

IN THE MATTER OF AN APPEAL BY

TYMOORE SALAME

TO SECTION 127(C) OF THE *CONSUMER PROTECTION ACT*,
BEING CHAPTER C-26.3 OF THE REVISED STATUTES OF ALBERTA, 2000

AND

IN THE MATTER OF THE DECISION BY
THE ALBERTA MOTOR VEHICLE INDUSTRY COUNCIL TO REFUSE THE REGISTRATION
OF THE APPELLANT AS AN AUTOMOTIVE SALESPERSON UNDER THE *CONSUMER
PROTECTION ACT* AND *AUTOMOTIVE BUSINESS REGULATION* ON FEBRUARY 28, 2023

REASONS FOR DECISION

Committee Chair: David Quest

Members: Wayne Paulsen
Charlotte Bennett

Kirsty Vogelesang
legal counsel (Emery Jamieson LLP) for the Committee

Appearances: Tymoore Salame, Appellant

Yoneke A [REDACTED]
AMVIC Manager of Licensing for the Respondent

Paula Hale,
legal counsel (Shores Jardine LLP) for the Respondent

Appeal Heard: May 11, 2023
Via Videoconference

Introduction

1. This is an appeal before the AMVIC Salesperson Appeal Committee (the "Appeal Committee") pursuant to section 22 of the *Automotive Business Regulation*, AR 192/1999 (the "ABR") from a decision of the Director of Fair Trading (as delegated) (hereafter also referred to as the "Registrar") to refuse the registration of Tymoore Salame as a provincial automotive salesperson under section 127 and section 104 of the *Consumer Protection Act* (the "CPA").

Jurisdiction

2. The *CPA* and the *ABR* regulate, among other things, automotive business licences and salesperson registrations in Alberta.
3. Under section 104 of the *CPA*, no person may engage in a designated business unless that person holds a licence under the *CPA* that authorizes them to engage in that business. The automotive sales business is a designated business.
4. Pursuant to section 16 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.
5. The Registrar's jurisdiction with respect to automotive business licences and salesperson registrations is found at section 127 of the *CPA*:

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. "Conviction" is defined in section 125 of the *CPA*:

In this Part, "conviction" means a conviction for an offence under any criminal or other law in force in Alberta or elsewhere that, in the Director's opinion, indicates that the person convicted is unsuitable to be licensed under this Act.

7. Section 18 of the *ABR* states that sections 125, 127 and 128 of the *CPA* apply, with necessary changes, to the registration of salespersons.

8. Section 127 of the *CPA* applies to both automotive business licences and salesperson registrations.

9. Accordingly, section 22(1) of the *ABR* 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.

10. Section 22(2) of the *ABR* 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), AMVIC has created the AMVIC Salesperson Appeal Committee Policy (the "Appeal Policy").

11. The Appeal Policy allows an applicant to appeal a decision of AMVIC by delivering a written Notice of Appeal to the Registrar of AMVIC not later than 30 days after the Registrar issues notice of the decision.
12. The role of the Appeal Committee is set out in section 3.2(2)(n) of the Appeal Policy:

The committee shall determine if the decision by the Registrar that is the subject of the appeal is consistent with the provisions of the Act, the Regulation, and the Bylaws and policies of AMVIC.

Evidence before the Appeal Committee

Background

13. Mr. Salame applied for salesperson registration on January 18, 2023. In his application, Mr. Salame stated that he had [REDACTED]
14. Routine background checks completed [REDACTED]
15. As a result, Mr. Salame's application was referred to the Registrar. The Registrar conducted an administrative review via teleconference call on February 28, 2023 with Mr. Salame in attendance.
16. On February 28, 2023, the Registrar issued a decision refusing Mr. Salame an automotive salesperson registration (the "Decision").
17. The Decision notes that Mr. Salame indicated it was not his intention to falsify his application or mislead the Registrar. Mr. Salame acknowledged and confirmed his [REDACTED]
Mr. Salame stated he simply misread the question on the application.
18. The Decision further reviewed Mr. Salame's licensing history with AMVIC, including that he was the sole owner and director of Skyco Auto Credit Inc. ("Skyco"), which was suspended on February 26, 2018 and the licence cancelled by the Registrar on July 11, 2018 as a result of an administrative review. Mr. Salame's salesperson registration was also cancelled in the written decision from July 11, 2018. Mr. Salame appealed both decisions and an appeal was heard on December 17, 2018, with the result that the appeal panel upheld the cancellations of the business licence and salesperson registration pursuant to a written decision dated January 27, 2019. Mr. Salame then re-applied for salesperson registration on August 19, 2019, which was refused following an administrative review held on October 1, 2019. The decision stemming from the October

