

IN THE MATTER OF AN APPEAL BY
STEPHANIE NASRALLAH O/A EXCLUSIVE AUTO DEALS

APPELLANT

AND

THE DIRECTOR OF FAIR TRADING (AS DELEGATED)

RESPONDENT

DECISION OF THE APPEAL BOARD

APPEAL BOARD PANEL: VIRGINIA MAY, CHAIR

LYLE BERGE, PANEL MEMBER

ALLAN BRIGGS, PANEL MEMBER

ORDER APPEALED: DIRECTORS ORDER DATED SEPTEMBER 9TH 2016

The decision of the Director of Fair Trading (as delegated) is to NOT grant the Automotive Business License of Stephanie Nasrallah operating as Exclusive Auto Deals and the Automotive Salesperson Registration of Stephanie Nasrallah.

APPEARANCES

For the Director: Paula Hale as Counsel

, Investigator with AMVIC

For the Appellant: Percy Pyra as counsel

Krysta Pyra, articling student

Stephanie Nasrallah, witness on her own behalf and on behalf of Exclusive Auto Deals

DECISION

The panel unanimously confirms the Director's Order of September 9th 2016 pursuant to Section 179(6) of the Fair Trading Act. The Appeal of September 22nd 2016 is denied.

Observers:

Lindsay Amantea, articling student

Hearing Location:

Room 301, 7015 Macleod Trail SW Calgary AB, T2H2K6

Hearing Date :

December 8th 2016

Award Date:

January 18^h 2017

Appendix**List of Director's Documents:**

Exhibit Binder D1

Exhibit Binder D2 including Tabs A to I

Exhibit D3

List of Appellant's Documents:

Exhibit A1

Exhibit A2

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INTRODUCTION

1. Counsel for the Appellant, Stephanie Nasrallah ("Ms. Nasrallah"), Mr. Pyra of Kelly and Kelly filed a Notice of Appeal pursuant to Section 179 of the Fair Trading Act ("The Act") from the Decision of the Director of Fair Trading to not grant Stephanie o/a Exclusive Auto deals pursuant to Section 127 of the Act.
2. The Director's Order is dated September 9th 2016. The Appeal Notice is dated September 22th 2016.
3. Pursuant to Section 179 of the Act, Tim Grant, Deputy Minister of Service Alberta, appointed an appeal board to hear the Appeal of Ms. Nasrallah and Exclusive Auto deals. The Appointment is dated 17th October 2016.
4. The Appeal Board hearing took place on December 8th 2016 for half a day. It was conducted by a three-person panel. Virginia May, Chair, Allan Briggs, panel member and Lyle Berge, panel member.
5. The Director's case was heard first by agreement of counsel. Oral evidence was called by the Director and by the Appellant. Documentary evidence was entered by the Director and the Appellant at the hearing.
6. A list of the Exhibits entered at the hearing are attached as an Appendix to this decision.
7. This Decision is provided under the Jurisdiction of Section 15 (1) of the Appeal Board Regulation 195/99 ("APR") and relies upon the Statutory framework, including the Act and the Automotive Business Regulation 192/99 (ABR), under which the Order, Appeal, hearing took place and this decision was made.
8. It was agreed by the parties and the panel members at the end of the evidence portion of the hearing that written submissions were not required by the panel. Both Parties provided oral submissions at the end of the evidence.
9. The Panel advised that they would provide a Decision by January 19th 2017.

JURISDICTION

10. The Jurisdiction for the hearing and for the Director of Fair Trading to make his Order of September 9th 2016 with reference to the Appellant comes from the Fair Trading Act RSA -2000 C F 2 and its Regulations, the Automotive Business Regulation Alta Reg 192/99 (ABR) and Appeal Board Regulation Alta Reg 195/99.(APR)

11. Copies of these are contained in Exhibit D1, together with the Appointment documents, the Order and the Appeal as listed below.

12. They include:

A. The Director's Order

The Director's order was issued under Section 127 of the Fair Trading Act 127. The Director may refuse to issue or renew a license and may impose terms and conditions on a licensee 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 license 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 any 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
 - (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.

13. Section 127 applies to both automotive business licenses and salesperson registrations. Section 18 of the ABR states that section 125, 127 and 128 of the FTA apply, with necessary changes, to the registration of salespersons.

14. Under Section 104 of the Act, no person may engage in the automotive sales business unless that person holds a license that authorizes the person to engage in that business.

15. Pursuant to Section 16(1) of the ABR, a salesperson of an automotive sales business operator must be registered for automotive sales before acting on behalf of the business operator.

B. The Appeal

Pursuant to Section 179 (1) of the FTA, a person

- (a) who has been refused a license or renewal of a license,
- (b) whose license is made subject to terms and conditions,
- (c) whose license has been canceled or suspended under section 127, or
- (d) who has been issued an order under section 129 or 157

may appeal the decision or order by serving the Minister with a notice of appeal within 30 days after being notified in writing of the decision or order.

- C. The Appeal of the Directors decision pursuant to section 179(1) of the Act is dated September 22nd 2016.
- D. Service Alberta's acknowledgment of the Appeal is dated October 4th 2016.
- E. The appointment documents from the Director include the Order in Council from Tim Grant, Deputy Minister pursuant to section 179(4) of the Act. They are dated October 17th 2016.
- F. Service Alberta's notice to the panel members and to the Appellant is dated October 24th 2016.
16. A hearing date was set by agreement of counsel for December 8th 2016.
17. No objection was made to the composition of the appeal board at any time from its appointment date through to the end of the hearing.
18. The jurisdictional documents, together with copies of the relevant legislation, the FTA RSA 2000 ch-F-2, the Automotive Business Regulation, (ABR 1)92/99 and Appeal Board Regulation (APR) 195/99 were all made available to the parties and the panel by October 2016.
19. The jurisdictional documents as listed above, were entered as Exhibit D1 at the beginning of the hearing.
20. Pursuant to section 179(6) of the Act an appeal board may CONFIRM, QUASH or VARY the Order of the Director.

21. The panel acknowledges pursuant to section 179(8) an Appeal under this section is a new trial of the issues.

PROCEDURAL GUIDELINES PROVIDED BY THE PANEL TO THE PARTIES IN NOVEMBER 2016.

22. By email dated November 25th 2016 the panel provide procedural guidelines for the hearing to counsel for the parties.

