

**MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA**  
*(Previously known as the Motor Dealer Council of B.C.)*

**IN THE MATTER OF THE *MOTOR DEALER ACT* R.S.B.C. 1996 C. 316  
AND THE *SALESPERSON LICENSING REGULATION* B.C. REG. 241/2004**

**Re:**

**VICTOR MORGULIS**

**DECISION OF THE REGISTRAR OF MOTOR DEALERS**

1. On April 16, 2008, a hearing was held pursuant to Sections 6 and 7 of the *Salesperson Licensing Regulation* B.C. Reg. 241/2004 (the “Salesperson Regulation”) regarding Victor Morgulis’ application to be licenced as a salesperson. I have been delegated all the powers and authority of the Registrar of Motor Dealers under the *Motor Dealer Act* R.S.B.C. 1996 c. 316 and its regulations, including the Salesperson Regulation. I have jurisdiction to hear and decide this matter.
2. After a review of Mr. Morgulis’ application and an investigation conducted by Holly Childs, a Compliance Officer (investigator) with the Motor Vehicle Sales Authority of British Columbia (the “VSA”), the Authority determined it was in the public interest that Mr. Morgulis be refused a salesperson licence.
3. In attendance, and those who gave evidence at the hearing, were Victor Morgulis, Hong Wong, Manager of Licensing with the “VSA”, Jennifer Doyle, a Licensing Officer with the VSA who processed Mr. Morgulis’ application, and Holly Childs.

**Background**

4. On February 19, 2008, Victor Morgulis’ application for a salesperson licence was received by the VSA (the “Application”). After a review of the Application, it was noted that it was incomplete in that the past employment history section of the Application (page 4) was completely blank. Requests for Mr. Morgulis to provide this information proved unfruitful. Holly Childs was assigned to conduct an interview of Mr. Morgulis and to make inquiries of his prior work history and the accuracy of his responses to other questions in the Application. It is the information that came to light during the interview and the investigation which has led to this hearing to consider whether or not Mr. Morgulis should be licenced as a salesperson.

## **Position of the VSA**

5. Jennifer Doyle gave very brief evidence. Ms. Doyle entered the Application into evidence which was marked as Exhibit 1. She noted that page 4, employment history, was not completed. Ms. Doyle noted she had requested from Mr. Morgulis that the employment history be provided and to the date of the hearing, Mr. Morgulis had not provided that information. Ms. Doyle also stated that when dealing with Mr. Morgulis, he was rude and verbally aggressive towards her.

6. Holly Childs submitted an Affidavit at the hearing which was entered as Exhibit 2. In oral testimony, Ms. Childs summarized her Affidavit, and her evidence in summary form is that:

- (a) On February 25, 2008, Mr. Morgulis contacted her by phone, was agitated and requested an earlier appointment than was available for the interview.
- (b) Jennifer Doyle had relayed to Ms. Childs the difficulties she was having with Mr. Morgulis including his aggressive behaviour.
- (c) Ms. Childs' investigation and the interview uncovered the following information, as set out in her Affidavit (Exhibit 2):
  - (i) That Mr. Morgulis' one criminal conviction (as disclosed on his application on page 3, question 3), was for threatening to kill his former wife. He received two years probation and was ordered to take anger management courses.
  - (ii) Mr. Morgulis is currently reporting to Probation Officer Diane Campbell who notes no difficulty with Mr. Morgulis and that he is in anger management classes. Ms. Campbell noted that there was an existing family law matter Mr. Morgulis was dealing with but that she was only dealing with the criminal file.
  - (iii) Mr. Morgulis was a salesperson in Ontario and was involved in a hearing before the Ontario Motor Vehicle Industry Council ("OMVIC").
  - (iv) OMVIC informed Ms. Childs that Mr. Morgulis had on six occasions breached a restraining order issued under the Family Law Reform Act of Ontario and he had spent 60 days in "gaol" for non-payment of child support and that as of 2006 he was \$171,000.00 in arrears. That Mr. Morgulis failed to disclose to OMVIC his criminal record.

7. Ms. Childs also states at paragraph 6 of her Affidavit that "Victor Morgulis refused to talk about anything to do with his family matter or about his children" and at paragraph 14, that he "failed to disclose family matters as well as not disclose the 60 days he had spent in gaol."

