITSO

- [5] I find that the ITSO should be extended pursuant to section 10(3) of the *Act* until the conclusion of the hearing.
- [6] Under subsection 10(3)(a) of the *Act*, an ITSO expires 15 days after the Tribunal receives a written request for a hearing under section 9 of the *Act* unless the Tribunal extends the time of expiration until the hearing is concluded.
- [7] The Registrar bears the onus to establish that it is in the public interest that the ITSO be extended pending the outcome of the hearing of the appeal of the NOP. To satisfy its onus, the Registrar must establish that the conduct on which it relies occurred and forms a reasonable basis for the NOP and that the nature of the conduct and the circumstances are such that it is a matter of public interest that the registration remain suspended pending the outcome of the NOP hearing.
- [8] The respondent requests an extension of the ITSO until the hearing is concluded.

[9] The appellants oppose the extension of the ITSO.

Non-Compliance with s. 14 of the Act

[10] At the hearing, the Registrar submitted that the Appellants are in non-compliance with s. 14 of the *Act*. The Registrar submits that the Appellants have failed to respond to repeated requests from the Ontario Motor Vehicle Industry Council (“OMVIC”) for information in relation to a complaint received on January 24, 2025. The Registrar advised that those requests were sent to the Appellants via email on January 31, 2025, March 20, 2025, and April 3, 2025.

[11] Section 14(1) to (3) of the *Act* states:

(1) If the registrar receives a complaint about a registrant, the registrar may request information in relation to the complaint from any registrant.

(2) A request for information under subsection (1) shall indicate the nature of the complaint.

(3) A registrant who receives a written request for information shall provide the information as soon as practicable.

[12] The Registrar submits that, as the Appellants failed to respond to those requests, on July 7, 2025, it issued both the NOP and the ITSO.

[13] In the Appellants’ Notice of Appeal (“NOA”), the Appellants state that “they had no knowledge of the communications sent by OMVIC from January to April, 2025, until they received the NOP on July 10, 2025” and that “Mr. Namasivayam is not proficient with computer systems or email”. The Appellants further state that “upon receiving the NOP and the ITSO, Mr. Namasivayam’s son assisted in locating these emails...”.

[14] The NOA also states that “[Mr. Namasivayam’s] lack of response was not deliberate, but rather a result of lack of awareness and technical limitations.”

[15] The Registrar submits that, in the month since the issuance of the NOP and the ITSO, the Appellants have yet to provide the requested information, nor have they indicated any intention to do so.

[16] Mr. Namasivayam testified that, after receiving the NOP and ITSO, it was

then that he became aware of the request for documentation. However, he did not contact OMVIC or the Registrar at that time, but did speak with a lawyer from OMVIC who advised him to obtain counsel. He continued to fail to respond to the emails from OMVIC requesting the documentation.

- [17] Testifying on behalf of his father, Mr. Namasivayam, Babishankar Srivamathevan (“Mr. Srivamathevan”) stated that he often assists his father with the business, mainly driving and helping move cars; applying to an auction; data entry; and with emails. He testified that, on behalf of his father, he responded to an email from OMVIC dated April 23, 2025 with respect to a requested inspection which was later cancelled. However, he did not see nor was aware of the email of April 3, 2025 requesting information regarding the complaint of January 24th.
- [18] Mr. Srivamathevan testified that, after becoming aware of the NOP and the ITSO, he assisted his father with the appeal to the Tribunal. He did not assist with the production of the requested documentation.
- [19] The Registrar submits that the *Act* is public protection legislation and s. 14 of the *Act* is intended to enhance the Registrar’s governability and ability to protect the public in its investigation of complaints. Without compliance to s. 14, the Registrar is unable to determine the merits of complaints. The Registrar submits that the Appellants failed to respond to its s. 14 requests for information regarding the complaint of January 24, 2025, up until July 7, 2025. Even more importantly, they have failed to comply with those requests since the NOP and the ITSO, which they received on July 10, 2025.
- [20] The Registrar directed the Tribunal to *Kilian v. Ontario College of Physicians and Surgeons*, 2025 ONSC 2829 in which the Divisional Court found that, in spite of Dr. Kilian’s refusal to provide requested documentation to the OCPS regarding an investigation, Dr. Kilian was nevertheless required to comply with that request. In paragraph 94, the Divisional Court stated:
- “The College has a duty to regulate physicians in the public interest and to protect patients. The College cannot effectively do so without physicians complying with their duty to cooperate. When physicians fail to cooperate with the College, the safety of patients and the public is endangered.”
- [21] The Registrar suggests that the same principle applies in this present situation. I agree. While I am not convinced that the Appellants have

intentionally refused to comply with requests for documentation (as in the case in *Kilian*), I find based on both the Notice of Appeal and the testimony at this hearing that the Appellants have, in the very least, neglected to comply with those requests. This prevents the Registrar from conducting the investigation concerning the complaint against the Appellants, which, in turn, compromises their mandate to regulate in the public interest.

[22] I note that the Appellants have failed to produce the requested documentation even after the issuance of the NOP and the ITSO. I also note that the Appellants did not provide any indication or assurance that the requested documentation will be forthcoming. Based upon that continued lack of compliance with s. 14 of the *Act*, I find that the extension of the ITSO is justified and is in the public interest.

Conclusion

[23] In my view, it is in the public interest that the ITSO remain in effect until the conclusion of the NOP appeal.

ORDER

[24] The ITSO is extended pursuant to section 10(3) of the *Act* until the conclusion of the hearing.

[25] The hearing is adjourned and will proceed with a case conference to be scheduled by the Tribunal.

[26] I am not seized of this matter.



Jeffery Campbell

Vice-Chair

Released: 21 August, 2025