23. The Chair confirmed:

- (a) The location of the hearing and the start time of 9 am, with the room booked until pm if required. The telephone number of the hearing was also provided.
- (b) The names of witnesses were requested to be provided by the parties prior to the hearing. This was done. Both parties advised they had lawyers to represent them at the hearing.
- (c) It was determined that evidence would be sworn and that there would be no recording or taping of evidence.
- (d) Rules of Evidence as applicable in court would not necessarily be applied.
- (e) All witnesses would be open to cross examination by the opposing party and by panel members.
- (f) It was agreed that the Director would lead evidence first and the Appellant respond. This was to respond to the Appellant's concern that the Appellant did not know the case she had to meet.
- (g) Full disclosure from the Director was requested by the Appellant and took place prior to the hearing.
- (h) The hearing would be open to the public.
- (i) Any written submissions following the hearing should be provided by December 22nd and the Director's decision as to confirm, vary or quash the decision would be provided by the 19th January 2017.

THE HEARING ITSELF

24. The hearing followed the procedural guidelines above.
25. Ms. Hale represented AMVIC; Mr. Pyra represented Ms. Nasrallah. Mr. Pyra's articling student, Khrysta Pyra also attended.
26. There was no objection made to the constitution of the panel.
27. There was no challenge raised to the jurisdiction of the panel to hear the appeal.
28. Pursuant to Section 10 of the APR the hearing was open to the public.
29. Lindsay Amantea, an articling student attended at the back of the hearing room. She wished to observe an administrative hearing. There was no objection to her attendance.
30. One witness was called by the Director, Ms. [REDACTED].
31. One witness was called for the Appellant, the Appellant herself, Stephanie Nasrallah on her own behalf and on behalf of Exclusive Auto Deals.
32. At the end of the evidence, both direct and cross, counsel for the parties made brief oral submissions to the panel.
33. It was agreed by the parties and the panel members that written submissions were not required.
34. The panel agreed to provide a decision by January 19th 2017.
35. Hearing Exhibits:
 - (a) During the hearing the Director's counsel entered Exhibit D1, the procedural binder as referenced above.
 - (b) She also entered Exhibit D2 the disclosure binder and Exhibit D3 a telephone number chart.
 - (c) Counsel for the Appellant entered Exhibit A1 a Rogers telephone bill and Exhibit A2 a copy of the Alberta Human Rights Act.

SUBSTANTIVE ISSUE TO BE DETERMINED

**SHOULD THE ORDER OF THE DIRECTOR ISSUED ON SEPTEMBER 9TH 2016 TO
THE APPELLANT BE CONFIRMED, QUASHED OR VARIED PURSUANT TO
SECTION 179 (6) OF THE ACT**

36. The September 9th 2016 Order of the Director as delegated, Darren Thomas, is set out in Exhibit D1 and D2 but for ease of reference it is set out in full below.

DIRECTOR'S ORDER OF SEPTEMBER 9TH 2016.

37. Decision of the Director of Fair Trading (as delegated)

Application for Automotive Business License - Stephanie Nasrallah operating
Exclusive Auto Deals - File No: B2012949

Application for Automotive Salesperson Registration - Stephanie Nasrallah operating
as Exclusive Auto Deals - File No. S2012984

Introduction

This is a decision regarding the application to licence Stephanie Nasrallah operating as Exclusive Auto Deals and register Stephanie Nasrallah as a salesperson pursuant to section 127 of the *Fair Trading Act* (FTA)

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 hold a licence that authorizes the person to engage in that business.

Pursuant to Section 16(1) of the *Automotive Business Regulation* (ABR), 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 licences and salesperson registration is found in section 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 license applied for or held;
- (b) The applicant of 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 licenses and salesperson registrations. Section 18 of the *Automotive Business Regulation* states that section 125, 127 and 128 of the *Fair Trading Act* apply, with necessary changes, to the registration of the salespersons.

Evidence before the Director

An administrative review was held at the Calgary AMVIC office on September 1, 2016. In attendance were Ms. Stephanie Nasrallah, Mr. Percy Pyra - Ms. Nasrallah's legal counsel, [REDACTED] - AMVIC Investigator, [REDACTED] - AMVIC Manager of Investigations South, [REDACTED] - AMVIC Manager of Investigations North, and the writer.

Background and review results

1. Ms. Stephanie Nasrallah applied for a wholesale AMVIC business licence on or about June 27, 2016 and AMVIC salesperson registration on or about June 30, 2016.

2. The AMVIC application identified the Supplier's trade name as Exclusive Auto Deals. This trade name is owned by Stephanie Nasrallah. The address used at Corporate Registry is [REDACTED]. The registration date at Corporate Registry was June 23, 2016. Attached hereto as Schedule "A" is the Corporate Registry search of the trade name Exclusive Auto Deals.
3. On the AMVIC business and salesperson applications completed Ms. Nasrallah, both the business and personal address is shown as [REDACTED]. The phone number provided was [REDACTED]. Her e-mail address shown on the application for a salesperson registration is shown as [REDACTED]. Attached as Schedule "B" is a copy of Ms. Nasrallah's contact details provided by her during her application for a sales registration. Attached as Schedule "C" is the business contact details provided by Ms. Nasrallah on AMVIC's online portal during her application for a business licence.
4. A search of Alberta Motor Vehicle System (MOVES) shows Ms. Nasrallah's address as [REDACTED]. Her home phone is shown as [REDACTED] and her business phone as [REDACTED]. Attached as Schedule "D" is a copy of the MOVES search of Ms. Stephanie Nasrallah.
5. The applicant made representations at the review that the [REDACTED] address is her parents address and she plans to work from that location, however it is not her home address or place of residence. Notwithstanding, this is the address she provided as her place of residence on her salesperson application see Schedule "B").
6. On the AMVIC business place form completed by Ms. Nasrallah, a "dedicated telephone number" for the business was provided as [REDACTED]. This was in fact Ms. Nasrallah's home phone number as shown in the MOVES search (see Schedule "D"). Also on the business plan form was the question "Do you have any contacts in the industry that will be guiding you in assisting you with your new automotive business?" The answer provided was; "Yes, [REDACTED], Mesa Auto Brokers. 8610 Horton Road SW Calgary". Attached as Schedule "E" is the business plan provided to AMVIC by Ms. Nasrallah.
7. The same business plan form also asks "7. Have you or a company you have been involved with, ever been registered or previously applied for registration as an automotive business in Alberta or any other jurisdiction?" The applicant responded "No" (see Schedule "E").

