

IN THE MATTER OF AN APPEAL BY

RYAN LECUYER

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 MARCH 1, 2023

**REASONS FOR DECISION**

Committee Chair: David Quest

Members: Bruce Kirkland  
Mike Kwasek

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

Appearances: Ryan Lecuyer, Appellant  
Robert Wachowich, legal counsel for the Appellant

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

Tracy Zimmer,  
legal counsel (Shores Jardine LLP) for the Respondent

Appeal Heard: September 20, 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 Ryan Lecuyer 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. Section 18 of the *ABR* states that sections 127 and 128 of the *CPA* apply, with necessary changes, to the registration of salespersons.
7. Section 127 of the *CPA* applies to both automotive business licences and salesperson registrations.
8. 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.

9. 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").
10. 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.
11. 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

12. Mr. Lecuyer applied for salesperson registration on February 9, 2023. He had previously applied on November 22, 2022 and April 11, 2022, but his applications were not completed. In his 2023 application, Mr. Lecuyer stated that he had [REDACTED] [sic].
13. Routine background checks completed [REDACTED]
14. As a result, Mr. Lecuyer's application was referred to the Registrar. The Registrar conducted an administrative review via teleconference call on February 28, 2023 with Mr. Lecuyer in attendance.
15. On March 1, 2023, the Registrar issued a decision refusing Mr. Lecuyer an automotive salesperson registration for various reasons including that Mr. Lecuyer had [REDACTED] in the Registrar's view, to [REDACTED] when making his application, and because he sold vehicles while unregistered to do so (the "Decision").
16. The Decision notes that Mr. Lecuyer indicated it was not his intention to falsify his application or mislead the Registrar, as he was [REDACTED] which he only learned of when he attended at the [REDACTED] Mr. Lecuyer acknowledged and confirmed [REDACTED] The Decision noted that the Registrar reviewed a [REDACTED] search [REDACTED] which lists all of Mr. Lecuyer's [REDACTED] and which [REDACTED] Based on these [REDACTED] the Registrar opined that Mr. Lecuyer was aware of [REDACTED]
17. The Decision further stated that at the administrative review, the Registrar learned that Mr. Lecuyer was [REDACTED] and was [REDACTED] [REDACTED]. On his application, Mr. Lecuyer had responded [REDACTED] He explained to the Registrar that he did not intend to mislead when answering the question, and simply misread it.

18. Lastly, the Decision notes that the Registrar reviewed Mr. Lecuyer's employment history. Mr. Lecuyer advised that he started working for his employer effective April or May 2022, and admitted that he sold 40 to 50 vehicles while unregistered to do so.

19. The Decision was as follows:

It is my decision, as Director of Fair Trading (as delegated), to NOT grant the application of Mr. Ryan Lecuyer for an automotive salesperson registration under Section 127(b)(iii), 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. Ryan Lecuyer a salesperson registration at this time.

2. Although Mr. Lecuyer indicated it was not his intention to falsify his application or mislead the Director, he failed to [REDACTED]

[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. Mr. Lecuyer [REDACTED] which cannot be ignored.

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 as they are more recent and the Courts have not made a decision regarding their validity.

4. As a regulatory body, AMVIC must ensure the protection of consumers but also the protection of the industry itself. [REDACTED] Mr. Lecuyer's [REDACTED] is a concern to the public, AMVIC as a regulator, and the automotive industry. The duty of the Director is to ensure that registered salespeople can be relied on to consistently follow the law and the standards of the profession. During the administrative review, Mr. Lecuyer admitted to the Director that he has sold around 40 to 50 motor vehicles while unregistered to do so since April or May of 2022 which is very concerning. Mr. Lecuyer's actions have not demonstrated to the Director he is capable of meeting the Code of Conduct requirements and integrity as a salesperson at this time.

