

IN THE MATTER OF AN APPEAL BY

LESTER GEORGE

TO SECTION 127(c) OF THE *FAIR TRADING ACT*,  
BEING CHAPTER F-2 OF THE REVISED STATUTES OF ALBERTA, 2000  
AND THE *AUTOMOTIVE BUSINESS REGULATION*, Reg.152/2013.

AND

IN THE MATTER OF THE DECISION BY THE ALBERTA MOTOR  
VEHICLE INDUSTRY COUNCIL ("AMVIC") TO SUSPEND THE REGISTRATION  
OF THE APPELLANT AS AN AUTOMOTIVE SALESPERSON UNDER THE  
*FAIR TRADING ACT* and *AUTOMOTIVE BUSINESS REGULATION* ON OCTOBER 27, 2015

### **REASONS FOR DECISION**

Panel Chair: Peter Lokstadt  
Members: Donald Humphreys  
Bruce Kirkland

Appeal Heard: May 12, 2016  
CAPILANO CENTRE – MAIN FLOOR BOARDROOM  
9945 – 50 Street, Edmonton, AB T6E 0L4

#### **1. Introduction**

This is an appeal under section 22 of the *Automotive Business Regulation* from a decision of the Director to refuse the application of Mr. Lester George for a provincial automotive salesperson registration 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 section 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*:

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.

Section 127 of the *Fair Trading Act* applies to both automotive business licences and salesperson registrations.

Section 18 of the *Automotive Business Regulation* states that sections 125, 127 and 128 of the *Fair Trading Act* apply, with necessary changes, to the registration of salespersons.

Accordingly, section 22(1) of the *Automotive Business Regulation* states that:

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.

Section 22(2) states that the Director may establish an appeal process for the purposes of subsection (1), including forming or designating an appeal body.

In accordance with section 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 section 22 of the *Automotive Business Regulation*. Pursuant to section 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 the 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. George represented himself. AMVIC was represented by Stephanie P [REDACTED].
- b. Ms. P [REDACTED] reviewed the authority of the Director and the legislation relevant to the matter.
- c. Ms. P [REDACTED] outlined the circumstances leading up to the appeal in her opening statement including how Mr. George was once given the privilege of holding an automotive salesperson registration and how Mr. George's criminal history has now taken away that privilege.
- d. Mr. George made an opening statement to the Appeal Panel advising that he would provide an explanation of the events that took him to this embarrassing part of his life.
- e. Mr. George gave the following evidence:
  - He has been working in the automotive industry since the late 1990's. He started his career in High River and consistently broke records for the most cars sold. Mr. George indicated he loved selling cars as it was his passion.
  - He reviewed the circumstances that resulted in his numerous criminal convictions. A few of the explanations included:
    - He was at a social function with his boss where they had driven together. As the evening progressed, his boss asked him to take the demo vehicle home as the boss wanted to stay longer. He drove the vehicle and was



involved in an accident where the driver of the other vehicle succumbed to his injuries. He was charged with impaired driving causing death.

- He got into drugs after his release from jail and was charged with attempted robbery for panhandling;
  - He worked at [REDACTED] where he was charged with theft of a cell phone even though he offered to pay for the phone.
  - He was with a friend on Whyte Avenue in Edmonton as the friend was taking him to a pharmacy to obtain a prescription. The friend was selling drugs in the parking lot and he was in the vehicle so he was charged with trafficking.
  - He was working as a Gang and Crime Reduction Co-ordinator in Slave Lake where he worked with youth 14 – 19 years of age for just under 2 years. A 17 year old female alleged that he kissed her and he was charged and convicted of sexual assault.
- Mr. George indicated that the previous Director of Fair Trading gave him an opportunity to sell cars with the condition that he did not drive vehicles on or off the lot as he was prohibited from driving for 10 years. Mr. George advised that he never drove once during the 10 years his driver's licence was suspended.
  - After his latest conviction, Mr. George moved back to Edmonton in an attempt to get on with his life and back into the car industry. His last sentence for sexual assault was to be served intermittently on weekends at the Fort Saskatchewan correctional facility. During this time, Mr. George had his truck stolen and on a couple of occasions was unable to report to Fort Saskatchewan on a Friday night to serve his sentence which resulted in additional charges.
  - Mr. George indicated he is now finished serving his latest sentence, is currently in a recovery program where he attends meetings and belongs to a church in St. Albert, Alberta.

#### 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 Lester GEORGE. The Panel has based its decision on the following reasons:

1. Mr. George freely admitted to his very lengthy past criminal history. It is a concern for this Panel that a number of Mr. George's past charges and convictions occurred during the course of his employment. Mr. George's explanation of events always found him in the wrong place at the wrong time.
2. This Panel also considered the nature of the charges and convictions that Mr. George was subject to. It is a further concern of this Panel that Mr. George's criminal history spans some 24 years and he just very recently finished serving his last sentence for assault. It is the opinion of this Panel that not enough time has passed since Mr. George's last conviction to establish proof that he is rehabilitated.
3. Mr. George was questioned about why no one stood up for him during his dealings with the law. Mr. George indicated in his evidence that he had the support of a number of people and they would have stood up for him if he had asked. In some

instances, it was Mr. George's evidence that he didn't ask, that he couldn't ask as he was being held in custody or that as he accepted a global sentence, it would not have made a difference. The Panel finds the lack of personal references provided concerning.

4. This Panel is also of the belief that it is not in the interest of consumers or the industry to register Mr. George as a salesperson. AMVIC has been given the delegated authority to protect the public interest and the nature of Mr. George's past criminal history must be taken into consideration.

This Panel is satisfied that the hearing given to Mr. George 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 Mr. George's application for a salesperson registration is in the best interests of the public at large and of the industry.

"original signed by"

Peter Lokstadt  
Chair – AMVIC Salesperson Appeal Committee – North

MAY 31, 2016  
Date