8. On the business licence application the question "Been known or operated a business by any other name" is asked. The applicant answered "No". Attached as Schedule "F" is the eligibility page of the online business licence application completed by Ms. Nasrallah.
9. 1243694 Alberta Ltd. is a registered company in Alberta and licensed by AMVIC. The Director and major shareholder of the registered company is Ali Nasrallah, [REDACTED] Stephanie Nasrallah is shown as a shareholder of the company with 10% of the shares. The applicant acknowledged this information but pointed out that she is not a director in the company. Alis and Stephanie Nasrallah are married and live at [REDACTED] A review of the AMVIC business licence of the above mentioned numbered company shows the business office address as 8610 Horton Road SW Calgary. This is the same address the applicant identified as the business address of her automotive industry contact [REDACTED] at Mesa Auto Brokers. Attached as Schedule "G" is the Corporate Registry information of 1243694 Alberta Ltd. and Ali Nasrallah.
10. Ali Nasrallah's business licence was a wholesale licence. A wholesale licence only allows for the sale of motor vehicles to other AMVIC licensed automotive business, not directly to consumers. At the time of the investigation Ali Nasrallah was under investigation by AMVIC investigators for unlawfully selling vehicles directly to consumers (retail) without proper AMVIC licence.
11. Because of the investigation of Mr. Nasrallah's business an AMVIC investigator became aware of retail advertisements involving Ms. Nasrallah that may be unlawful. Evidence was provided by the AMVIC investigator that the applicant was identified as being directly linked to 17 motor vehicles posted for sale by owner between March 2015 and May 2016 with the phone number [REDACTED] This is the telephone number provided by Ms. Nasrallah on her AMVIC applications. These advertisements were posted by [REDACTED] which the applicant acknowledged, at the administrative review, as her personal e-mail address. The applicant indicated that she is not the only person that uses this e-mail. Attached as Schedule "H" is a [REDACTED] Search which shows 17 advertisements linked to Ms. Nasrallah.
12. In addition, in some of the unlawful retail advertisements placed on Kijiji licence plates are shown in the photos of the vehicles. In some cases, the license plates shown on the advertised vehicle are registered to Ali Nasrallah. In other advertisements, the plates

being used are not registered to the vehicle being advertised and were registered to a consumer. It is a common practice by curbbers (people who sell vehicles to consumers without proper AMVIC licence) to use different plates to help convince consumers that the curber personally owns the vehicle. Attached as Schedule "I" are the advertisements and the corresponding MOVES searches of the license plates where applicable.

13. The vehicle advertisements were placed online through websites like Kijiji. The advertisements were directly linked to the applicant through her cell phone number and e-mail address. The advertisements that were placed indicated that the vehicles were being sold by the "owner". Online advertisements' identifying a vehicle as "for sale by owner" suggests to an unsuspecting consumer that it was a private sale of a vehicle by the long-term owner. Engaging in these business practices contravenes section 6 of the FTA and section 12 of the ABR.

Fair Trading Act, R.S.A. 2000, C. F-2

Unfair Practices

Section 6

(4) Without limiting subsections (2) and (3), the following are unfair practices if they are directed at one or more potential consumers:

- (a) a applicant's doing or saying anything that might reasonably deceive or mislead a consumer.
- (h) a supplier's representation that goods have or do not have a particular prior history or usage if that is different from the fact;

Automotive Business Regulation, AR 192/99

General codes of conduct

Section 12

Every business operator must comply with section 6 of the Act
And in addition must

- (a) not make any representations, statements or claims that are not true or are likely to mislead a consumer,

14. Section 104(1) of the FTA requires a person to hold a licence under the Act **before** engaging in automotive business. Additionally, section 16 of the ABR requires a salesperson of an automotive business operator to be registered for automotive sales before acting on behalf of the automotive business operator. Based on the evidence presented, it is the opinion of the writer that Ms. Nasrallah has been engaging in automotive sales to the public without the appropriate AMVIC business licence and salesperson registration contrary to the FTA and ABR.

Fair Trading Act, R.S.A. 2000, C. F-2

Licence required - designated businesses

Section 104

- (1) No person may engage in a designated business unless the person holds a license under this Act that authorizes the person to engage in that business.

Automotive Business Regulation, AR 192/99

Registration

Section 16(1) A Salesperson of an automotive sales business must be registered for automotive sales before acting on behalf of the business operator.

15. During the review, the applicant suggested that she wanted to operate her new business separate from her husband's business. She indicated that she wanted to be independent from his business. The applicant indicated that she does not have a criminal record and deserves the opportunity to be licensed. She felt there was no basis for AMVIC to refuse her application.

16. When applying for a licence, the onus is upon the applicant to be forthright and accurate as per the FTA:

Fair Trading Act, R.S.A. 2000, C. F-2

Application for licence

Section 126

(1) A person who wishes to be licensed or to have a licence renewed under this Act must submit to the Director

- (a) an application on a form established by the Director,
- (b) any additional information that is requested by the Director, including a criminal record check or authorization to obtain a criminal record check,
- (c) the fee established under the regulations, and
- (d) if the regulations require a security or payment into an assurance fund approved by the Director to be submitted in assurance fund approved by the Director to be submitted in respect of the class of licence applied for, a security or proof of payment into the assurance fund that meets the requirements of the regulations.

(2) The application and other information submitted under subsection (1) must, on the request of the Director,

be verified by affidavit or in another manner that is satisfactory to the Director.

(3) A person who makes a false statement of fact or misrepresents any fact or circumstance in any application or document submitted to the Director under this Act commits an offence.

Facts Found

In reviewing this application there were a number of facts that were considered:

1. The applicant misrepresented on her application that she was not involved in a related automotive business when she is in fact a shareholder of 1243694 Alberta Ltd.
2. She used her parents address ([REDACTED]) as her home address when her home address is [REDACTED].
3. On her application, the applicant indicated that her business and home contact phone number is [REDACTED].
4. The applicant has confirmed that she uses two different e-mails [REDACTED] and [REDACTED].
5. There are numerous unlawful retail advertisements for vehicle placed online that are directly linked to the phone number [REDACTED] and the e-mail address [REDACTED].
6. There is an active investigation underway with regard to the applicant's husband and business partner Ali Nasrallah.

Director's Decision

It is my decision, as the Director of the Fair Trading (as delegated) to NOT grant the Automotive Business Licence of Stephanie Nasrallah operating as Exclusive Auto Deals and the Automotive Salesperson Registration of Stephanie Nasrallah for the following reasons:

1. It is NOT in the public interest under section 127(c) of the *Fair Trading Act* to licence Stephanie Nasrallah operating as Exclusive Auto Deals or register Stephanie Nasrallah as a salesperson at this time.
2. Ms. Nasrallah has purposely attempted to mislead AMVIC with her application by not disclosing her business relationship with her

husband and providing a home address that was not her place of residence. Accurate disclosure of information is part of the code of conduct expected for anyone who is to be licensed with AMVIC and the applicant did not meet this standard. Under section 126(3) of the FTA a person who makes a false statement of fact or misrepresents any fact or circumstance in any application or document submitted to the Director under this Act commits an offence. It is the opinion of the Director of Fair Trading (as delegated) that the applicant has made false statements through her application.

