

**IN THE MATTER OF AN APPEAL BY**  
**PETER FRYER**  
**TO SECTION 127(c) OF THE**  
***FAIR TRADING ACT*, BEING CHAPTER F-2**  
**OF THE REVISED STATUTES OF ALBERTA, 2000**

AND

**IN THE MATTER OF THE DECISION BY THE ALBERTA MOTOR  
VEHICLE INDUSTRY COUNCIL TO REFUSE THE APPLICATION FOR AN AUTOMOTIVE  
SALESPERSON REGISTRATION UNDER THE *FAIR TRADING ACT*  
and *AUTOMOTIVE BUSINESS REGULATION* ON MARCH 6, 2015**

**REASONS FOR DECISION**

Panel Chair: Mr. P. Lokstadt  
Members: Mr. B. Kirkland  
Mr. C. Zender

Appeal Heard: April 28, 2015  
Capilano Centre, 9945 – 50 Street, Edmonton, Alberta  
Main Floor Boardroom

**1. Introduction**

This is an appeal under S. 22 of the Automotive Business Regulation from a decision of the Director refusing the application for a salesperson registration of Mr. Peter Fryer under section 127(c) of the Fair Trading Act.

**2. Jurisdiction**

The Fair Trading Act and the Automotive Business Regulation regulate, among other things, automotive business licences and salesperson registrations in Alberta.

Under s. 104 of the *Fair Trading Act*, no person may engage in the automotive sales business unless that person holds a licence that authorizes the person to engage in that business.

Pursuant to s. 16 of the *Automotive Business Regulation*, a salesperson of an automotive sales business operator must be registered for automotive sales before acting on behalf of the business operator.

The Director's jurisdiction with respect to automotive business licences and salesperson registrations is found in s. 127 of the *Fair Trading Act*:

127 The Director may refuse to issue or renew a licence, may cancel or suspend a licence and may impose terms and conditions on a licence for the following reasons:

- (a) the applicant or licensee does not or no longer meets the requirements of this Act and the regulations with respect to the class of licence applied for or held;
- (b) the applicant or licensee or any of its officers or employees
  - (i) fails to comply with an order of the Director under section 129 or 157, unless, in the case of an order under section 129 or 157, the order has been stayed,
  - (ii) fails to comply with a direction of the Director under section 151(5),
  - (iii) furnishes false information or misrepresents any fact or circumstance to an inspector or to the Director,
  - (iv) fails to comply with an undertaking under this Act,
  - (v) has, in the Director's opinion, contravened this Act or the regulations or a predecessor of this Act,
  - (vi) fails to comply with any other legislation that may be applicable,
  - (vii) fails to pay a fine imposed under this Act or a predecessor of this Act or under a conviction or fails to comply with an order made in relation to a conviction, or
  - (viii) is convicted of an offence referred to in section 125 or is serving a sentence imposed under a conviction;
- (c) in the opinion of the Director, it is in the public interest to do so.

This section applies to both automotive business licences and salesperson registrations. Section 18 of the *Automotive Business Regulation* states that s. 125, 127 and 128 of the *Fair Trading Act* apply, with necessary changes, to the registration of salespersons.

Section 22 of the *Automotive Business Regulation* states that:

22(1) A person

- (a) whose application for registration or renewal of registration has been refused,
- (b) whose registration is made subject to terms and conditions, or
- (c) whose registration has been cancelled or suspended under section 127 of the Act

may appeal in accordance with the process established by the Director.

(2) The Director may establish an appeal process for the purposes of subsection (1), including forming or designating an appeal body.

In accordance with s. 22(2) of the *Automotive Business Regulation*, AMVIC created the AMVIC Salesperson Appeal Committee Policy (the "Appeal Policy"). The Appeal Policy allows an Appellant to appeal a decision of AMVIC by delivering a written Notice of Appeal to the Executive Director within 30 days after AMVIC issues notice of its decision to the Appellant.

This is an appeal pursuant to s. 22 of the *Automotive Business Regulation*. Pursuant to 3 ii o) of the Appeal Policy:

The Panel shall determine if the decision by AMVIC that is the subject of the Appeal was consistent with the provisions of the Fair Trading Act, the Designation of Trades and Business Regulation, the Automotive Business Regulation, and the bylaws and policies of AMVIC.