8. Finally Ms. Childs stated that she did not give much weight to the other information in the OMVIC file as provided to her. She expressed that her main concern was Mr. Morgulis' lack of disclosure.

9. Attached as an exhibit to Ms. Childs' Affidavit is a copy of an Ontario Superior Court of Justice Order, dated January 11, 2006, requiring Mr. Morgulis to pay his child support, amongst other things.

10. Mr. Hong Wong testified about his communications with Mr. Morgulis during the time the Application was being reviewed. Entered as Exhibit 3 were 20 pages of emails flowing between Mr. Morgulis and Mr. Wong. Mr. Morgulis was provided a copy of the emails and admitted that he did send them.

11. Mr. Wong highlighted what he believed to be comments that were threatening and had "crossed the line" even when taking into account Mr. Morgulis' obviously agitated state. Two examples suffice for present purposes:

(a) On page 16 of 20 of Exhibit 3, Mr. Morgulis' email of March 13, 2008 concludes:

*PS> old wisdom, never pick a fight with a man , who got nothing to loose.... if you put a nice dog in the corner ... eventually he will bite.*

(b) On page 12 of 20 of Exhibit 3, Mr. Mogulis' email of March 16, 2008 states:

I would like to express my sympathy to you for the process that would take in front of registrar ... it is a nerve racking experience , never the less it is not by choice that we have to go true this.

Please make my ***complete*** file be available to me as soon as possible, since i have to prepare for this event, that marks 9 years of malicious prosecution by the licensing comity, including your self, not just here but also in Ontario. Please provide a complete Raymond Lewis file since he will be called to testify as a witness.

Any attempt to stole or misunderstand my request would be treated as a hostile action by me and my lower and registrar

*Your truly Victor Morgulis*

12. The word complete in the email is much larger than the rest. Mr. Raymond Lewis was not produced as a witness by Victor Morgulis. I also note that the email indicates that he believes he has been persecuted by the licensing community ("comity") for 9 years both here and in Ontario. This is Mr. Morgulis' first ever application for a licence to be a salesperson in B.C.

13. I also note that Mr. Morgulis did not directly challenge any of the above-noted facts relayed by the VSA staff. He attempted to impeach Ms. Childs' interview of him as will be discussed below. It is clear that none of these facts would have been unknown to Mr. Morgulis.

## **Victor Morgulis' Position**

14. Mr. Morgulis commenced his testimony by discussing an investigation by OMVIC in 1999 regarding his conduct while a salesperson in Ontario. He stated that after he was investigated by OMVIC he was fired by his employer. He said a review of OMVIC's decision found that it was faulty and was set aside. Mr. Morgulis entered as Exhibit 4 a letter from Miller Thompson LLP of Vancouver, with two attached decisions of the Ontario Superior Court of Justice: *Lewis v. Ontario Plymouth Chrysler* 2001 CarswellOnt 3009 and 2001 CarswellOnt 3445. A review of the decisions indicates that Raymond Lewis successfully sued his employer for wrongful dismissal and was awarded costs. Justice Nordheimer commented that OMVIC's investigation and cancellation of Mr. Lewis' licence was reversed on an appeal to the Ontario Commercial Registration Appeal Tribunal as OMVIC's investigation was found to be cursory. There is no mention in these decisions of Victor Morgulis. However, Mr. Morgulis states he and Raymond Lewis were part of the same OMVIC investigation which led to his licence being cancelled, which was also reversed on the same appeal to the Ontario Commercial Registration Appeal Tribunal. He said it was because of this investigation that he lost his job in Ontario.

15. Mr. Morgulis provided some detail about his family situation, his divorce, the fact that he now feels estranged from his children and the difficulty he has had getting back into the industry. He said he tried to sell cars in Alberta for a while, but the police came to his home regarding the death threat for which he was convicted. At that time, Mr. Morgulis had to return to Ontario to deal with that issue. He said it was also during this time period that he was incarcerated for 60 days (in 2005) for failing to pay child support, and he tendered as Exhibit 5 a letter dated 21 February, 2008, from the Ontario Ministry of Community and Social Services showing his child support arrears of \$181,303.70. It appears Mr. Morgulis has not paid much, if any, child support since first ordered to do so.

