



**Citation: True Motorway Sales and Service Inc, Shergill, and Shergill v. Registrar,  
Motor Vehicle Dealers Act, 2002, 2023 ONLAT MVDA 14332**

**Licence Appeal Tribunal File Number: 14332/MVDA**

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

Between:

**True Motorway Sales and Service Inc, Amndeeep Singh Shergill, and Mandeep  
Singh Shergill**

**Appellants**

and

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

**Respondent**

## **DECISION**

**VICE-CHAIR: Geoff Pollock**

### **APPEARANCES:**

For the Appellants: Amndeeep Singh Shergill and Mandeep Singh Shergill,  
Self-represented

For the Respondent: Vlad Bosis, Counsel

**Heard by Videconference: February 21 and 22, 2023**

## BACKGROUND

- [1] On September 30, 2022, the Registrar, *Motor Vehicle Dealers Act, 2002* (the “Respondent”) issued a Notice of Proposal (“NOP”) to Revoke the Registrations of True Motorway Sales and Service Inc. (“Motorway”), Amndeeep Singh Shergill (“Amndeeep”), and Mandeep Singh Shergill (“Mandeep”).
- [2] Amndeeep and Mandeep are brothers. They are both officers and directors of Motorway. Motorway is registered as a motor vehicle dealership under the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Sch. B. (the “Act”). Amndeeep and Mandeep are registered as motor vehicle salespersons under the Act.
- [3] The Respondent alleges that the past conduct of Amndeeep and/or Mandeep affords reasonable grounds for belief that they will not carry on business in accordance with law and with integrity and honesty and are therefore disentitled to registration pursuant to s. 6(1)(a)(ii) of the Act. As Amndeeep and Mandeep are the only shareholders and are the sole officers and directors of Motorway, they are “interested persons”, within the meaning of s. 6(4)(a-c) of the Act: As the sole shareholders, each has a beneficial interest in each other’s business. As the two officers and directors each may exercise control (directly, or indirectly) over the other person, and presumably either through shareholder loans, retained earnings, or due to shareholders each may have provided (directly, or indirectly) financing for the other person’s business. Therefore each of their past conduct must be considered when determining the other’s entitlement to registration under s. 6(1)(a)(ii) of the Act.
- [4] The Respondent alleges that the past conduct of Amndeeep and/or Mandeep affords reasonable grounds for belief that Motorway’s business will not be carried on in accordance with the law and with integrity and honesty and that Motorway is therefore disentitled to registration pursuant to s. 6(1)(d)(iii) of the Act.
- [5] The Respondent also alleges that Amndeeep, Mandeep and Motorway are in breach of a condition of their registrations and are disentitled to registration pursuant to s. 6(1)(f) of the Act.
- [6] On October 11, 2022, Amndeeep, Mandeep and Motorway appealed the Notice of Proposal to the Licence Appeal Tribunal (the ‘Tribunal’).

## **PRELIMINARY ISSUES**

### **ADMISSION OF ALLEGATIONS IN NOTICE OF PROPOSAL**

- [7] At the case conference on December 7, 2022, the Appellants admitted to the allegation contained in paragraphs 1-15 in the NOP. Paragraphs 1-7 of the NOP deal with the status of the Appellants as licensees, Amndeeep and Mandeep's status as directors of Motorway and the terms and conditions of registration. Paragraphs 8-15 (which are laid out in detail at para. 16 of this decision), deal with misconduct. At the start of the hearing, the Appellants confirmed that they admitted to the allegations 1-15 in the NOP.