1, 2019 review noted that Mr. Salame had failed to disclose [REDACTED]

19. In addition, the Decision outlined Mr. Salame's history with the AMVIC Compensation Fund (the "Fund"). The Decision notes that AMVIC received consumer complaints which resulted in AMVIC initiating an investigation into Mr. Salame. The investigators found evidence to support the consumer claims, which included a number of consumers' liens not being paid by Mr. Salame who was operating as Skyco. Four out of the seven Fund claims were determined to be eligible for compensation from the Fund. The total determined loss was \$80,112.33. The total amount paid out from the Fund was \$78,175.32 including interest. The Decision noted that as of January 31, 2023, Mr. Salame had not made any repayments to the Fund. Mr. Salame acknowledged the claims and stated his intention was to pay back the Fund, and was open to financial arrangements.
20. Lastly, the Decision notes that the Registrar reviewed Mr. Salame's employment history in the automotive industry. Mr. Salame advised that after the last administrative review, he moved to British Columbia and was employed there in the automotive industry for a period of time. He then had issues with his salesperson registration through the British Columbia regulator, the Vehicle Sales Authority ("VSA"), who cancelled his salesperson registration based on the previous AMVIC decisions. Mr. Salame advised he started working for his current employer, [REDACTED], in August of 2022, but only selling leisure vehicles such as side by sides and snow mobiles.
21. The Decision further notes that the Registrar put forward that on the [REDACTED] website, there were three google reviews mentioning a salesperson by the name of "Ty", yet there were no salespersons at this business with the name "Ty". During the administrative review Mr. Salame indicated that he often goes by the name of Ty and confirmed there was no other salesperson with the name of Ty. Mr. Salame advised that he had no involvement in the sale or negotiation of the referenced motor vehicle transactions. He advised he simply had made referrals and was doing customer satisfaction. The Decision states that it was the Registrar's opinion that Mr. Salame was continuing to engage in selling motor vehicles in some capacity while unregistered to do so.
22. The Decision was as follows:

It is my decision, as Director of Fair Trading (as delegated), to NOT grant the application of Mr. Tymoore SALAME for an automotive salesperson registration under Section 127(b)(i.1), Section 127(b)(iii), Section 127(c) and Section 104 of the CPA based on the following reasons:

1. It is in the public interest under Section 127(c) of the CPA NOT to issue Mr. Tymoore Salame a salesperson registration at this time.
2. Although Mr. Salame indicated it was not his intention to falsify his application or mislead the Director, he failed to disclose [REDACTED]. Accurate disclosure of information is part of the code of conduct expected for anyone who is to be licensed or registered with AMVIC and the applicant did not meet this standard. Under Section 127(b)(iii) of the CPA, if an applicant

furnishes false information or misrepresents any fact or circumstance to the Director, the Director may refuse to issue a licence.

[Legislative Citations Omitted]

3. There were four eligible compensation fund claims relating to Mr. Salame's previous licensed automotive business, Skyco. Correspondence has been sent to Mr. Salame regarding these matters and Mr. Salame has contacted the compensation fund coordinator on Aug. 22, 2019 regarding these claims, however Mr. Salame has not paid back the AMVIC Compensation Fund. Four of the seven compensation fund claims that have been paid out total \$78,175.32. Since Mr. Salame was suspended from operating his business Skyco Auto Credit Inc. on Feb 26, 2018, Mr. Salame has not made any demonstrable efforts to remedy the hardships that his actions have brought on several consumers.