20. On March 21, 2023, Mr. Lecuyer provided AMVIC with a Notice of Appeal, drafted by his counsel, on the ground that there was a change in circumstances. The Notice of Appeal outlined that Mr. Lecuyer acknowledged he was not completely candid when submitting his application, and the false information he provided was in part due to his [REDACTED]

The Notice of Appeal advised that the [REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- [REDACTED]
- | [REDACTED]

21. Mr. Lecuyer was represented by counsel at the appeal.

#### Evidence of AMVIC

22. 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:

- Notwithstanding the change in circumstances because of the [REDACTED] [REDACTED] Mr. Lecuyer, AMVIC's position remained that Mr. Lecuyer should not be granted a salesperson registration. The change in circumstances did not change the fact that Mr. Lecuyer had falsified information twice on his application and sold vehicles with the knowledge that he was not allowed to do so.

23. 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 since 2018. She has worked for AMVIC for nine years in licensing and registration. She is responsible for both the licensing of businesses and the registration of salespeople for AMVIC.
- AMVIC currently has about 11,000 registered salespeople, and close to 8,000 licensed businesses. AMVIC receives around 250-400 salesperson applications per month.
- Salesperson registration applicants are required to complete the application online, input basic information and provide a background check. Applicants must also complete a registration course, 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 the licensing department and either Ms. A [REDACTED] or a supervisor reviews the information provided. If the reviewer finds anything of concern, the application is brought to the attention of Ms. A [REDACTED] or a team lead.
- AMVIC also completes [REDACTED] 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 considers whether a consumer would potentially be put in danger by an applicant. They don't usually know the details of the charges, as they only get summaries on the [REDACTED] and criminal record check or Police Information Check.
- 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 report includes a copy of the application, a copy of the Police Information Check, and a copy of any third party searches. The Registrar will make the decision about whether to set the matter down for a review.
- With respect to Mr. Lecuyer's application, it was brought to her attention because there were [REDACTED] he provided. A further concern was that he didn't answer the question about his [REDACTED] truthfully when completing the application. Failure to disclose details in an application is concerning because the industry relies on the integrity of applicants. A consumer buying a car is making the second largest purchase in their life. Consumers rely on salespeople to be honest and upfront with them regardless of whether it suits the salesperson. As AMVIC cannot monitor day-to-day transactions, it relies on the integrity of applicants when entering the industry. Additionally, attention to detail is important to this industry.
- At the administrative review, Mr. Lecuyer was forthcoming and he explained the discrepancies in his application as being an oversight on his part. AMVIC's concerns about the discrepancies were not totally resolved, however, as the Registrar nevertheless had concerns based on the information Mr. Lecuyer revealed at the hearing about selling cars while unregistered to do so and that he was [REDACTED] at the time.
- Applicants are repeatedly reminded at several points in the application process that they are not allowed to sell vehicles prior to being issued a salesperson registration. The application states that contravention of the Act is an offence for both the individual and their employer, and could result in a fine. The salesperson

course, which Mr. Lecuyer completed in April 2022, also makes the contravention known. He would have been notified six to seven times of the requirement to not sell cars while unregistered to do so. Additionally, he had submitted two prior applications in 2022, and each time he would have been notified of the requirement to not sell vehicles while unregistered. The sales were all done after he started working for his employer in April 2022.

24. The Appeal Committee did not ask any questions of Ms. A [REDACTED]. Mr. Lecuyer was given the opportunity to cross examine Ms. A [REDACTED], and she provided the following additional evidence:

- At the time of reviewing Mr. Lecuyer's application, the [REDACTED] [REDACTED] were her concern.
- While a person is presumed innocent until proven guilty, it is not her role to assess guilt. She had no information about the reason the [REDACTED] Mr. Lecuyer were [REDACTED]
- While the declaration on the application is not a statutory declaration, it was still a mandatory question and it was up to Mr. Lecuyer whether he wanted to proceed with the application.
- While Mr. Lecuyer did not have counsel at the administrative review, he was advised that he was permitted to have counsel and chose not to.

