

IN THE MATTER OF AN APPEAL BY

RYAN LLOYD

TO SECTION 127(c) OF THE *CONSUMER PROTECTION ACT*,  
BEING CHAPTER C-26.3 OF THE REVISED STATUTES OF ALBERTA, 2000  
AND THE *AUTOMOTIVE BUSINESS REGULATION*, Reg. 133/2018

AND

IN THE MATTER OF THE DECISION BY  
THE ALBERTA MOTOR VEHICLE INDUSTRY COUNCIL ("AMVIC")  
TO NOT GRANT A PROVINCIAL AUTOMOTIVE SALESPERSON REGISTRATION  
UNDER THE *CONSUMER PROTECTION ACT* AND THE *AUTOMOTIVE BUSINESS  
REGULATION* ON DECEMBER 6, 2018

**REASONS FOR DECISION**

Panel Chair: Ayodola Dahunsi  
Members: Bruce Kirkland  
Adam Mohl

Appearances: Ryan Lloyd (self-represented) and [REDACTED] (witness)

Aman Athwal, legal counsel (Shores Jardine LLP) for the Respondent and  
[REDACTED], Licensing Supervisor (AMVIC) for the Respondent

Appeal Heard: May 21, 2019  
Radisson Hotel & Convention Center  
4520 – 76 Avenue  
Edmonton, Alberta

**Introduction**

1. This is an appeal under s. 22 of the *Automotive Business Regulation* from a decision of the Director of Fair Trading (as delegated) (the "Director") not to grant Ryan Lloyd a provincial automotive salesperson registration under s. 127(c) of the *Consumer Protection Act*.

**Jurisdiction**

2. The *Consumer Protection Act* and the *Automotive Business Regulation* regulate, among other things, automotive business licences and salesperson registrations in Alberta.
3. Under section 104 of the *Consumer Protection Act*, no person may engage in the automotive sales business unless that person holds a licence that authorizes them to engage in that business.

4. Pursuant to section 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.
5. The Director's jurisdiction with respect to automotive business licences and salesperson registrations is found at section 127 of the *Consumer Protection 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,
    - (i.1) fails to repay a fund created under section 137 in respect of amounts paid out in claims against the licensee,
    - (i.2) fails to pay a levy of assessment under section 136(8) or a levy of assessment for a fund created under section 137,
  - (ii) fails to comply with a direction of the Director under section 151(3),
  - (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,
    - (v.1) fails to comply with any other legislation that may be applicable,
  - (vi) 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,
  - (vii) is convicted of an offence referred to in section 125 or is serving a sentence imposed under a conviction, or
  - (viii) fails to pay, in accordance with the notice of administrative penalty and the regulations, an administrative penalty imposed under this Act;

(c) in the opinion of the Director, it is in the public interest to do so.

6. Section 18 of the *Automotive Business Regulation* states that sections 125, 127 and 128 of the *Consumer Protection Act* apply, with necessary changes, to the registration of salespersons.
7. Section 127 of the *Consumer Protection Act* applies to both automotive business licences and salesperson registrations.
8. 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.

9. 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.
10. 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 applicant 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.
11. This is an appeal pursuant to section 22 of the *Automotive Business Regulation*. Pursuant to section 3.2(2)(m) of the Appeal Policy:

The committee shall determine if the decision by the Registrar that is the subject of the Appeal was consistent with the provisions of the *Consumer Protection Act*, the *Automotive Business Regulation*, and the bylaws and policies of AMVIC.

#### **Evidence and Argument before the Appeal Panel**

12. Counsel for AMVIC in her opening statement reviewed the authority of the Director and the legislation relevant to this matter specifically sections 16, 18 and 22 of the *Automotive Business Regulation*, section 125 and 127 of the *Consumer Protection Act* and page 6 of the Appeal Policy.
13. Counsel for AMVIC referred to the reasons given by the Director in support of not granting the application of Mr. Lloyd including that: it was in the public interest not to issue Mr. Lloyd a salesperson registration at this time; he did not fully disclose or truthfully answer some of the eligibility questions on the initial application for a salesperson registration; he did not, in the opinion of the Director, show that he was capable of meeting the code of conduct requirements and integrity as a salesperson; Mr. Lloyd's convictions could not be ignored; concerns with Mr. Lloyd's governability given his numerous and recent convictions and failure to show that he has the ability to comply with the law for any



significant period of time. AMVIC's position is that the Appeal Committee should give deference to the Director's decision not to grant Mr. Lloyd a Provincial Salesperson Registration and that it should be upheld.