[Legislative Citations Omitted]

4. Mr. Salame has [REDACTED] that relate directly to the automotive industry currently [REDACTED]. The weight of [REDACTED] place consumers and the industry at risk. Mr. Salame further [REDACTED].

The Alberta Court of Queen's Bench in Ahmad v. Alberta Motor Vehicle Industry Council, 2010 ABQB 293 recognized that one's past criminal and regulatory history could be considered even if charges were stayed, dismissed or withdrawn.

In the opinion of the Director, current and pending charges are even more important to consider given they are more recent and the courts have not made a decision regarding their validity.

5. Mr. Salame was previously an AMVIC registered salesperson for a very long time. He knew or ought to have known the requirements of being a registered salesperson in the automotive industry. Specifically, Mr. Salame should be fully aware of Section 12 of the ABR that clearly set out the codes of conduct for the automotive industry.
6. In totality, Mr. Salame has not demonstrated governable behaviour or shown appropriate conduct acceptable to be an AMVIC registered salesperson. As a regulatory body, AMVIC must ensure the protection of consumers. Based on Mr. Salame's actions in the automotive industry and [REDACTED], AMVIC would be remiss to allow him to operate within the automotive industry. Further, the public perception to allow an individual to continue operating in a regulated industry after causing significant financial harm to consumers and who has [REDACTED] relating to the automotive industry would be detrimental. The Director is concerned with Mr. Salame possibly continuing to engage in unlicensed motor vehicle sales with his current employer based on the Google reviews mentioning the name "Ty" in three reviews. Although there is no legislation preventing Mr. Salame from re-applying for a salesperson registration in the future, it is the opinion of the Director

that Mr. Salame should not consider applying until such time as he has paid the Fund claims back in full, dealt with and resolved all of his [REDACTED]. The Director is not persuaded, at this time that granting Mr. Salame a salesperson registration subject to conditions could adequately protect the public.

23. On February 28, 2023, Mr. Salame provided a Notice of Appeal to AMVIC without providing written reasons for the appeal.
24. Mr. Salame was self-represented.

Evidence of AMVIC

25. At the outset of the appeal hearing, legal counsel for AMVIC reviewed the authority of the Appeal Committee and the relevant legislation as outlined above. Legal counsel for AMVIC also provided the following further opening comments:
 - AMVIC's position remained that Mr. Salame should not be granted a salesperson registration.
 - At worst, Mr. Salame was not forthright and fulsome in reporting his history with AMVIC in the application. At best, he failed to be diligent in completing the application.
 - Further, the [REDACTED] him related to motor vehicles. There is a live issue with his past conduct as a salesperson registrant and business licensee. Mr. Salame was a licensee for a business that became insolvent and resulted in almost \$80,000 in Fund disbursements. Mr. Salame was the sole shareholder and directing mind of said corporation.
 - Lastly, while Mr. Salame's previous salesperson registration cancellation need not automatically rule him out from ever being a licensee or a salesperson registrant, he had made no efforts to date to remediate the Fund claims notwithstanding his statements otherwise.
26. AMVIC called oral evidence from AMVIC's Manager of Licensing, Ms. Yoneke A [REDACTED] Ms. A [REDACTED] provided the following information:
 - She has been in the Manager of Licensing role for five years. She has worked for AMVIC for nine years in licensing and registration. She manages both licensing and salesperson registration for AMVIC.
 - Salesperson registration applicants are required to complete the application online and input basic information and provide a background check. Applicants must also complete a registration course and obtain a grade of at least 80%, and pay an application fee. Applicants answer a declaration stating they answered the questions to the best of their ability.