### 3. Evidence before the Appeal Panel

- a. At the hearing, Mr. Fryer presented on his own behalf and AMVIC was represented by the Manager of Licensing, Ms. S. P [REDACTED].
- b. Ms. P [REDACTED] provided opening remarks on behalf of AMVIC. Ms. P [REDACTED] asked Mr. Fryer to confirm a number of facts for the panel including:
  - His name, current address, date of birth and current employment;
  - His desire to appeal the March 6, 2015 decision of the Director of Fair Trading (as Delegated);
  - His understanding that his testimony would be referenced by the Panel to make a determination;
  - His application for a salesperson licence through the Motor Vehicle Sales Authority of British Columbia ("MVSABC") was denied in December, 2013.
- c. Ms. P [REDACTED] reviewed the application for a salesperson registration received by AMVIC on February 24, 2015, from the Appellant, Mr. Peter Fryer.
- d. Ms. P [REDACTED] also reviewed the process that AMVIC follows with respect to reviewing an application prior to AMVIC granting a Provincial Salesperson Registration. Ms. P [REDACTED] confirmed that all applicants must agree to undergo a criminal record check. All applicants provide consent to AMVIC to obtain their criminal record history. Mr. Fryer's criminal record was obtained. Mr. Fryer also provided a list of his criminal charges with his application form.
- e. Mr. Fryer provided opening remarks and evidence on his own behalf. He entered into evidence an email from AMVIC to the MVSABC dated November 15, 2013. The email states:

*"Peter has not been registered with AMVIC since 2002. I see there are a couple complaints that were made in 2001."*

Mr. Fryer emphasized that this email was misleading to the MVSABC as he had applied for an AMVIC registration in both 2003 and 2009.

- f. Mr. Fryer also entered into evidence several emails he obtained from acquaintances that spoke to this character. A couple of the emails read as follows:

[REDACTED] – *"my experience with Peter is that he has always conducted himself in a friendly, professional manner and I would not hesitate to buy another vehicle from him..."*

[REDACTED] – *"he was my best sales person and he is very good to his customers."*
- g. Ms. P [REDACTED] provided evidence on behalf of AMVIC. Ms. P [REDACTED] questioned Mr. Fryer on his past criminal charges which included [REDACTED] charges in the last 25 years. Mr. Fryer acknowledged the majority of the charges and provided lengthy explanations surrounding the circumstances of certain charges.

- h. Ms. P [REDACTED] questioned Mr. Fryer on his email of March 9, 2015, which constituted his Notice of Appeal, and the email from Mr. [REDACTED] that was attached. Mr. Fryer indicated he has known Mr. [REDACTED] since 1981 when they worked together in the automotive industry. It is Mr. Fryer's evidence that Mr. [REDACTED] would hire him if he chose to move to [REDACTED]. When questioned about having a passport, Mr. Fryer acknowledged that he did not have a passport but it was his position that he would not have any trouble obtaining a passport.
- i. Ms. P [REDACTED] further presented 3 complaint cover sheets from the AMVIC computer system. The first two complaints were dated February 16, 2000 and September 27, 2001. They indicated complaints against PJ's Auto Sales and Peter Fryer. Mr. Fryer admitted to being the principal owner of PJ's Auto Sales but contends that he was not aware of the complaints prior to the proceedings. The third complaint involved another business that Mr. Fryer acknowledged knowing about but adamantly denied the complaint involved him.

#### 4. Appeal Panel Decision

It is the decision of this Appeal Panel to uphold the decision of the Director to REFUSE the application for registration as an automotive salesperson of Peter FRYER. The Panel has based its decision on the following reasons:

1. Mr. Fryer freely admitted to his very lengthy past criminal history. It is a concern for this Panel that Mr. Fryer's criminal history spans some 30 plus years and involves what we would consider "serious" charges. Additionally, it is the opinion of this Panel that not enough time has passed since Mr. Fryer's last conviction to establish proof that he is rehabilitated.
2. Mr. Fryer further admitted to selling vehicles without the appropriate licence in British Columbia and was denied a salesperson licence by the MVSABC as confirmed in the Decision of the Registrar of Motor Dealers dated December 4, 2013. The decision of the MVSABC must be considered by this Panel.
3. This Panel is also of the belief that it is not in the interest of consumers or the industry to register Mr. Fryer as a salesperson. AMVIC has been given the delegated authority to protect the public interest and Mr. Fryer's past criminal history, numerous applications for registration and denial for a licence in another jurisdiction were all considered.

This panel is satisfied that the hearing given to Mr. Fryer has been exhaustive and fair. We have reviewed all of the evidence before us. We are satisfied that the Panel's unanimous decision to uphold the original decision of the Director to refuse the application for a salesperson registration of Mr. Fryer is in the best interest of the public at large and of the industry.

"original signed by"

Peter Lokstadt  
Chair – AMVIC Salesperson Appeal Committee

May 21, 2015

Date