3. Ms. Nasrallah's involvement in curbing is unclear at this time. There is an ongoing active investigation at this time regarding these matters which directly impact upon both Stephanie and Ali Nasrallah. There are numerous connections between the applicant and Ali Nasrallah.

Appeal

Section 179 of the *Fair Trading Act* states that

179(1) A person

- (a) who has been refused a licence or renewal of a licence,
- (b) whose licence is made subject to terms and conditions,
- (c) whose licence has been cancelled or suspended under section 127, or

(d) who has been issued an order under section 129 or 157,

may appeal the decision or order by serving the Minister with a notice of appeal within 30 days after being notified in writing of the decision order.

In accordance with the *Fair Trading Act* s. 179(1), you may appeal this decision by serving the Minister of Service Alberta, Honourable Stephanie McLean with a Notice of Appeal within **THIRTY (30) DAYS** of receipt of this letter. A copy of the appeal procedures is attached for your information.

Yours truly,

John Bachinski
Director of Fair Trading (as Delegated)

JB/kl
Encl.

APPEAL OF SEPTEMBER 22ND 2016.

38. NOTICE OF APPEAL

Decision of the Director of Fair Trading (as delegated)

Application for Automotive Business Licence - Stephanie Nasrallah operating as Exclusive Auto Deals - AMVIC File no. B2012949

Application for Automotive Salesperson Registration - Stephanie Nasrallah - AMVIC File no. S2012984

TAKE NOTICE that Stephanie Nasrallah does hereby appeal the decision of John Bachinski, Director of Fair Trading (as Delegated), not to grant the Automotive Business Licence of Stephanie Nasrallah operating as Exclusive Auto Deals and the Automotive Sales Person Registration of Stephanie Nasrallah as delineated in the letter of September 9, 2016, a copy of which is enclosed herewith.

AND TAKE NOTICE that the grounds for the Appeal are as follows:

- a. The said decision is contrary to law
- b. The said decision is contrary to evidence
- c. John Bachinski erred in not granting the Automotive Business Licence of Stephanie Nasrallah operating as Exclusive Auto Deals and the Automotive Salesperson Registration of Stephanie Nasrallah
- d. Such further and other grounds as counsel may advise

DATED at the City of Calgary, in the Province of Alberta, this 22nd day of September, AD 2016.

Kelly & Kelly

Solicitors for the Appellant Stephanie Nasrallah

ORAL INTRODUCTION to DIRECTOR'S CASE

39. Ms. Hale stated that the issue before the panel was the Director's refusal to grant a wholesale licence and a salesperson licence to the Appellant.
40. The reasons for the denial of the licenses given were:
- A) Appellant misrepresented her residential address contrary to Section 127 of the Act. This is sufficient to refuse.
 - B) Misrepresented her involvement in husband's company contrary to section 127
 - C) Helped her husband sell cars directly to the public in a practice known as "curbing".
 - D) Helped her husband sell cars in a misleading way
41. These reasons were all based upon the conduct of the Appellant alone and not on any alleged conduct of her husband.

ORAL EVIDENCE OF THE DIRECTOR

EVIDENCE OF [REDACTED]

42. Ms. [REDACTED] has been a peace officer and private investigator with AMVIC for [REDACTED] years. Before that she worked for [REDACTED] years as an Investigator with the [REDACTED] section of the RCMP. Before that she was involved with [REDACTED] in Edmonton.
43. Her role with AMVIC for the last two years has been as a dedicated "curbing" investigator.
44. She explained that curbing is the sale of motor vehicles to the public without a license.
45. AMVIC and the legislation requires a retail licence. The legislation is for consumer protection. The public have a right to be protected.
46. There was no public complaint made against the Appellant, it was an internally generated investigation.
47. Ms. [REDACTED] explained that their internal computer system picked up the match of Ms. Nasrallah 's last name with that of her husband because of the ongoing investigation into her husband's business. The Appellant and her husband have the same, unique last name, Nasrallah.

48. Ali Nasrallah has been under investigation since prior to June 2016 for selling motor vehicles to the public without a retail licence, mainly through Kijiji. He was being investigated for "curbing".
49. Tab B of Exhibit "D2" is a Salesperson Application submitted online by Stephanie. It comes from AMVIC's database page. It lists personal information.
50. The home address is shown as [REDACTED]
51. The mailing address is listed as [REDACTED]
52. The preferred address is listed as [REDACTED]
53. Page 4 shows that the application was user generated on June 29th 2016 and modified by Heidi C [REDACTED]
54. Tab C of Exhibit "D2" is a Business Licence application submitted by Stephanie online. It was created June 27th 2016 under the trade name "Exclusive Auto Deals".
55. Tab A of Exhibit "D2" is a report from the Investigator that shows the trade name "Exclusive Auto Deals" is listed in the Corporate Registry. The name was registered on June 23rd 2016.
56. Tab D of Exhibit "D2" is the Appellant's driving licence. It shows a home address listed as [REDACTED]
57. This address is Ali Nasrallah's home address. The phone number connected with the drivers licence is [REDACTED]
58. This home address is contrary to the information on the Application, where the [REDACTED] address is listed as the Appellant's home address.
59. Tab E of Exhibit "D2" is an online questionnaire which has been filled out by the Appellant. This sort of form is completed for any kind of business licence.
60. A salesperson only has to submit a criminal record check. Other documents are required for other kinds of licenses. Ms. Nasrallah has no criminal record.
61. In answer to the question on the form at Tab E "Do you have any contacts in the industry that will be guiding you in assisting with your new automotive business ..." the answer of the Appellant was [REDACTED] of Mesa Auto Brokers. His business address was 8610 Horton Road SW. The Appellant's husband also uses that address for his business.