- The application is then sent to an advisor who reviews the information provided. If the advisor finds anything of concern, the application is brought to the attention of Ms. Yoneke or a team lead.
- AMVIC also completes [REDACTED] searches of applicants for salesperson registration. AMVIC will also search salesperson registration history and online open-source information for each applicant.
- Having a criminal record does not automatically disqualify an applicant from registration as a salesperson. If an applicant has a criminal history, AMVIC will consider three factors: the seriousness, frequency and recency of that history. AMVIC will further consider the relevance of any criminal history to the automotive industry. AMVIC in substance looks for a pattern of governability.
- If Ms. A [REDACTED] finds anything of concern, she will forward the search results with the application and a Licensing Application Report to the Registrar for administrative review. The Registrar will make the decision about whether to set the matter down for a review.
- AMVIC will also check with other regulators such as AMVIC equivalents in Ontario and British Columbia, and the Real Estate Council of Alberta. The purpose of these checks with other regulators is to assess governability. If an applicant had ever been banned from another regulatory body, it goes to governability. Governability requires honesty and integrity.
- Licensing history includes both business licensing and salesperson registration.
- With respect to Mr. Salame's application, she noted that both his business license and salesperson registration were cancelled after an administrative review in 2018. He then reapplied in August of 2019 for salesperson registration only, which was refused by the Registrar. He reapplied again in January of 2023, which is the present application.
- The February 26, 2018 decision of the Registrar to cancel the business license for Mr. Salame's company, Skyco, stemmed from the findings of an investigation which was initiated after the investigation department received consumer complaints that liens on vehicles were not paid out by Skyco. Ms. A [REDACTED] explained that in a transaction where a consumer trades in an existing vehicle, the consumer sells the vehicle to the business owner and the business owner is responsible for paying out any lien. The business owner will then pay out the difference to the consumer, if any, to use towards purchase of a new vehicle. In the case of Skyco, it received money from consumers to pay out liens but then in several transactions never actually paid out the liens.
- Mr. Salame appealed the decision to cancel the business license and salesperson registration. The appeal panel reviewed the licensing history and ultimately dismissed the appeal.
- Mr. Salame applied again for salesperson registration in August of 2019. The Registrar also refused that application. That decision was not appealed.

- With respect to Mr. Salame's current application, in the eligibility section he answered "yes" to [REDACTED]. For the question inquiring about "unsatisfied judgments, court orders or collections currently pending" he said "no", which Ms. A [REDACTED] advised was incorrect. Mr. Salame was advised of the Fund claims, and that he would have to repay the Fund. Ms. A [REDACTED] referred to section 30 of the *ABR*, which outlines the reimbursement obligation on Mr. Salame. Ms. A [REDACTED] explained that as part of the disclosure she made to the Registrar, she provided copies of decisions of the Fund claims. These letters were directed to Skyco, care of Mr. Salame. The Affidavit of Service was also enclosed, dated June of 2018, showing that Mr. Salame was personally served with the notices of the claims. Ms. A [REDACTED] stated that Mr. Salame was given an opportunity to address those claims, but he did not respond to the notices of the claims.
- Ms. A [REDACTED] stated that Mr. Salame also incorrectly answered the questions about his business dealings in the last five years, as Skyco was operated within that time frame. Further, the reason for cancelling the business license was not merely due to "economic stress" as Mr. Salame suggested, but rather because of aforementioned consumer complaints.
- Lastly, Ms. A [REDACTED] noted that Mr. Salame had responded "no" to the question of whether he had been sanctioned or disciplined by any regulatory body in any jurisdiction. She stated that his registration and licensing had been refused by AMVIC before and that the British Columbia regulator had also refused him a salesperson registration.
- With respect to his current employment, Ms. A [REDACTED] outlined that Mr. Salame had indicated in his application that he works for [REDACTED] in the position of "salesperson". She went through how the portal works. She explained that the business would go into the portal and approve the applicant's information, thereby confirming the applicant was in fact working for them in the listed position. In Mr. Salame's case, he was not registered as a salesperson on January 5, 2023 when [REDACTED] approved the position information. Even in August of 2022, Mr. Salame had indicated in the portal that he was working as a salesperson with [REDACTED] despite not being registered at the time.
- Ms. A [REDACTED] explained that the google reviews AMVIC located were open source searches. She queried whether he was "soliciting" or "negotiating" a transaction on behalf of a consumer without a license. She noted that the google reviews would have been dated September of 2022, at a time when Mr. Salame was not registered. Ms. A [REDACTED] stated that AMVIC addressed this issue with Mr. Salame via email as part of the disclosure prior to the administrative review. At the administrative review hearing, his explanation was that he was just doing referrals, was not part of the sales mentioned in any of the google reviews, and was simply engaged in customer satisfaction.
- Ms. A [REDACTED] addressed Mr. Salame's [REDACTED]. She explained that the CPA offences were from [REDACTED] by AMVIC investigators. Mr. Salame also had [REDACTED]. She explained that it was the frequency and recency of Mr. Salame's [REDACTED] which caused AMVIC concern. The summary of