14. [REDACTED] gave evidence on behalf of AMVIC as a Licensing Supervisor and the current acting Manager of Licensing. It was [REDACTED] evidence that the process to apply to be an AMVIC registered salesperson is an on-line application which includes eligibility questions all applicants must answer. AMVIC then completes a criminal record check on all applicants and based on the answers to the eligibility questions received and the background checks, the licensing department will choose to either proceed with processing the application or forward the application to the Director for administrative review. It was [REDACTED] evidence that Mr. Lloyd's application indicated that he had a prior criminal record and that he had upcoming matters before the court. It was her further evidence that Mr. Lloyd minimized the details of his extensive criminal record.
15. [REDACTED] evidence was that having a criminal record did not make a person ineligible to become AMVIC registered. [REDACTED] explained that when looking at a criminal record check, recency, severity and frequency of criminal charges are taken into consideration but, that the licensing department does not have the authority to refuse an applicant based on their criminal record, only the Director has that authority.
16. Counsel for AMVIC advised the Appeal Committee that she intended to enter as an Exhibit a summary of Mr. Lloyd's criminal charges from the past 5 years to which Mr. Lloyd had no objection but cautioned the Panel that counts set out in that summary were not all convictions and that some charges had been withdrawn and some resulted in a conditional sentence. Mr. Lloyd stated that he had never gone to trial on a conviction and that he always pled guilty if he had committed the offence.
17. [REDACTED] further evidence was that AMVICs background checks showed that, in the last 5 years, Mr. Lloyd had 49 charges including possession of stolen property under \$5,000, possession of stolen property over \$5,000, break and enter, possession for the purposes of trafficking, possession for break-in instruments, altering a vehicle identification number (VIN), fraudulent concealment and many breaches. She highlighted the charge relating to altering a VIN which was not just a public interest concern but an industry concern and the many failure to comply charges which show lack of governability. The background checks also showed that Mr. Lloyd had been charged in the past with possession of identity document and unauthorized use of a credit card which were major concerns for AMVIC as people provide a significant amount of personal information to salespeople when purchasing a vehicle. She also indicated that AMVIC was concerned Mr. Lloyd was working doing internet sales without his AMVIC salesperson registration and processing credit applications.
18. In his remarks to the Appeal Committee, Mr. Lloyd stated the following:
  - It is unfair to look at all the charges against him instead of solely his convictions.
  - He admitted to having a prior record on his application and did not think it was fair for AMVIC to suggest that he misrepresented his criminal history.
  - He called and spoke to someone at AMVIC before applying and was told that because he had a criminal record he would probably have to come in for a

meeting, so he did not think that he had to go into details on the application of his criminal history because he would have to go in for a meeting in any event.

- If he is guilty of an offence he pleads guilty.
  - He was not, and does not, get credit applications for his current employer, only leads from motorsports vehicles which are not under AMVIC's jurisdiction.
  - His boss says that he is the most underutilized employee at the store.
19. It was Mr. Lloyd's position that the Appeal Committee should grant him a salesperson registration for a probationary period to prove himself because he loves his job, he is good at his job and for the first time in 10 years he is making progress in his life.
20. [REDACTED] friend of the Appellant, in addition to providing support to Mr. Lloyd throughout the proceedings, tendered a character statement in support of Mr. Lloyd. He advised the Appeal Committee that he had been instrumental in Mr. Lloyd's progress and he was very empathetic towards people in corrections. Mr. Lloyd is living at Mr. [REDACTED] home with his family after having vacated his residence at the lake where he previously lived. Mr. [REDACTED] stated that people take advantage of Mr. Lloyd's kindness and that since he had invited Mr. Lloyd into his home he had been excelling in a normal environment. Mr. [REDACTED] indicated that Mr. Lloyd did not need a job because he had a trust fund and got paid every month and he had no reason to steal as he was not in need. He further stated that when Mr. Lloyd had stolen in the past, he always admitted it. Mr. [REDACTED] stated that Mr. Lloyd shows remorse for his past actions now that he is [REDACTED]. [REDACTED] Mr. Lloyd shows pride in his work and has been gainfully employed for approximately one year and has worked his way up into management but is limited because he does not have his AMVIC salesperson registration. Mr. [REDACTED] believes that the Appeal Committee should take the opportunity to help people like Mr. Lloyd.
21. Mr. Lloyd did not tender any other witnesses or evidence.
22. In closing, counsel for AMVIC commended Mr. Lloyd for changing his life and being employed for approximately one year. She reminded the Appeal Committee that it was AMVIC's position that the decision of the Director was well thought out and highlighted that the application had not been refused forever but that it had been refused at that time due to concerns regarding the public interest and governability. Counsel submitted that the threshold to enter the industry was not high but in this case, Mr. Lloyd simply did not meet the threshold as he had convictions directly related to the safety of not only consumers but of the industry causing AMVIC serious concern. It was the recommendation and position of AMVIC's counsel that the Appeal Committee defer to the decision of the Director as it was not only reasonable but correct.
23. In closing Mr. Lloyd stated that he had not sold any vehicles without his salesperson registration and that he only directs people to the appropriate staff at his current job. He reiterated that he was not involved in the negotiating of sales at all and he would never put his boss in the position of getting fined.



### Appeal Committee Decision

24. It is the decision of the Appeal Committee to uphold the decision of the Director not to grant the application of Ryan Lloyd for an automotive salesperson registration under section 127(c) of the *Consumer Protection Act*.
25. This decision is based upon consideration of all of the evidence at the hearing on May 21, 2019.
26. The Appeal Committee has based its decision on the following reasons:
- It is in the public interest under section 127(c) of the *Consumer Protection Act* not to issue Mr. Lloyd a salesperson registration at this time.
  - Mr. Lloyd has not had enough time, or opportunity, to show that he is governable in a regulated industry and the short period of time since his last criminal convictions does not give the Appeal Committee confidence that there is no risk to the public.
  - Mr. Lloyd's recent criminal history poses a risk to consumers for which AMVIC has an obligation to protect.
  - The Director's decision is consistent with the provisions of *The Consumer Protection Act*, the *Automotive Business Regulation* and the Bylaws and policies of AMVIC.
27. This Appeal Committee is satisfied that the hearing given to Mr. Lloyd has been exhaustive and fair. We have reviewed all of the evidence before us. We are satisfied that the Committee's decision to uphold the original decision of the Director not to grant Mr. Lloyd a salesperson registration is appropriate in the circumstances.

Issued and Dated:

"original signed by"

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Ayodola Dahunsi  
Chair – AMVIC Salesperson Appeal Committee

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May 30, 2019  
Date