62. Ms. [REDACTED] found this answer strange. She said she would have expected the Appellant to give her husband's name since he had been in the business for many years.
63. The Appellant has said that she did not buy or sell personal vehicles, but the witness did not think that was the case.
64. Tab F of Exhibit "D2" is a Business Plan. It contains an Applicant's declaration.
65. Question 7 asks if the Appellant had any involvement in any associated businesses.
66. The Appellant answered "No" although she was a 10% shareholder in her husband's business. She and her husband are the only two shareholders.
67. Ms. [REDACTED] was concerned with the lack of disclosure. As she said, you can apply for as many licenses as you want as long as you make disclosure. That is the only threshold, disclosure.
68. There had been a failure to disclose her connection to the company of her husband.
67. Tab G of Exhibit "D2" is documentation for the corporate entity number 1243694 Alberta Ltd. The company has a wholesale licence in the name of Ali Nasrallah. The registered corporate office address is [REDACTED] the home address for Ali and for Stephanie on her driving licence.
68. Tab H of Exhibit "D2" is a spread sheet from a data mining company, a private company in Ontario called [REDACTED]. The company can collect caches of online/ social media ads such as Kijiji, Facebook, Auto trader, Back Page etc.
69. This spreadsheet results from March 8, 2015 to May 31, 2016. The search can query only one phone number at a time. [REDACTED] entered [REDACTED]
70. This search was run on July 23 2016.
71. It returned 17 ads for the phone number [REDACTED] [REDACTED] stated it was her practice to run the search for the preceding 12 months. The ads were posting motor vehicles for sale.
72. The spreadsheet shows the following columns:
- Title of Ad
- phone number
- date the ad was posted

price

location

category

stored

kijiji user ID

licence plate

owner of plate. (Last three manually added by [REDACTED])

73. Ms. [REDACTED] had been able to submit the user ID to Ebay (which owns Kijiji) under a law enforcement agreement that allows them to give that information on the account.

74. The email User for the account was [REDACTED]. The Appellant admitted in an interview that this was her email.

75. 8 of 17 of the ads had a second telephone number, [REDACTED]. This is Ali Nasrallah's phone number.

76. Tab I of Exhibit "D2". This contains copies of the ads. It shows how the ads appeared under the "stored" search in the database.

77. Ali Nasrallah was not allowed to post motor vehicles for sale on Kijiji, because he did not have a retail licence, and was not the registered owner of the vehicles.

78. Ms. Nasrallah could not legally sell the motor vehicles because she did not have a retail licence and was not the registered owner of any of the vehicles. A registry search showed that she never owned those listed vehicles nor had she ever owned those kinds of vehicles.

79. A licence plate number that appears in several of the ads was last registered to a person with the last name [REDACTED]. The license plate was [REDACTED]. The last vehicle that it had been attached to was a 2009 Cadillac, not a Ford Escape.

80. It was a "dead" plate which should have been handed in. The vehicle it was attached to was traded into a dealership. It had ended up in an auction and was subsequently bought by Ali Nasrallah or his company.

81. Ad numbers 1 to 12 have pictures, but ads 13 to 17 are too old. Page 50-51 shows a BFX plate which was last attached to a 2012 GMC Sierra.

82. A number of the photos of the cars in the ads show the same background behind the cars as behind the Appellant in a photo she provided to AMVIC when a photo was requested. Normally people provide their driving licence photo, but the Appellant did not.
83. [REDACTED] was confirmed by the Appellant as her email.
84. Other Kijiji ads were posted from the same account for household items.
85. Ms. Nasrallah had told Ms. [REDACTED] that the vehicle for sale ads resulted from her husband's activities.
86. Under cross examination by Mr. Pyra, Ms. [REDACTED] acknowledged that she did not do a phone company search to determine the owner of the phone number.
87. Such a search would have shown that the numbered company, 1243694 Alberta Ltd., owns both the 689 and 616 numbers.
88. Mr. Pyra suggested to Ms. [REDACTED] that the application form was unclear as to what "residence" might mean and that it does not necessarily mean where you live now.
89. Ms. [REDACTED] agreed that a criminal record check does not provide an address where there is no criminal record found.
90. Mr. Pyra suggested that a rental agreement, submitted as part of the business Plan, did have her address on it.
91. With reference to the questionnaire at Tab F and question 7, he asked [REDACTED] to confirm that the question really meant "Do you have ACTIVE involvement in the company?" He questioned whether being a minority shareholder really meant being "involved". He suggested that the question was ambiguous. Ms. [REDACTED] refused to agree that it was ambiguous, or that she needed to accept the addition of the word "active" as a descriptive word for "involved". The word involved was left broad so that it could cover most situations.
100. Mr. Pyra suggested that the Kijiji search did not show that the Appellant did anything. Ms. [REDACTED] stated that the phone was the strongest link and the e-mail address was Ms. Nasrallah's. She agreed she could not say for certain that Ms. Nasrallah did these things or that she purchased any of the vehicles.
101. Ms. [REDACTED] acknowledged she did not know who purchased most of the vehicles that were resold. At least one she knew had been sold by Ali's numbered company to a retail consumer with the registered address of [REDACTED]
[REDACTED]

102. Tab H shows that at least 4 vehicles have been sold to retail consumers without proper licenses.
103. Ms. [REDACTED] was then asked more questions in redirect.
104. She pointed out that the system would have immediately connected Ms. Nasrallah to her husband if the Appellant had put her residential address of [REDACTED] in to the application.
105. Ms. [REDACTED] said that the fact that the Appellant was living with her husband while he was under investigation when she made her application would not have been enough to exclude Ms. Nasrallah from getting a licence.
106. She confirmed that Exclusive Auto Deals is not the same business as the numbered company.
107. Ms. [REDACTED] confirmed that those present at the review meeting of September 2016 were herself, Stephanie Nasrallah, the Director, [REDACTED] and Percy Pyra.
108. She confirmed that no one from AMVIC ever called the Appellant directly.

ORAL EVIDENCE OF THE APPELLANT

EVIDENCE OF STEPHANIE NASRALLAH

109. STEPHANIE NASRALLAH gave evidence on her own behalf.
110. Ms. Nasrallah confirmed that the numbered company 1243694 Alberta Ltd. is her husband's company and that he runs it.
111. She said she only became a shareholder of that company so that they could write off a portion of their taxes.
112. Ms. Nasrallah confirmed that cell phone number [REDACTED] was her phone number and [REDACTED] her husbands.
113. She entered Exhibit A1 a Rogers phone statement. It shows that her husband's company paid for both phone numbers.
114. Her phone is used by her husband in the household. The phone 689 travels with her.
115. The email address [REDACTED] is 10 years old but it is her email. [REDACTED] is her maiden name.