#### Evidence of the Appellant

25. Mr. Lecuyer's counsel provided the following opening comments:

- Mr. Lecuyer is [REDACTED] years old.
- Mr. Lecuyer takes responsibility for not being fully candid when he attended before the Registrar. However, he is a lay person and not legally trained. Frequently when people are [REDACTED] they are only provided with information about the [REDACTED] under, without necessarily being given any detail about [REDACTED]. The disclosure of [REDACTED] was merely a misunderstanding on his part and not the result of dishonesty. While he did not specifically mention the [REDACTED] he did disclose he had [REDACTED] and advised of the [REDACTED] Further, the [REDACTED]
- With respect to the [REDACTED] [REDACTED]
- Mr. Lecuyer is a good candidate for the industry. He would be gainfully employed with a dealership, [REDACTED]



- He is honest and dedicated.
- With respect to his personal circumstances, the [REDACTED]
- He is taking steps to recognize his issues. [REDACTED]
- Mr. Lecuyer would be good candidate for a conditional registration. He is willing to provide a signed waiver which would allow [REDACTED]
- The suggestion that Mr. Lecuyer is a threat to public is not acceptable. He is not a risk. In any event, he is taking steps to deal with any concerns there may be by [REDACTED]

26. In response to questions from the Appeal Committee and counsel for AMVIC, Mr. Lecuyer provided the following additional evidence:

- When asked whether he was aware he was selling cars illegally, Mr. Lecuyer responded that he was. He further advised that his employer was also aware. The dealership he worked for knew he had submitted his application to AMVIC and he sold cars at that time. However, he stopped selling cars after receiving the letter from AMVIC. He sold the cars between when he submitted his application and when he was denied.
- He confirmed that a prior [REDACTED] and was related to [REDACTED]
- When the [REDACTED]. He wasn't too certain about [REDACTED]. He knew there was [REDACTED] but wasn't confident about the rest. That's why he omitted it on the application, because he thought [REDACTED] was all encompassing.
- He continues to work at the same dealership, [REDACTED]. Since he got the denial notice, he hasn't been selling cars. He has been working to help bring in cars and similar tasks to keep relevant in the industry, but not selling cars.

27. No witnesses were called by Mr. Lecuyer.

28. During the appeal hearing, Mr. Lecuyer stated that he had a reference letter from his employer which he wished to bring to the Appeal Committee's attention. Counsel for AMVIC was provided with the letter during the appeal hearing and given an opportunity to ask additional questions, which she declined. Counsel for AMVIC stated that she had no objection to the letter being provided to the Appeal Committee. The Appeal

Committee allowed Mr. Lecuyer to provide the letter and that they would consider it without the need for reconvening the appeal hearing.

## Summary of Arguments

### AMVIC's Closing Submissions

29. Counsel for AMVIC argued that notwithstanding the [REDACTED] Mr. Lecuyer, the change in circumstances did not affect the remaining grounds for the refusal of a registration. Counsel submitted that the Registrar's Decision was reasonable and correct. Accordingly, the Registrar's Decision should be confirmed, and Mr. Lecuyer should be denied a salesperson registration.
30. Counsel reiterated that AMVIC's licencing framework, including the registration of salespeople, serves a gate keeping function and is intended to protect consumers as it is one of the few opportunities AMVIC has to assess salespeople. A vehicle purchase is a substantial purchase for most consumers. The consumer is vulnerable and at a disadvantage given the imbalance of information between the consumer and the salesperson. Accordingly, the legislature has recognised the need to regulate salespeople and protect the public.
31. AMVIC begins with the assumption that salespeople will follow the rules, and during the review process will therefore look for obvious evidence that the prospective registrant is not being honest or not able to follow rules.
32. In the within appeal, there is no dispute on the facts. The evidence before the Registrar was concerning. Counsel submitted that Mr. Lecuyer was not forthcoming on his application as he furnished false information in two instances, namely when failing to [REDACTED] Counsel argued that given the failure to accurately disclose [REDACTED] Mr. Lecuyer did not display a pattern of governability, honesty, and integrity expected of a salesperson in a regulated industry.
33. [REDACTED], given the authority in *Ahmad v Alberta Motor Vehicle Industry Council*, 2010 ABQB 293 ("*Ahmad*"), [REDACTED] The Court has recognized that past criminal history could be considered even if the charges are stayed, dismissed, or withdrawn. [REDACTED] did not completely address AMVIC's concerns about Mr. Lecuyer's integrity, governability, and ability to meet the Code of Conduct requirements.
34. Counsel submitted that the decision of the Registrar was owed deference and should be upheld where it is reasonable and there is no material new evidence. While there was new evidence here, it did not affect the other concerns AMVIC had.
35. Accordingly, AMVIC's position was that at the time of the Appeal Hearing, Mr. Lecuyer did not meet the threshold requirements for salesperson registration.
36. In the alternative, counsel for AMVIC advised that if the Appeal Committee grants Mr. Lecuyer registration, it should be conditional as follows:

- His registration shall be conditional [REDACTED]  
[REDACTED] A further administrative review may be required at that point.
- He must report to AMVIC [REDACTED]  
[REDACTED]
- Before any annual renewal, he must provide AMVIC with a criminal record check.
- He must obtain written acknowledgment from his employer that [REDACTED]  
[REDACTED] and must provide this to AMVIC.
- If he changes employers, including if he is terminated, he must advise AMVIC.
- He is required to undertake renewals in a timely fashion and must update AMVIC with any changes to his contact information and employment information.

#### Mr. Lecuyer's Closing Submissions

37. Counsel for Mr. Lecuyer submitted that Mr. Lecuyer is keen on becoming involved as a salesperson. He has employment waiting for him at a flagship dealership. The dealership wants him to succeed. He is anxious to earn a livelihood.
38. Counsel further submitted that Mr. Lecuyer does not pose any safety risks of violence to consumers or co-workers.
39. With respect to the failure to disclose information on his application, counsel reiterated that it was a misunderstanding and there was no evidence of an intention to be deceitful.
40. Counsel argued that the *Ahmad* decision was distinguishable, as it dealt with a registrant that had a conditional license and failed to comply with the conditions.
41. Counsel suggested that the conditional registration proposed by AMVIC would be agreeable to Mr. Lecuyer. Counsel urged that Mr. Lecuyer be given an opportunity to prove himself with a conditional registration.

#### **Findings of the Appeal Committee**

42. Upon hearing the evidence and arguments put forward by Mr. Lecuyer and AMVIC, the Appeal Committee grants the appeal and varies the Decision of the Registrar to refuse the application of Mr. Lecuyer for an automotive salesperson registration under sections 104, 127(b)(i.1), 127(b)(iii), and 127(c) of the *CPA*. The Appeal Committee directs that Mr. Lecuyer be given a conditional automotive salesperson registration, on the following conditions:
  - His registration shall be conditional [REDACTED]  
[REDACTED] A further administrative review may be required at that point, at the discretion of AMVIC.

- [REDACTED]
  - Before any annual renewal, he must provide AMVIC with a criminal record check.
  - He must obtain written acknowledgment from his employer that [REDACTED], and must provide this to AMVIC.
  - If he changes employers, including if he is terminated, he must advise AMVIC.
  - He is required to undertake renewals in a timely fashion and must update AMVIC with any changes to his contact information and employment information.
43. 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. Given the totality of the circumstances, including the recent change in circumstances [REDACTED] the Appeal Committee finds that the Decision is no longer consistent with the provisions of the *CPA*, *ABR*, and the Bylaws and policies of AMVIC.