Mr. Salame's [REDACTED] was created by Ms. A [REDACTED] and was marked as Exhibit 1 during the appeal hearing.

27. The Appeal Committee did not ask any questions of Ms. A [REDACTED]. Mr. Salame was given the opportunity to cross examine Ms. A [REDACTED], but declined.

Evidence of the Appellant

28. Mr. Salame provided the following opening comments:

- With respect to his employment history, he had been speaking with [REDACTED] at AMVIC back in August of 2022 when he was trying to apply. He had to wait awhile before he could apply as there were issues in getting the Sterling back check which caused his application to expire.
- Mr. Salame urged the Appeal Committee to consider him as an individual separate from Skyco, which was incorporated.
- He had been a registered salesperson beginning in 2007 and registered his first business in 2016.
- Mr. Salame acknowledged what happened with Skyco, but explained that he had no malicious intent and never meant to harm anyone. Mr. Salame stated that he was truly sorry and affected by it. Since then, he has gone through a complete flip in his life and had suffered financial trauma.
- Mr. Salame explained that he was seeking a chance to redeem himself. People learn from their mistakes. Mr. Salame stated he has grown and learned from this.
- Mr. Salame outlined that he started in sales when he was 18 years old, found his niche, and fell in love with it. He had tried other ventures but they were just not the same. This is the livelihood for his family. He wants to provide for his [REDACTED]
[REDACTED]

29. Mr. Salame provided the following evidence at the Appeal:

- Mr. Salame explained that throughout his history as a registered salesperson, no CPA complaints were made against him. He always conducted himself with high standards and dealt with clients from all backgrounds.
- As for application questions, Mr. Salame stated they are misleading. He did not realize that charges under the *Traffic Safety Act* were contemplated.
- Mr. Salame noted that his business closed before the AMVIC investigation started. He lost his house, vehicle, and [REDACTED]. It was a stressful part of his life. It was not a scheme or scam to cash out.
- When he wrote his letter of appeal, he was strictly appealing the initial cancellation of his salesperson registration. The appeal committee misunderstood, as he was not appealing the loss of the business licence.

- As for the Fund, Mr. Salame stated that he fully intends to pay it back. Without being able to generate income, it has been tough. Mr. Salame noted that the Fund claims were against Skyco. He was the director at the time. He had made numerous statements about wanting to pay back the Fund. Mr. Salame denied receiving any letters in the mail serving notice of the Fund claims and he was not served at his house. He was misled by the investigator who represented to Mr. Salame that they were reviewing the investigation. When Mr. Salame received a binder from the investigator, he did not realize it contained a notice of the hearing until two weeks later, at which point he had already missed the hearing.
 - As for the substance of the Fund claims, he blamed the Skyco controller. Mr. Salame signed off on cheques meant to go to the financial institutions to pay off liens on the trade-ins, but the controller was duplicating cheques. Mr. Salame stated he addressed the issue of the cheques with the bank but was told that because he gave the controller signing authority on the account, nothing could be done. Mr. Salame denied that he knew the vehicle liens were unpaid, as the cheques were being cleared through the account. To his knowledge, the cheques were processed. Mr. Salame suggested he had records to that effect, but declined to request an adjournment to gather further records to disclose to the Appeal Committee.
 - Mr. Salame differentiated between the sins of Skyco and the sins of himself. He suggested that his reputation ought to be clear despite Skyco being liable for the acts of the controller.
30. In response to questions from the Appeal Committee, Mr. Salame provided the following evidence:
- When asked what minimum monthly contributions for repayment of the Fund he was willing to make, Mr. Salame stated he was willing to pay monthly and would comply with payment stipulations on his salesperson registration.