### **ISSUE TO BE DETERMINED**

- [8] The first issue is whether the past conduct of Amndeeep and/or Mandeep affords reasonable grounds for belief that they will not carry on business in accordance with law and with integrity and honesty thereby disentitling either of them or both of them to registration pursuant to s. 6(1)(a)(ii) of the Act.
- [9] The second issue is whether the past conduct of Amndeeep and/or Mandeep affords reasonable grounds for belief that Motorway's business will not be carried on in accordance with the law and with integrity and honesty thereby disentitling Motorway to registration pursuant to s. 6(1)(d)(iii) of the Act.
- [10] The third issue is whether Amndeeep, Mandeep and/or Motorway is in breach of a condition of registration and are thereby disentitled to registration pursuant to s. 6(1)(f) of the Act.
- [11] If I find that Amndeeep, Mandeep and/or Motorway are disentitled to registration, then the fourth issue I must determine is whether registration should nonetheless be ordered in the circumstances and whether conditions should be attached.

### **RESULT**

- [12] For the reasons set out below, the appeal is dismissed. The Respondent has established that the past conduct of the Amndeeep and Mandeep affords reasonable grounds for belief that the appellants will not carry on business in accordance with the law and act with honesty and integrity. The public interest cannot be adequately protected by attaching terms, or conditions to the licence. I therefore direct the Registrar to carry out its NOP to revoke the registrations of the Appellants under the Act.

## ANALYSIS

### *The past conduct of Amndeeep and Mandeep*

- [13] I am satisfied that the past conduct of Amndeeep and Mandeep affords reasonable grounds for belief that they will not carry on business in accordance with law and with integrity and honesty. Further, I am also satisfied that the past conduct of Amndeeep and Mandeep affords reasonable ground for belief that Motorway's business will not be carried on in accordance with the law and with integrity and honesty.
- [14] To establish that the appellants are disentitled to registration, the onus is on the Respondent to prove reasonable grounds for belief. The Respondent does not have to show that the appellants' past conduct makes it more likely than not that the business will not be carried out as required, but only that its belief to that effect is based on more than mere suspicion and on compelling and credible information: see *Ontario (Alcohol and Gaming Commission of Ontario) v. 751809 Ontario Inc.*, 2013 ONCA 157 at paras. 18-19; and *Mugesera v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para. 114.
- [15] Further, the Respondent must also show that there is a nexus between the past conduct and the appellants' ability to conduct business under the Act serving the interests of the public: see *CS v. Registrar, Real Estate and Business Brokers Act, 2002*, 2019 ONSC 1652 at para. 32.
- [16] As set out in para. 7 above, Amndeeep and Mandeep admitted to the following allegations contained in the NOP:
- a. Amndeeep on behalf of Motorway, sold a vehicle to consumer CT. Contrary to O. Reg. 333/08, (the "Regulation") s. 42 and the conditions of registration, the following facts about the vehicle were not disclosed to the consumer:
    - i. The vehicle sustained collision damage estimated in excess of \$3,000 and the vehicle was declared by an insurer to be a total loss.
    - ii. Subsequently, Amndeeep falsified the bill of sale by adding to it some of the information that had not been previously disclosed to the consumer.

- b. Amndeeep on behalf of Motorway, sold a vehicle to consumer DS.  
Contrary to s. 42 of the Regulation and the conditions of registration, the following facts about the vehicle were not disclosed to the consumer:
  - i. The vehicle sustained collision damages, estimated in excess of \$3,000.
  - ii. Subsequently, Amndeeep falsified the bill of sale by adding to it some of the information that had not been previously disclosed to the consumer.
- c. Amndeeep on behalf of Motorway, sold a vehicle to consumer HS.  
Contrary to s. 42 of the Regulation and the conditions of registration, the following facts about the vehicle were not disclosed to the consumer:
  - i. The vehicle sustained collision damage, estimated to be in excess of \$3,000 and was declared by an insurer to be a total loss.
- d. Amndeeep on behalf of Motorway, sold a vehicle to consumer ML.  
Contrary to s. 42 of the Regulation and the conditions of registration, the following facts about the vehicle were not disclosed to the consumer:
  - i. The vehicle sustained collision damage, estimated to be in excess of \$3,000 and was declared by an insurer to be a total loss.
- e. Amndeeep on behalf of Motorway, sold a vehicle to consumer PA.  
Contrary to s. 42 of the Regulation and conditions of registration, the following facts about the vehicle were not disclosed to the consumer:
  - i. The vehicle sustained collision damage, estimated to be in excess of \$3,000 and declared by an insurer to be a total loss.
- f. The aforementioned conduct led to charges being laid against Motorway, Amndeeep and Mandeep before the Ontario Provincial Offences Court.
- g. They pled guilty to the following offences: s:
  - i. Motorway was found guilty of having committed the offence of failing to disclose information, contrary to s. 42(19) of the Regulation, as well as engaging in an unfair practice by making a false, misleading or deceptive representation, contrary to sections 14 and 17 of the Consumer Protection Act, 2002 (the "CPA"), with respect to the trades involving consumers HS, ML and PA.