#### **Reasons of the Appeal Committee**

44. Pursuant to the *ABR*, Mr. Lecuyer had a statutory right of appeal. The Appeal Policy created under the *ABR* further grants the Appeal Committee the ability to confirm, vary, or quash the Decision. Additionally, neither the *CPA*, *ABR*, or Appeal Policy place explicit restrictions on the evidence which may be called at an appeal. These factors together suggest that, while the Appeal Committee should consider the Registrar's decision, the Appeal Committee is not required to fully defer to the Registrar's reasons and should consider all of the evidence before it in the appeal, including the new evidence which was ultimately admitted during the appeal hearing.
45. The following evidence was before the Appeal Committee regarding Mr. Lecuyer's [REDACTED] as outlined in Exhibit A – [REDACTED]
- [REDACTED]
  - Mr. Lecuyer had [REDACTED];
  - Mr. Lecuyer had [REDACTED]
46. The evidence from AMVIC's witness was that the only matter which caused concern at the time of Mr. Lecuyer's application was the [REDACTED]. No other charges were referenced in the Decision.
47. AMVIC regulates the automotive industry in Alberta. Its mandate is to, among other things, provide consumer protection in that industry through mandatory licensing of automotive businesses and salespeople in accordance with the *CPA*. The Registrar is given the discretion to refuse to issue a licence or registration for any of the reasons set out in section 127 of the *CPA*.

48. The Appeal Committee notes that in the Decision, the Registrar relied in part on Mr. Lecuyer's failure to accurately disclose [REDACTED] 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 unreasonable on this point. In his application, Mr. Lecuyer disclosed that he had [REDACTED]. He testified that he did not understand that [REDACTED] as he was not always privy to information provided to his lawyer and because he denied the [REDACTED]. He further testified it was not his intention to mislead the Registrar. AMVIC conceded that Mr. Lecuyer was forthcoming about explaining this error during the review with the Registrar.
49. The Appeal Committee recognizes that the CPA and the Code of Conduct requires salespeople to act honestly. However, Mr. Lecuyer's disclosure of [REDACTED] does not raise legitimate concerns regarding his ability to be honest or to comply with the Code of Conduct expected of a salesperson. The Appeal Committee accepts Mr. Lecuyer's explanation of why he did not disclose [REDACTED]. While perhaps thin on detail, in the Appeal Committee's view, the disclosure did not amount to either false information or a misrepresentation of any fact or circumstance. The Appeal Committee finds that there was no deliberate deceit by Mr. Lecuyer in the process of applying for registration. The Appeal Committee finds that the Registrar imposed too high a standard on disclosure in this circumstance. The Appeal Committee distinguishes this matter from other matters where [REDACTED] are not disclosed.
50. The Appeal Committee further notes that in the Decision, the Registrar relied on Mr. Lecuyer's failure to disclose that he was [REDACTED] when completing his application. The Appeal Committee notes that in reviewing Exhibit A – Summary of [REDACTED]. The only information available to the Appeal Committee is that the Registrar "became aware" that Mr. Lecuyer was [REDACTED]. It is not clear how the Registrar became aware of [REDACTED]. However, the Appeal Committee finds that the [REDACTED] and [REDACTED]. As such, in the Appeal Committee's view, it would be reasonable for a layperson to misunderstand the application question as written and not realize that the [REDACTED] were what was contemplated by the question. The Appeal Committee finds that there was no evidence of intention to mislead on the part of Mr. Lecuyer, and no evidence that Mr. Lecuyer was being evasive. Mr. Lecuyer was forthcoming at the Review. The Appeal Committee accepts that his failure to disclose [REDACTED] was an honest mistake in the circumstances.
51. Section 127(c) of the CPA makes it clear that concern for the public interest is the overarching consideration in the salesperson registration process, and essential to AMVIC's mandate as a regulator. The Registrar found that Mr. Lecuyer'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 and recency. While the Appeal Committee recognizes the authority in *Ahmad* and the principle that AMVIC can consider [REDACTED], in the circumstances, the Appeal Committee finds that Mr. Lecuyer does not pose any risk of harm to the public in light of the [REDACTED]. AMVIC has a responsibility to protect [REDACTED].

the public interest and to maintain the integrity of the automotive industry as a whole, but, based on the totality of the evidence, the Appeal Committee finds that there is no longer a concern for protection of consumers or the industry in light of the [REDACTED] [REDACTED] Mr. Lecuyer.

