

Licence  
Appeal  
Tribunal

Tribunal  
d'appel en  
matière de permis



DATE: 2015-05-27  
FILE: 9212/MVDA  
CASE NAME: 9212 v. Registrar, *Motor Vehicle Dealers Act, 2002*

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An appeal from a Notice of Proposal by the Registrar, *Motor Vehicle Dealers Act, 2002*,  
to Refuse Registration

Monzer Sinno

Appellant

-and-

Registrar, *Motor Vehicle Dealers Act, 2002*

Respondent

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### REASONS FOR DECISION AND ORDER

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**ADJUDICATOR:** D. Gregory Flude, Vice-Chair

**APPEARANCES:**

**For the Appellant:** No-one appearing

**For the Respondent:** Sarah Aouchiche, Counsel

Heard in Toronto: May 19, 2015

## REASONS FOR DECISION AND ORDER

[1] By Notice of Proposal dated October 30, 2014, the Registrar under the *Motor Vehicle Dealers Act, 2002*, S.O. 2002, c. 30, Sch. B (the "Act") proposes to deny the application of the Appellant for registration as a motor vehicle salesperson. The Appellant appealed to this Tribunal.

[2] In his Notice of Appeal, the Appellant admitted all of the substantive allegations against him. He failed to appear for the hearing at the scheduled time of 9:30 a.m. When he still had not appeared by 10:00 a.m., the Tribunal satisfied itself that he had has notice of the time and place for the hearing. Entered as Exhibit 3 to the proceeding is an exchange of correspondence with the Appellant confirming the time and place of the hearing. The Tribunal proceeded with the hearing in the Appellant's absence.

[3] The Registrar carries the burden of proving to the Tribunal that there are grounds that disentitle the Appellant to registration under one of more of the provisions set out in s. 6 (1) of the Act. The applicable provisions state:

6. (1) An applicant that meets the prescribed requirements is entitled to registration or renewal of registration by the registrar unless,
- (a) the applicant is not a corporation and,
    - (i) having regard to the applicant's financial position or the financial position of an interested person in respect of the applicant, the applicant cannot reasonably be expected to be financially responsible in the conduct of business,
    - (ii) the past conduct of the applicant or of an interested person in respect of the applicant affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty, or
    - (iii) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for registration or for renewal of registration

[4] Based on the Appellant's admissions and the evidence presented before the Tribunal, the Tribunal finds that the Appellant is disentitled to registration as a motor vehicle salesperson.

[5] The Appellant was the sole officer and director of a corporation called Rhino Auto Sales Inc. (or "Rhino") a company which he operated from February 12, 2003 to approximately February 22, 2013. Quite early on in its history, Rhino ran afoul of its obligations to remit retail sales tax to the Ontario Ministry of Finance and the account went to collections. Marlene Headley, who holds the position of Senior Collector with the Ministry, reviewed Rhino's history. She detailed numerous efforts to work with Rhino over a number of years to bring it into compliance with its obligations. While there was partial success, by September 2013 neither Rhino nor the Appellant had made payment on the arrears for several months. The Ministry wrote to the Registrar requesting a revocation of Rhino's dealership registration.

[6] Ms Headley explained that retail sales tax is paid by purchasers to vendors which is then to be remitted to the Province. Vendors hold the funds in trust and ought to segregate the funds and not co-mingle them with their own funds. Using these trust

funds for any purpose other than to remit them is a breach of trust. While the liability in this case was incurred by Rhino, s. 43 of the *Retail Sales Tax Act* makes directors personally liable for unpaid sales tax. Thus, the Appellant in this case is liable to the Province for \$23,595.94 plus interest from September 2013. Ms Headley advised that the last payment received was in early 2013.

[7] The Appellant purchased an interest in a numbered corporation, 2246602 Ontario Inc. o/a Dagher AutoSales (or "Dagher"). On several occasions, both while dealing on behalf of Rhino and seeking registration to sell for Dagher, the Appellant answered "No" to questions asking if he was subject to collection proceedings. Ms Headley's testimony confirms that the Appellant and Rhino had been subject to collection proceedings by the Ministry of Finance since 2005. In the period from 2010 to 2012, the Appellant had entered into repayment agreements with respect to his arrears and thereafter had made voluntary payments on arrears until early 2013. The Appellant's answers to the questions concerning collection actions are patently false.

[8] In summary, the Appellant currently has arrears of in excess of \$23,600.00 in retail sales tax indicating both current indebtedness and past financial irresponsibility in the conduct of his business. The fact that he has diverted trust funds to his or Rhino's own use calls into question his honesty and integrity and his ability to carry on business in accordance with law. He has also made false statements in his applications for renewal and for his latest application for registration.

## ORDER

[9] The Tribunal finds that:

1. Having regard to the Appellant's financial position, the Appellant cannot reasonably be expected to be financially responsible in the conduct of his business as a motor vehicle salesperson;
2. The past conduct of the Appellant provides reasonable grounds for belief that he will not carry on the business of motor vehicle salesperson in accordance with the law and with integrity and honesty; and
3. The Appellant has made false statements in an application for registration or renewal of registration.

[10] The Tribunal orders the Registrar to carry out its proposal dated October 30, 2014 and deny the Appellant registration as a motor vehicle salesperson.

LICENCE APPEAL TRIBUNAL



D. Gregory Flude, Vice Chair