116. The email she used for the application is [REDACTED]
117. She stated that she did place ads for personal items on Kijiji. She said her husband placed the vehicle ads. She denied placing the vehicleads.
118. She said she was not linked to the sale of any vehicle.
119. All her household items (phones and Ipads) had the Kijiji app and the same log in information.
120. All members of the household use the same account. All persons in the household have access, even their children.
121. Outlook email was created to gain access to the AMVIC portal as she needed to have two different emails to sign in.
122. The Appellant knew that Ms. [REDACTED] had contacted Mr. Nasrallah about falsely selling cars. The Appellant was worried because she was a stay at home mum with no education. She was worried about putting food on the table if his licence was taken away. She decided she would try and set up the same business separate from him.
123. She was confused as to what address to use on the form and used her father's address.
124. She explained that she put the 358 address as her residential address in the application form because she found the website difficult. She just clicked on the site and it duplicated that address through all the boxes. She did not understand why.
125. When asked why she wanted a licence she stated that she thought that her husband's licence was going to be revoked due to the investigation. He had first been contacted in May she thinks. She thought she could be a wholesaler. She intended to work independently of her husband. She was afraid he would lose his licence and she wanted to provide for her family. Her husband knew she was applying for licences.
126. She has no criminal record. She is not involved in her husband's business.
127. There were two phone numbers.
128. The number, [REDACTED] was exclusive to her and is her business number. The other number [REDACTED] was more her husband's business number.
129. She explained that her number was permanent to the Kijiji site and would always appear if ads were posted from that account.

130. Ms. Nasrallah said she just took messages and passed them on to her husband if anyone called about the ads for the vehicles on her phone.
131. Ms. Nasrallah explained that the [REDACTED] address is her father's address and her childhood home and she intended to run the business out of it as though her own home and her children came there.
132. She stated that she completed the form to the best of her ability.
133. She explained that [REDACTED] was a family friend who worked at the same Location where her husband had his business, Mesa Auto on Horton Road.
134. She did not put her husband's name on the application because her husband was under investigation.
135. She said she would follow the rules. She put up a \$50,000.00 bond. Her city business licence was in process but on hold pending the issuance of her AMVIC licence.
136. Her husband was keeping cars at the house. She told the city that it was a wholesale business. Her husband is still operating his business.
137. She decided to apply for her own licence after the investigation against her husband started.
138. She had a discussion with her husband so that he knew that she was going to pursue this but she did it independently of him.
139. She has no knowledge of how to run a business
140. The number, [REDACTED], is her business number.

UNDER CROSS EXAMINATION BY MS. HALE

141. Regarding Tab B, Ms. Nasrallah said that she made an error with respect to the address. She acknowledged that the business address was lower on the form than the residential one.
142. With reference to Tab E, she acknowledged that she signed the declaration about the correctness of the information that she had provided. Yes, she did initial and certify the information she provided.
143. Ms. Nasrallah confirmed that she owns 10% of the company and that the phones are paid for by the company. She acknowledged that her number was associated with the ads. She confirmed that she takes messages for her husband and that

her number is on all the ads although it could be hidden.

144. Under further cross from the panel the Appellant confirmed that she was carrying her phone with cell number 689 on her at the hearing, and that she would take messages from it for her husband from the Kijiji car ads.
145. When asked why she put [REDACTED] as her business contact and not her husband she said because she knew that her husband had done things wrongly. She wanted to do things properly. She had no direct dealing with the public.

CLOSING STATEMENTS OF COUNSEL

MR. PYRA FOR THE APPELLANT

136. A license should be issued under the legislation if she is not in breach of section 127.
137. Ms. Nasrallah was not involved in her husband's company, and was only a minority shareholder.
138. Any misrepresentation with the address was an honest mistake. She had no intention to deceive.
139. You can have more than one residence, because residence is not the same as where you are domiciled.
140. The phone number was not used exclusively for business purposes, even though paid for by the company.
141. The email [REDACTED] was an old one.
142. There is no evidence that she posted the ads or sold the vehicles.
143. There is no evidence she was involved in the husband's business.
144. It would be against the Alberta human rights legislation to link her husband's acts to her as per its preamble, Exhibit "A2".
145. There is no evidence that it would not be in the best interests of the public to grant the licence.
146. She wanted to do things legally.
147. She has totally clean hands.

148. There is no evidence that she placed the ads or that she was involved in illegal activities.

SUMMARY FOR THE DIRECTOR

149. The Director does not care about the husband's issues in this case.

150. All that matters is that Section 127 of the Act is followed.

151. A licence is not a right but a privilege.

152. The threshold for getting a licence is low. It only requires forms to be completed honestly and the law to be followed.

153. The purpose of the legislation is to protect the public.

154. The use of the word "involved" in the form, is all the question asks. It does not ask if she is a Director, shareholder or officer. She is in fact, a shareholder.

155. The misrepresentation is made to avoid association with her husband.

156. Ms. Nasrallah had three opportunities to disclose her address and did not do so. She needs to know that you have to follow the rules even if they are not in your favour.

157. This matter has to be decided on a balance of probabilities

158. Most people submit a copy of their driver's licence when asked for a picture. She did not do so, so hiding her address.

159. There is a theme of misrepresentation in the ads, trying to make them look like private sales rather than those of a licensed dealer.

160. It is not in the public interest to grant her a licence.

DECISION

THE PANEL UNANIMOUSLY CONFIRMS THE DIRECTOR'S ORDER OF SEPTEMBER 9TH 2016 PURSUANT TO SECTION 179(6) OF THE FAIR TRADING ACT. THE APPEAL OF SEPTEMBER 22ND 2016 IS DENIED

FINDINGS OF FACT

161. The Appellant Stephanie Nasrallah resides at [REDACTED] Calgary.
162. She is married to Ali Nasrallah, who resides at the same address.
163. As at June 2016, the Appellant was a stay at home mother.
164. The Appellant had a [REDACTED].
165. The Appellant applied for a wholesale AMVIC business licence on June 27, 2016, and a salesperson registration on June 29/30 2016.
166. The AMVIC application used the trade name "Exclusive Auto Deals". This name is owned by the Appellant.
167. The name "Exclusive Auto Deals" was registered by the Appellant on June 23, 2016, in the Corporate Registry. The address provided with the registration is [REDACTED] This is the address of the Appellant's father.
168. The [REDACTED] address is also the address used by the Appellant in her Salesperson online licence application form. It is shown on that form as her home address, mailing address and preferred address.
169. In completing the form the Appellant said she had difficulty with it and any errors were accidental.
170. The Appellant was aware, at least by June 2016, that AMVIC had an ongoing investigation underway against Ali Nasrallah's company 1243694 Alberta Ltd.
171. The Appellant understood that the investigation included allegations against her husband of wrong conduct.
172. As at the end of June 2016 when the Appellant applied to AMVIC for licensing she was concerned that her husband might lose his licence and that there would be financial difficulty in the family.
173. The registered office address of the numbered company and its recorded address was [REDACTED] the home address of the Appellant and her husband.

