



Citation: Srivamathevan Namasivayam and 2443818 Ontario Limited o/a Babi Used Cars v. Registrar, *Motor Vehicles 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 Vehicle Dealers Act, 2002*

Respondent

DECISION & ORDER

ADJUDICATOR: Jeffery Campbell, Vice-Chair

APPEARANCES:

For the Appellant: Srivamathevan Namasivayam, Director

For the Respondent: Rishi Nageshar, Counsel

Heard by videoconference: October 23, 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. 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 operating as 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 8, 2025, the Appellants filed an appeal of the NOP with the Licence Appeal Tribunal (the “Tribunal”), pursuant to s. 9(2) of the *Act*.
- [3] On August 7, 2025, the Tribunal held a hearing on the extension of the ITSO until the conclusion of the hearing on the NOP. In its decision released August 21, 2025, the Tribunal ordered that the ITSO be extended until the conclusion of the hearing on the NOP.
- [4] Srivamathevan Namasivayam (“Namasivayam”) is the sole director of 2443818 Ontario Limited o/a Babi Used Cars.
- [5] The NOP alleges that the Appellants’ past conduct is inconsistent with the intention and objective of the *Act*, and that this disentitles them to registration as a motor vehicle salesperson and as a motor vehicle dealer.
- [6] The parties participated in a case conference but were unable to settle the issues in dispute.

ISSUES IN DISPUTE

- [7] The issues to be determined at the hearing are:
 - a. Whether Namasivayam’s past conduct disentitles him to registration pursuant to section 6(1)(a)(ii).
 - b. Whether, as the Director of 2443818 Ontario Limited o/a Babi Used Cars, Namasivayam’s past conduct disentitles the company to registration pursuant to section 6(1)(d)(iii) of the *Act*.
 - c. If either or both of the above is established, what is the appropriate outcome?

RESULT

- [8] The Registrar is directed to not carry out its proposal to revoke registrations, but rather, to register the Appellants subject to the ordered condition.

- [9] The ITSO of the Appellants shall be continued for a period of 6 months from the date of the release of this decision.

ANALYSIS

- [10] The NOP and the ITSO arise as a result of the Appellants' lack of response to the Registrar in its requests for information related to a complaint by a separate registrant ("K.K") who claimed that it purchased four vehicles from the Appellant. Although K.K. provided payment for those vehicles, it did not receive those vehicles nor were the ownerships of those vehicles transferred into K.K.'s name. The Registrar submits that the basis for the NOP and ITSO are not the complaint itself, but rather the failure of the Appellants to respond to the Registrar's request for information regarding those transactions.
- [11] Cayma Martinez testified on behalf of the Registrar. Ms. Martinez, Compliance Officer with the Ontario Motor Vehicle Industry Council ("OMVIC"), testified that, upon receiving the complaint from K.K. on January 24, 2025, she sent a Request for Information Namasivayam via email, outlining the complaints from K.K. The date of that email was January 31, 2025. In that email, Ms. Martinez requested the following:
- "Your written response explaining the dealership's position with respect to the incident
- An explanation of why the vehicles have not been delivered or ownership transferred
- A copy of the following documents: bill of sale of each trade, any other." Documents relevant to the trade."
- [12] Receiving no response, Ms. Martinez sent a second email to Namasivayam on March 20, 2025 stating, "Please ensure that a response to the S. 14 notice is provided as soon as possible or no later than March 25th, 2025." Again, no response was received. Ms. Martinez testified that she then followed up that email with telephone calls to Namasivayam on March 28 and April 3, 2025, with no answer to those calls. Subsequently, a third email dated April 3, 2025 was sent to the Namasivayam advising, "I've attempted to reach out via the registered number OMVIC has [on] file to no avail. Please respond to this email by the end of day, April 4th, 2025. Please note that continued failure to respond may result in administrative review and/or action."

- [13] Section 14(3) of the *Act* states:

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

[14] Ms. Martinez testified that OMVIC cannot fulfil its role to investigate if there is no response from a registrant to inquiries. Having received no response to the third email, the NOP and the ITSO were issued on July 8, 2025.

[15] The Appellant Namasivayam testified that, while he was aware of the emails, he did not respond due to family difficulties between January and March, 2025, during which time he was in Sri Lanka due to the death of a niece. Between April and June, 2025, Namasivayam was hoping that his son would respond to Ms. Martinez's emails, but his son was busy with wedding arrangements. Although his son did get married on June 6th, Namasivayam noted the same reason as to why there was no response to the emails (and to the NOP and ITSO) until October 3, 2025. Namasivayam admits that it was a mistake to not respond to the emails of January 31st, March 20th and April 3rd.