Summary of Arguments

AMVIC's Closing Submissions

31. Counsel for AMVIC argued that the Registrar's Decision was reasonable and correct. Accordingly, the Registrar's Decision should be confirmed, and Mr. Salame should be denied a salesperson registration.
32. Counsel reiterated that AMVIC registration served a gate keeping function and was intended to protect consumers. A vehicle purchase is most consumers' second biggest purchase after a home, the consumer is vulnerable in this transaction, and accordingly, the legislature has recognised the need to regulate salespersons.
33. Counsel outlined four reasons why the appeal of the Decision should be dismissed.
34. First, AMVIC found that Mr. Salame's explanation for the google reviews was not compelling. The reviews gave the appearance that Mr. Salame was actively involved in

the sale of motor vehicles. The definition of “salesperson” under the *ABR* is very broad, including such terminology as “solicit”.

35. Second, Mr. Salame had a history of regulatory issues, of which Skyco was only one piece. The cancellation of the business licence for Skyco and the cancellation of Mr. Salame’s personal salesperson registration occurred together. Counsel deferred to the underlying appeal decision which reviewed the events leading up to Mr. Salame losing his salesperson registration. Mr. Salame had explained to that appeal committee that he was out of country during the time frame in question and had left a salesperson in charge. Counsel noted that the problematic transactions carried on for several months after Mr. Salame’s return to Canada, thereby showing his own misconduct. While Mr. Salame denied being served with documents regarding claims to the Fund, the appeal committee concluded otherwise as he was found to not be forthcoming. Regardless, in the five years since then, Mr. Salame has done nothing to reimburse the Fund. The fact that there are unpaid Fund claims against him should be sufficient reason to refuse him salesperson registration.
36. Third, the fact that the Fund had not been repaid was itself a breach of Mr. Salame’s obligations pursuant to section 30 of the *ABR*.
37. Fourth, Mr. Salame has serious [REDACTED], including for unauthorized sale of motor vehicles. He also had a [REDACTED] on more than one occasion.
38. Additionally, Mr. Salame was not forthcoming on his current application. Even if he did not believe [REDACTED] were contemplated, he ought to have known that *CPA* [REDACTED] should have been disclosed. His failure to mention any regulatory history in British Columbia was also a concern.
39. Counsel argued that given there were [REDACTED] against Mr. Salame, he had a previous business failure, his business had failed to pay liens for consumers, he had been [REDACTED] for unauthorized sales, there was some evidence of unauthorized sales, and there was a lack of diligence in preparing his application, Mr. Salame did not display a pattern of governability, honesty, and integrity expected of a salesperson in a regulated industry.
40. Accordingly, AMVIC’s position was that at the time of the Appeal Hearing, Mr. Salame did not meet the threshold requirements for salesperson registration.

Mr. Salame’s Closing Submissions

41. Mr. Salame argued that he would not go to [REDACTED], spending money he does not have, if he believed he wasn’t innocent.
42. Mr. Salame explained that he is trying to become a better person every day. The automotive sales business is the only work he had known since he was 18 years old. He is passionate about the industry.
43. He never intended to mislead anyone. He never falsified information on vehicles that he was selling. He never hurt anyone for personal gain.

44. Mr. Salame requested a second chance to redeem himself. The last six years have been financially and emotionally burdensome.
45. Mr. Salame asked the Appeal Committee to differentiate between Skyco and himself.
46. He wants to pay back the Fund, but he is limited financially. It would be his first priority upon getting his salesperson registration.