- ii. Mandeep was found guilty of having committed the offence of failing to disclose information, contrary to s. 42(19) of the Regulation, as well as engaging in an unfair practice by making a false, misleading or deceptive representation, contrary to sections 14 and 17 of the Consumer Protection Act, 2002, with respect to the trades involving consumers PA and two other consumers unrelated to the NOP.
- iii. Amndeep was found guilty of having committed the offence of failing to disclose information, contrary to s. 42(19) of the Regulation as well as engaging in an unfair practice by making a false, misleading or deceptive representation, contrary to sections 14 and 17 of the Consumer Protection Act, 2002, with respect to the trades involving consumers CT and DS.

- [17] In addition, Amndeep pled guilty of the provincial offences of falsifying information and documents relating to the trades involving consumers CT and DS.
- [18] Amndeep and Mandeep gave evidence at the hearing in this matter. They say that their conduct was a result of shoddy record keeping, rather than self interest in obtaining the highest price possible for their merchandise. They also testified that their mother had suffered a stroke and had high care needs, which they needed to provide.
- [19] I do not accept the explanations offered by Amndeep and Mandeep. Had their conduct been just a single instance of an omission, their argument that this was inadvertence might have carried more weight. Instead, it is clear that this was a pattern of behaviour, or perhaps put more accurately, their manner of conducting business. Amndeep and Mandeep falsified and altered [their own copies of the] bills of sale after the fact. The altered bills of sale contained the disclosure that they were required under the Act to provide to their customers prior to engaging in any sale. These were acts that I find to have been intentional. Their submission that their conduct was somehow inadvertent, was tested on cross-examination of Amndeep. Amndeep was badly impeached and his explanation was utterly lacking of the ring of truthfulness and instead contained the discordant sounds of evasion and deceit.
- [20] And while an illness in the family can place great strain upon individuals, this cannot explain, nor does it mitigate, acts of dishonesty, nor does a family illness have an adverse impact upon a person's integrity.

[21] The past conduct of Amndeeep and Mandeep consists of provincial offenses of dishonesty in the conduct of their business, for which they both pled guilty. They admitted that their conduct were unfair business practices, and that they made false, misleading or deceptive representation to their customers, contract to s. 14 and s. 17 of the *Consumer Protection Act*, 2002. Their conduct was harmful to the interests of their customers. I find that the Respondent has satisfied its onus of proving that that the past conduct of Amndeeep and Mandeep affords reasonable grounds for belief that they will not carry on business in accordance with law and with integrity and honesty. As a result, Amndeeep and Mandeep are disentitled to registration pursuant to s. 6(1)(a)(ii) of the Act.

***Reasonable grounds for belief that Motorway's business will not be carried on as required***

[22] Pursuant to s. 6(1)(d)(iii) of the Act, Motorway will be disentitled to registration if the past conduct of Amndeeep or Mandeep affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty.