174. The Appellant is a 10% shareholder of 1243694 Alta Ltd. Ali Nasrallah is the 90% second shareholder. The numbered company has a wholesale licence in Ali's name.
175. The home address of the Appellant on her driving licence is [REDACTED]
[REDACTED]
176. The Appellant did not provide her driving licence to AMVIC. When AMVIC requested a photo, she provided instead a photo with a background like the background behind the cars shown in the Kijiji ads, rather than her driving license photo.
177. The investigator provided a copy of the driving licence to the hearing as an exhibit. The phone number connected to the Appellant's driving licence is [REDACTED]
178. The Appellant's phone number [REDACTED] is her business and personal phone. It is paid for by the numbered company of which she is the minority shareholder.
179. The Appellant answered phone calls on the [REDACTED] number with reference to the retail sales ads in the Exhibits and provided the information given in those calls to her husband Ali. These phone calls came from consumers wanting to buy a car as a result of finding the ads on Kijiji.
180. The phone number [REDACTED] was used in the Kijiji car sale ads found by the Investigator and listed in the exhibits.
181. A second phone number [REDACTED] number was paid for by the numbered company and was used usually by Ali.
182. The Appellant was aware that the ads solicited vehicle sales by consumers and that there were representations made in those ads around the use of licence plates shown on different vehicles.
183. The Investigation showed that at least one of the cars in the ads containing the Appellant's phone number was sold to a retail consumer.
184. The Appellant knew the cars advertised did not belong to her.
185. The Appellant knew her husband parked the cars outside the [REDACTED]
[REDACTED] house.
186. Investigation of the Registry showed that none of the cars listed in the ads had belonged to the Appellant.

187. The Appellant does not acknowledge listing the cars for sale. She says it was her husband's business.
188. The Appellant does not acknowledge selling any car to a consumer directly.
189. The Appellant does not acknowledge originally buying any of the cars listed for sale in the ads.
190. The Appellant knew her phone number was on the ads.
191. The Appellant used her email address [REDACTED] for the Kijiji account. [REDACTED] was her maiden name. It was an old email address.
192. On her Licensing applications, she uses two other email addresses, one an outlook portal to gain access to the site and a second one, [REDACTED]
193. The Appellant had used the same email address, [REDACTED] for personal items on Kijiji that she had posted.
194. On June 27th 2016 the Appellant in its Business Licence online Application, completed a questionnaire.
195. The Appellant answered the following question "Who will be guiding you" as follows: "[REDACTED]".
196. [REDACTED] was a friend of the Appellant. He worked from the same location as her husband at Mesa Auto at 8610 Horton Road. He was also in the same business as him.
197. The Appellant chose to use [REDACTED] name rather than her husband's in the answer, because she knew her husband was under investigation.
198. The Appellant had a discussion with her husband about starting up her independent business.
199. The Appellant's City of Calgary wholesale business licence was on hold and she had posted a bond of \$50,000.00.
200. The Appellant has never run a business.
201. In question 7 of her Business Plan the Appellant answers that she has no involvement in any company.
202. The Appellant does not mention her shareholding in her husband's company. She says that only was for tax purposes.

203. The Appellant said she did mark and certify her answers as being correct on the forms and questionnaires.

REASON FOR DECISION

204. The panel is unanimously of the opinion that the oral and written evidence at the hearing overwhelmingly supported the Decision of the Director to deny the Appellant a wholesale and salesperson licence
205. The findings of fact set out above must be considered in light of the legislative scheme established under the Fair Trading Act and Automotive Business Regulation (ABR) which references AMVIC.
206. These documents can be found in Exhibit "D1".
207. Part 1 of the ABR deals with Licensing and section 12, under a heading 'General Codes of Conduct', discusses at length the need of a licensed business operator to avoid misrepresentation to a consumer and the requirement to not mislead consumers.
208. The entire legislative scheme is created to protect the consumer and the public.
209. The initial hurdle for a person wishing to be granted a licence to meet is to honestly, and without misrepresentation, complete online application forms. Those forms can be viewed in Exhibit "D2" at various tabs.
210. If an applicant is found to have misrepresented facts in the application stage of obtaining a licence, then the Director's confidence that the applicant will avoid misleading conduct and misrepresentation with the consumer once licensed is likely to be eroded.
211. Pursuant to section 126(3) of the FTA a person who makes a false statement of fact or misrepresents any fact or circumstance in any application or document submitted to the Director under this Act commits an offence.
212. For the protection of the consumer the Director is required to consider section 127 of the FTA to guide his decision in granting a licence.
213. The panel finds on the facts that the Appellant did misrepresent facts on her application forms.
214. The panel further finds that she did so in order to avoid her application being connected to her husband's name and business since he was under investigation when she applied for her licence.

215. The Appellant was very clear in her evidence that she only applied in June 2016 because she thought her husband, Ali Nasrallah, and his company were going to lose their licence for wrong conduct that was being investigated; and that she may have to become the breadwinner for the family, including her children.
216. The findings of fact show that the Appellant completed the application forms with certain answers that eliminated her connection to him by failing to list her proper home address when requested (Exhibit "D2", Tab B and C), failing to provide a copy of her driver's licence with her home address on it, failing to acknowledge her involvement in his numbered company as a shareholder and failing to provide his name and company as a contact in the industry who would help her and guide her.
217. The Appellant gave evidence that she had talked with her husband about the fact that she was going to try and get licensed herself as a wholesaler and get her salesperson licence.
218. The Appellant acknowledged she had no experience in running a business and said she had no education.
219. The only explanation for the misleading answers of the Appellant that the panel could find was that, more than likely, she was trying to avoid being linked on the applications with her husband whom she thought was in trouble.
220. Counsel for the Appellant made various suggestions to explain her questionable answers. For example, he suggested that the word 'residence' does not necessarily mean where you live. The Appellant explained that the [REDACTED] address used was her father's address. The panel did not accept that using her father's address instead of her own on the forms resulted from her confusion as to where she lived. (Exhibit "D2", Tab B)
221. The Appellant herself said that she found the forms difficult to complete and suggested she made an honest mistake. The wrong address gets repeated three times on the application form. (Exhibit "D2", Tab B)
223. She had also used her father's address in the registration of her trade name in June 2016 Exclusive Auto Deals. (Exhibit "D2", "Tab" A)
224. The Director provided evidence that when asked to provide a photo of herself, the Appellant did not provide her driver's licence with her photo and home address on it. Instead, she provided another larger photo with a background outside her house. The Appellant gave no explanation for this. A copy of her driver's licence is produced by the Director as Exhibit "D2", Tab D. It clearly shows the [REDACTED] home address, the same address as her husband and his registered business address for his numbered company. (Exhibit "D2",

Tab G)