Findings of the Appeal Committee

47. Upon hearing the evidence and arguments put forward by Mr. Salame and AMVIC, the Appeal Committee dismisses the appeal and upholds the Decision of the Registrar to refuse the application of Mr. Salame for an automotive salesperson registration under sections 104, 127(b)(i.1), 127(b)(iii), and 127(c) of the *CPA*.
48. Under section 3.2(2)(n) of the Appeal Policy, the task of the Appeal Committee is to determine if the Decision is consistent with the provisions of the *CPA*, the *ABR*, and the Bylaws and policies of AMVIC. Based on Mr. Salame's [REDACTED] and his regulatory history with AMVIC, including the unpaid claims owing to the Fund, the Appeal Committee finds that the Decision is consistent with the provisions of the *CPA*, *ABR*, and the Bylaws and policies of AMVIC.

Reasons of the Appeal Committee

49. The following evidence was before the Appeal Committee regarding Mr. Salame's [REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
50. The Appeal Committee notes that in the Decision, the Registrar relied in part on Mr. Salame's failure to accurately disclose his [REDACTED] and regulatory record on his application under section 127(b)(iii) of the *CPA* in deciding to refuse his registration. The Appeal Committee finds that the Registrar's Decision was reasonable in this regard. Mr. Salame testified that the application questions were misleading and that he did not realize that traffic [REDACTED] were included in the terminology used in the application questions. He further testified it was not his intention to mislead the Registrar. However, he did not provide any explanation for failing to disclose his history with AMVIC or the British Columbia regulator, or why he failed to disclose [REDACTED] under the *CPA* which related directly to the automotive sales industry. The Appeal Committee notes that the October 2, 2019 decision of the Registrar refusing Mr. Salame's application outlined at paragraph 8 that he had failed to disclose the *CPA* [REDACTED] in that application as well.

51. The *CPA* and the Code of Conduct requires salespeople to act honestly. There are many opportunities for a salesperson to be dishonest or to remain silent when it will not benefit them to make full disclosure. AMVIC relies on the honesty and integrity of salespeople during the application and renewal process and in their role as salespeople to protect the public and the integrity of the industry. Mr. Salame's failure to disclose his regulatory history in particular, given the direct relevance to his current application to AMVIC, raises legitimate concerns regarding his ability to comply with the Code of Conduct expected of a salesperson at this time.
52. The Appeal Committee notes that a previous appeal board confirmed the decision of the Registrar in 2018 to cancel Mr. Salame's salesperson registration, and that the underlying transactions are therefore not directly in issue in this matter. It is not the role of this Appeal Committee to assess the reasonableness of a previous appeal board decision. However, the Appeal Committee is of the view that it can consider the decision in the context of assessing the Registrar's decision to deny Mr. Salame's current application for salesperson registration.
53. The Appeal Committee does not accept Mr. Salame's explanation of the transactions underlying his previous sanctions or that he should be distinguished from the conduct of Skyco for the purposes of reviewing his suitability for registration. Mr. Salame did not provide any independent evidence to support his version of events in the underlying appeal nor before the Registrar in the administrative hearing at issue in this appeal. The Appeal Committee was provided with the previous appeal decision dated January 27, 2019 referred to in the Registrar's Decision, and notes the following excerpts:

[68] If this appeal board concluded that the challenges Skyco and Mr. Salame faced in the fall of 2017 were a direct result of the acts or omissions of an employee over a period of some six weeks, that doesn't explain why Mr. Salame continued for several months the same misconduct he blames an employee for, specifically – failing to pay out liens on vehicles either taken in on trade or sold to consumers.
54. Additionally, Mr. Salame has not repaid any of the Fund claims, which is itself a requirement under the *ABR* and a ground for refusing registration under section 127(b)(i.2) of the *CPA*. The Appeal Committee considered Mr. Salame's testimony that he intends to repay the Fund, but notes that no payments have been made to date and Mr. Salame provided no evidence that he made efforts to do so beyond merely stating his desire to do so. The Appeal Committee finds that the Registrar's Decision to refuse Mr. Salame's application on this ground was reasonable. The Appeal Committee finds that granting him a salesperson registration in the face of substantial unpaid Fund claims would result in damage to the reputation of the automotive industry, the public's perception of the industry, and would result in a risk to the public interest.
55. Section 127(b)(vii) of the *CPA* grants the Registrar authority to refuse to issue a licence where the applicant "is convicted of an offence referred to in section 125 or is serving a sentence imposed under a conviction."
56. Section 125 of the *CPA* defines "conviction" as "a conviction for an offence under any criminal or other law in force in Alberta or elsewhere that, in the [Registrar's] opinion, indicates that the person convicted is unsuitable to be licensed under this Act."

57. The Registrar found that Mr. Salame's [REDACTED] raised concerns for the protection of consumers and the industry, as well as the public perception of the industry, due to their seriousness, recency, frequency, and direct relationship to the automotive sales industry. The Registrar was entitled to consider Mr. Salame's entire [REDACTED] and regulatory history, including [REDACTED], in order to properly exercise his mandate to protect the public interest (*Ahmad v Alberta Motor Vehicle Industry Council*, 2010 ABQB 293 at paragraph 29). AMVIC has a responsibility to protect the public interest and to maintain the integrity of the automotive industry as a whole. Section 127(c) of the *CPA* makes it clear that the public interest must be taken into account in the salesperson registration process.
58. The Appeal Committee agrees that Mr. Salame's [REDACTED] enough to reasonably cause concern to the public and to AMVIC as a regulator, particularly in light of the fact that some of the [REDACTED] are related to the automotive sales industry. In the Appeal Committee's view, Mr. Salame's recent sanctions from AMVIC, both as a registered salesperson and in his capacity as the director and shareholder of the corporate business licensee, as well as his [REDACTED] related to selling vehicles while unlicensed, are especially troubling. There is a need for public confidence in AMVIC as a regulator. This need could not be met if the Appeal Committee overlooked the seriousness and recency of Mr. Salame's [REDACTED] and their relationship to the automotive industry. As a result, it was reasonable for the Registrar to find that Mr. Salame's [REDACTED] and regulatory history made him unsuitable to be licenced under the *CPA*.
59. Given the [REDACTED] and [REDACTED] their direct relationship to the automotive sales industry, and the unpaid Fund claims, the Appeal Committee finds that the Registrar's Decision, that it is in the public interest not to grant Mr. Salame a salesperson registration at this time, was reasonable.
60. While Ms. Salame submitted that he would abide by any conditional registration which he may be granted, he did not suggest any specific conditions. The Appeal Committee notes that Counsel for AMVIC did not address the possibility of granting Mr. Salame a conditional salesperson registration. Nevertheless, given the nature of Mr. Salame's history as outlined and the nature of the automotive sales industry, the Appeal Committee is not persuaded, at this time, that conditions on Mr. Salame's registration could adequately protect the public.

Conclusion

61. The Appeal Committee finds that the Registrar's Decision is consistent with the provisions of the *CPA*, the *ABR*, and the Bylaws and policies of AMVIC.
62. In the Appeal Committee's view, Mr. Salame must demonstrate a period of time where he has avoided [REDACTED] regulatory sanctions, and has made efforts to repay the Fund, before it would be appropriate to consider granting him registration as an automotive salesperson. The Appeal Committee notes that Mr. Salame may have the ability to apply for salesperson registration in the future but that, before doing so, he should endeavour to demonstrate a sustained period of rehabilitation.

63. This Appeal Committee is satisfied that the hearing given to Mr. Salame has been exhaustive and fair. We have reviewed all of the evidence before us. We are satisfied that our decision to uphold the original Decision of the Registrar not to grant Mr. Salame a salesperson registration is appropriate in all the circumstances.

Issued and Dated:

"original signed by"

David Quest
Chair – AMVIC Salesperson Appeal Committee

June 21, 2023

Date