[23] Amndeeep and Mandeep are the directors, officers, and only employees of Motorway. Their conduct is, for all material purposes, the conduct of Motorway. As set out above, I have found that the past conduct of Amndeeep and Mandeep affords reasonable grounds for belief that they will not carry on business in accordance with law and with integrity and honesty. It follows by necessity that their past conduct affords reasonable grounds for belief that Motorway's business will not be carried on in accordance with the law and with integrity and honesty.

[24] For these reasons, I find that Motorway is disentitled to registration in accordance with s. 6(1)(d)(iii) of the Act.

***Are Amndeeep, Mandeep and/or Motorway in breach of a condition of registration?***

[25] Pursuant to s. 6(1)(f) of the Act, Amndeeep, Mandeep and Motorway will be disentitled to registration if they are in breach of a condition of the registration. Under s. 30(1) of the Act, customers must have certain information disclosed to them in writing, prior to the completion of a motor vehicle purchase. The disclosure requirements are detailed in the Regulation. For the purposes of this matter, the applicable provisions of the Regulation are s. 41(19, 21), which require disclosure if the vehicle had previously sustained damages where repair costs exceeded \$3,000, or in instances in which an insurer declared the vehicle to be a total loss.

- [26] All three Appellants violated s. 30(1) of the Act: in the case of Motorway, they pled guilty to three instances of violation, in the case of Mandeep, he pled guilty to three instances of violation and in the case of Amnddeep, he pled guilty to two instances of violation.
- [27] By the Appellants own admission, both in agreeing to allegations contained in the NOP, as well as reiterating this in oral testimony, they were in breach of the Act.

***Should registration should be ordered in the circumstances?***

- [28] Although the Tribunal has the statutory discretion to consider an appellant's circumstances and determine whether the public interest requires outright refusal to register or whether the purposes of the Act can be adequately protected through granting registration with conditions, I find that registration should not be ordered.
- [29] The Act has two broad purposes: first, it is to provide protection to consumers, by requiring disclosure of pertinent and material details about the state of a vehicle prior to its purchase. The second purpose is to promote professionalism amongst dealers and salespeople within the automobile industry.
- [30] The conduct of the Appellants consists of repeatedly failing to disclose to the purchaser significant previous material damage to the vehicle and falsifying documents, so as to hide, or cover up the failure to disclose previous material damage to the purchaser.
- [31] The Appellants testified that they had joined the Used Car Dealers Association ("UCDA") in order to access courses and materials that would enable them to better run their business. This was a good idea, that could provide tangible benefits to them - if they register and actually take any of the courses offered. However, they have yet to take a single course. Had they taken concrete steps to demonstrate their settled intention to better themselves and their business, it would have carried more weight. However, even then, this would not have been sufficient to satisfy me that they should be registered given the seriousness of their past conduct.
- [32] Several aggravating factors were present in this matter. The first, and most important is the failure of the Appellants to take responsibility for their actions. They acknowledged that they pled guilty. Rather than leaving the matter there, they then attempted to minimize and rationalize their guilt in the matter by saying that they regretted pleading guilty and only did so, as they thought this would end the matter with the regulator and that the monetary fine imposed by the court



would be their only sanction. The clear implication being, that even though they pled guilty to the conduct, they did not actually engage in the conduct. They were neither remorseful, nor were they accepting of the responsibility for being the authors of their own misfortunes.

- [33] This showed a complete lack of awareness of the seriousness of their transgressions, which were accurately described by the Respondent as “severe”.
- [34] The other serious aggravating factor was attempting to characterize altering the bills of sale after the fact as simply adding additional information in the comments section. The explanation given was absurd on its face.
- [35] I am not satisfied that the purposes of the Act, or the public interest, would be served by registering the appellants, or any of them, with conditions.

#### **ORDER**

- [36] For the reasons set out above, pursuant to s. 9(5) of the Act, I direct the Registrar to carry out the NOP and revoke the registration of the appellants.

**LICENCE APPEAL TRIBUNAL**



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**Geoff Pollock, Vice Chair**

**Released: April 5, 2023**