223. The panel did not accept either version since the failure to provide her home address on three different occasions as shown in the findings of fact had led to a pattern emerging. Given her own desire as stated in her evidence not to be associated with her husband on this application, the panel could find no explanation other than an intent to mislead.
224. On her business plan application, (Exhibit "D2", Tab E) in answer to the question "Do you have any contacts in the industry that will be guiding you in assisting you in your new automotive business?" the Appellant gave the name of a friend [REDACTED] who operates out of the same location as her husband's business on Horton Road.
225. When asked why she did not put her husband's name instead of [REDACTED] who worked in the same location as her husband, The Appellant stated, she did not want to be linked to him. The answer again suggests misrepresentation or giving misleading information in her application, not a mistake. The panel found it hard to believe that she would not seek her husband's advice, even if she did also seek advice from someone else as well.
226. Finally, in answer to question 7 on the Applicant's declaration for the business plan, "Have you or a company you have been involved with ever been registered or previously applied for registration as an automotive business in Alberta or any other jurisdiction?", the Appellant answered "No". (Exhibit "D2", Tab E)
227. This answer is clearly misleading and a misrepresentation of the facts, if not downright wrong.
228. Counsel for the Appellant attempted to play with the word "involved" and suggest that the panel had to attach the word "active" to "involved". He then went on to say that being a 10% shareholder in her husband's company did not make the Appellant actively involved in her husband's company. The Appellant herself said that she only became a shareholder for tax purposes so that they could get deductions.
229. Neither explanation helped the panel. The Panel agreed with the Director's evidence that 'involved' was a broad word aimed at covering all situations.
230. Evidence at the hearing, however, expanded, beyond the involvement of the Appellant as a shareholder, to suggest active involvement in her husband's company in relation to the series of Kijiji ads listed as Exhibits in D2, Tabs H and I. Much of the evidence revolved around her cell number, [REDACTED]
231. The findings of fact show that the Appellant's cell number [REDACTED] was paid for by her husband's company along with a second cell number

- ██████████ which was her husband's cell number. (Exhibit "A1")
232. The Appellant confirmed that the 689 number was her cell number. It is the same number attached to her driving licence application. It was also the number she listed as her dedicated internet telephone number in her business plan (Exhibit "D2", Tab E), and as her main office phone for her company Exclusive Auto Deals (Exhibit "D2", Tab C). It was also the number that she carried with her all the time and that she confirmed she had on her at the hearing.
233. This phone number ██████████ was directly linked to the Kijiji ads. The Kijiji ads were selling cars in a manner to suggest that they were being sold by the actual owners. Licence number plates were attached that did not belong to The Appellant. This activity is called "curbing". It is illegal.
234. The Appellant confirmed that the cars were kept outside her home in ██████████. The back ground to the photos of the cars shown in the Kijiji ads matches the background to the photo of the Appellant that she provided to the Director.
235. The Appellant confirmed that she would answer the phone when a consumer rang in response to these ads. She stated that she would pass the information on to her husband.
236. Although the Appellant swore that she never placed the ads or directly sold a car to a consumer, there was evidence presented by the Director that at least one of the cars had been sold to a consumer and that none of the cars listed had ever belonged to the Appellant or her husband. In fact, the ads show "dead" licence plates being attached to a number of different cars.
237. The Appellant was directly linked to 17 of the ads by her phone number and her email address ██████████. Consumers directly contacted her.
238. The Appellant was aware of the misleading nature of the ads to which she was directly linked. The Appellant was directly involved in the process by allowing her phone number and personal email address to be the consumer contact references. Some of the ads also contained her husband's cell number but all 17 contained hers.
239. The same cell number ██████████ is set out in the application forms as the main business number for her new business.
240. The fact that no sale can be directly attributed to the Appellant's efforts in answering the phone, or that she may not have actually drafted the ads themselves, does not diminish her knowledge that she was participating in misleading the consumer.

241. This participation was at a time before she had even applied to get her own business licence, and before any investigation on her husband had started.
242. Some of these ads go back to as early as March 2015.
243. For the above reasons, the Panel finds that the Director's Order of September 9th 2016 should be confirmed, and the Appeal of September 22nd denied.
244. The Panel finds that it would not be in the public's interest to grant licenses to the Appellant under section 127(c). The panel further finds The Appellant to be in breach of 127 (b) (iii), and of section 126(3) of the Act, and that these breaches provide further reasons to not grant licences.
245. The panel's decision has not been influenced by any activities of her husband and his company that are being investigated. Their decision has not been impacted in any way by his investigation. The suggestion by counsel for the Appellant that there is somehow a breach of the Preamble of the Alberta Human Rights Act, RSA 2000 c. A---25,5 (Exhibit "A2") is dismissed.
246. The only actions the panel has considered are the Appellant's own actions and efforts to avoid association with her husband when applying for a licence.

Signed and dated in the City of Calgary this

14 day of January 2017

Virginia May Hearing Chair

— "original signed by"

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Signed and dated in the City of Calgary this

18 day of January 2017

Lyle Berge, Panel Member

— "original signed by"

Signed and dated in the City of Calgary this-

17 day of January 2017

Allan Briggs

— "original signed by"

APPENDIX

LIST OF EXHIBITS

EXHIBIT D1 TAB 1 DETAILS OF APPEAL

TAB 2 APPOINTMENT DOCUMENTS

TAB 3 FAIR TRADING ACT

TAB 4 AUTOMOTIVE BUSINESS REGULATION

TAB 5 APPEAL BOARD REGULATION

TAB 6 ORDER IN COUNCIL

EXHIBIT D2 DISCLOSURE BINDER

TAB A CORPORATE REGISTRY SEARCH FOR EXCLUSIVE
AUTO DEALS 9 (1 PAGE)TAB B AMVIC ONLINE SALESPERSON APPLICATION FORM FOR
EXCLUSIVE DEALS (5 PAGES)TAB C AMVIC ONLINE BUSINESS APPLICATION FORM FOR
EXCLUSIVE AUTO DEALS (4 PAGES)

TAB D APPELLANT'S DRIVING LICENCE (1 PAGE)

TAB E COLLECTION OF ITEMS INCLUDING ONLINE
QUESTIONNAIRE AND POLICE CHECK. (12 PAGES)

TAB F BUSINESS PLAN (1 PAGE)

TAB G 1243694ALBERTA LTD .CORPORATE REGISTRY SEARCH
(4 PAGES)

TAB H [REDACTED] DEARCH RESULT (2 PAGES)

TAB I KIJJI ADS INFORMATION (72 PAGES)

EXHIBIT D3 PHONE NUMBER CHART (1 PAGE)

EXHIBIT A1 ROGERS PHONE BILL (1 PAGE)

EXHIBIT A 2 PREAMBLE TO ALBERTA HUMAN RIGHTS ACT (2 PAGES)