52. For clarity, the Appeal Committee does not mean to suggest that it condones individuals selling vehicles while unregistered to do so, or that AMVIC was not entitled to refuse a registration as a result. Rather, the Appeal Committee finds that the subsequent [REDACTED] to be the most important factor in varying the Decision, particularly in light of the fact that the [REDACTED] were the reason for the Registrar to flag Mr. Lecuyer's application for review. As those [REDACTED], the Appeal Committee finds that the change in circumstances weighs against the concerns from AMVIC that Mr. Lecuyer is a risk to consumers in a general sense. This is especially so considering the following:

- After the Registrar's decision, [REDACTED]
- Mr. Lecuyer has undertaken [REDACTED]
- Mr. Lecuyer's employer was aware [REDACTED] and was aware of his administrative review;
- Mr. Lecuyer's employer was aware that he was selling cars while unlicensed to do so. There is no evidence that Mr. Lecuyer's employer took issue with him doing so;
- Mr. Lecuyer's employer provided a positive endorsement of his character, and provided assurances that it had checks and balances in place to ensure there were no safety concerns for the public or other employees;
- Mr. Lecuyer was frank and forthright in hearings before the Registrar and the Appeal Committee;
- Mr. Lecuyer demonstrated insight and understanding of the impact of his actions;
- There is no evidence of any attempts by Mr. Lecuyer to conceal any circumstances from either his employer, AMVIC, or the Appeal Committee;
- There is no evidence of any harm to consumers or any complaints by anyone about Mr. Lecuyer's conduct or character.

53. In summary, the Appeal Committee finds that Mr. Lecuyer's [REDACTED] [REDACTED] do not reasonably cause concern to the public or to AMVIC as a regulator.

54. Additionally, when considering the public interest, the Appeal Committee must also consider the interests of the applicant to practice their chosen profession. The right to earn a livelihood is an interest of fundamental importance to the individual, and as such, should not be overridden lightly. While this factor is less important than public confidence

in the industry, it is nevertheless part of the analysis. With a conditional registration, Mr. Lecuyer will have an opportunity to prove his governability.

55. On a balance of probabilities, and considering the totality of the circumstances, the Appeal Committee concludes that Mr. Lecuyer has established that he has sufficiently good character to be granted at least conditional registration. In assessing Mr. Lecuyer's character at this juncture, Mr. Lecuyer need not prove that there is no risk for future abuse of public trust, nor provide an assurance that there is no risk of misconduct. The Appeal Committee is of the view that there will be appropriate checks and balances in place during the period of his conditional registration. Even if there are lingering concerns about attention to detail or some risk of misconduct, conditions on Mr. Lecuyer's registration will manage that risk and adequately protect the public in these circumstances (which, again, is the primary concern). The conditions proposed will provide appropriate assurance to the public that individuals who are permitted to enter the industry meet the standards expected of the profession.

Conclusion

56. It is the decision of this Appeal Committee, based on the new information arising since the Registrar's decision, that the Registrar's decision be varied and directs that Mr. Lecuyer be given a conditional registration on the conditions outlined above.
57. This Appeal Committee is satisfied that the hearing given to Mr. Lecuyer has been exhaustive and fair. We have reviewed all of the evidence before us. We are satisfied that our decision to quash the original Decision of the Registrar not to grant Mr. Lecuyer a salesperson registration, and to grant conditional salesperson registration, is appropriate in all the circumstances.

Issued and dated:

"original signed by"

\_\_\_\_\_  
David Quest  
Chair – AMVIC Salesperson Appeal Committee

\_\_\_\_\_  
November 1, 2023

Date