[16] Section 6(1) of the *Act* provides that applicants seeking registration, that meet prescribed requirements, are entitled to registration or renewal of registration by the Registrar unless,

(a) the applicant is not a corporation and,

(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

(d) the applicant is a corporation and,

(iii) the past conduct of its officers or directors of an interested person in respect of its officers or directors or of an interested person in respect of the corporation affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty

[17] In other words, the onus is on the Registrar to establish that there are reasons to believe that either the Namasivayam will not carry on business in accordance with law and with integrity and honesty and/or that Namasivayam's past conduct provides reasonable grounds that the Appellant Babi Used Cars' business will not be carried on in accordance with the law and with integrity and honesty.

[18] According to the Court of Appeal in *Registrar, Alcohol and Gaming Commission of Ontario v. 751809 Ontario Inc. operating as Famous Flesh Gordon's*, 2013 ONCA

157, once the relevant facts are established, the issue is whether those facts afford reasonable grounds for belief that the business will not be carried on in accordance with the law and with integrity and honesty.

[19] The “reasonable grounds to believe” standard requires something more than mere suspicion but less than proof on a balance of probabilities. In other words, the Registrar does not have to show that the conduct of the Appellants makes it more likely than not that they will not carry on business as required. The Registrar need only show that there are reasonable grounds for belief that they will not operate a commercial motor vehicle safely or in accordance with the *Act*.

[20] According to the Supreme Court of Canada in *Mugesera v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para. 114, reasonable grounds for belief must be more than mere suspicion, and will be found to exist where there is an objective basis for the belief which is based on compelling and credible information.

[21] Further, there must be a nexus between the past conduct in issue and the Appellant’s ability to operate a commercial motor vehicle safely: see *CS v Registrar, Real Estate and Business Brokers Act, 2002*, 2019 ONSC 1652 (Div. Ct.) at para. 32.

[22] I find that the Registrar has met its burden. The evidence is clear that the Appellants did not respond to the inquiries of the Registrar in a timely manner, thereby hindering the Registrar’s ability to conduct an investigation into the appellants’ business. Namasivayam acknowledges his failure to respond. This an obvious violation of s. 14(3) of the *Act*. Namasivayam admits to the lack of timely response.

Conclusion regarding the NOP

[23] I am satisfied that the neglect on the part of Namasivayam in responding to the Registrar’s inquiries establishes reason to believe that neither the Appellant Namasivayam nor the Appellant Babi Used Cars will act in accordance with the law.

What is the Appropriate Outcome

[24] Section 9(5) of the *Act* states that

“If a hearing is requested, the Tribunal shall hold the hearing and may by order direct the registrar to carry out the registrar’s proposal or

substitute its opinion for that of the registrar and the Tribunal may attach conditions to its order or to a registration.”

[25] The Registrar submits that the *Act* is public protection legislation. The Appellants’ failure to respond in a cooperative or timely manner speaks to the ungovernability of the Appellants. That ungovernability creates a risk to the public, necessitating the revocation of the Appellants’ registrations.

[26] The Registrar submits that, should alternative measures be imposed rather than a revocation of the registrations, it suggests that, at a minimum, the following conditions should be attached to the Appellants’ registrations;

- i) an additional 6-month suspension on its registrations; and
- ii) a requirement that the Appellant Namasivayam successfully complete the MVDA Key Elements Course.

[27] Namasivayam submits that a 6-month suspension would be “too far” for him, and he cannot go again to an exam (speaking of the Key Elements Course). The Appellant Namasivayam did not suggest any other conditions that may be considered.

[28] In carefully reviewing Namasivayam’s testimony, I am persuaded that his lack of response to the Registrar’s requests was borne out of a lack of understanding of the importance of timely responses and the consequences of a failure to respond as such. I also acknowledge that Namasivayam has admitted to his failures to respond. I further note that there is no evidence before me of any past failures to comply with the *Act* or of past conduct or discipline on a progressive scale to justify a total revocation. I therefore conclude that the imposing of conditions to be a more reasonable option in this instance rather than a total revocation of the Appellants’ registrations.

[29] I find that the alternative measures suggested by the Registrar to be reasonable in this instance. While Namasivayam has indicated that a 6-month additional suspension is too far and he cannot “go again to an exam” (again referring to the Key Elements Course), I do not believe that he understands that the alternative is a total revocation of the registrations of the Appellants.

[30] While the implementation of the suggested conditions may prove difficult to the Appellants, I find them appropriate in this instance.

ORDER

[31] The ITSO of the Appellants shall be continued for a period of 6 months from the date of the release of this decision; and

[32] The NOPs shall not be carried out and rather, pursuant to s. 9(5) of the *Act*, I order the following condition be applied to the registrations of the Appellants:

- a. The Appellant Namasivayam shall enroll in the Ontario Motor Vehicle Industry Council's MVDA Key Elements Course and be responsible for all enrolment fees. The Certification Course exam must be successfully completed with a passing grade within 6 months of the date of this order and test results must be reported to OMVIC within 10 days of receipt.

LICENCE APPEAL TRIBUNAL



Jeffery Campbell, Vice-Chair

Released: 3 November 2025