16. Mr. Morgulis then tendered as Exhibit 6 what would appear to be an undertaking between himself and the Registrar of OMVIC. It is undated and unsigned. Mr. Morgulis' reason for tendering this document was to paint a picture of what was occurring in Ontario regarding his salesperson licence there. He believes OMVIC was persecuting him. Mr. Morgulis did not deny the facts in this document or state they did not accurately reflect what was going on. There are several conditions in that undertaking, some include:

- (a) The Applicant agrees to provide full and complete disclosure on all future applications and discussions with the Registrar or his representative regardless of whether or not disclosure has been provided in the past.
- (b) The Applicant will provide written confirmation of the final disposition of the outstanding charges to the Registrar within 5 days of the final disposition.
- (c) The Applicant will not operate a vehicle without a valid Ontario driver's licence.
- (d) The Applicant will comply with all court orders, including but not limited to orders to pay support.
- (e) The Applicant agrees not to be involved in the process of buying, selling or leasing motor vehicles without the benefit of registration.

17. In support of his case, Mr. Morgulis then tendered a copy of what he says is an email from a Joseph Pedo, Director of Finance and Operations at a car dealership in Ontario: Exhibit 7. It is undated and does not show a recipient. The email details the type of work Mr. Morgulis would do at the dealership if hired. The final sentence says “[t]he conditions you have provided him [Victor Morgulis] appear to be justified, and if you can provide us a copy of those conditions, it would be much appreciated.” Mr. Morgulis asked that I telephone Mr. Pedo in Ontario as a character witness. I declined to do so as there were no prior preparations that would allow me to conduct the examination in an appropriate fashion. As will be seen below, I do not think it necessary to have heard from Mr. Pedo.

18. Mr. Morgulis then tendered as Exhibit 8 the Affidavit of Coretta Morgulis sworn February 11, 2000. Mr. Morgulis explained Coretta is his ex-wife. The Affidavit attached other affidavits, including those of Mr. Morgulis, for the purpose of the family law matters in Ontario. I questioned the need to enter this affidavit, but Mr. Morgulis asked that I review it in consideration of his case. A review of the Affidavit and attachments provide insight into the to-and-fro of Mr. Morgulis’ divorce proceedings. The proceedings were certainly acrimonious.

19. Mr. Morgulis finally entered as Exhibit 9 an undated article in the “Dealer News” highlighting a novel idea he had for increasing revenues at his employer’s Ontario car dealership by importing older Japanese cars which were then sold to novelty collectors.

20. Mr. Morgulis highlighted his inability to work and his time painting and working at an Art Gallery on Bowen Island for the past 13 months or so. He also discussed the fact he had to live in a shelter for some time and while he has a Bachelor’s degree in fine arts, selling cars is what he really knows what to do best.

21. Mr. Morgulis then challenged Ms. Childs’ interview of him, saying she was most focused on the OMVIC investigation and with Raymond Lewis than on him. He made one comment out of the blue about “Dan have a relationship with a hooker.” Mr. Morgulis mentioned, several times, that after what he has been through, it is no wonder he is a little paranoid. Mr. Morgulis then stated that he has, after many years, finally obtained pictures of his children and wanted to present them to the hearing. I declined as they are not relevant.

22. Mr. Morgulis’ final comment was that Holly Childs informed him that “Amanda Lee” was working at the VSA. Amada Lee is apparently the investigator who investigated Mr. Morgulis at the time OMVIC decided to revoke his licence. Amanda Lee does not work for the VSA.

### **The Law**

23. Section 6(a) of the Salesperson Regulation states:

**6** If the conduct of an applicant or licensee is, in the opinion of the authority, such that it would not be in the public interest for the applicant or licensee to be licenced or continue to be licenced, the authority may

(a) refuse to issue the licence

24. My concern thus focuses on whether or not it is in the public interest that Mr. Morgulis be a licenced salesperson. This must be balanced with Mr. Morgulis' desire to be a licenced salesperson and I must consider his unique facts. This is a discretionary decision about conferring upon Mr. Morgulis the privilege of being a licenced salesperson in the Province of British Columbia. He has never been licenced in B.C. I do recognize that he has had a long history of selling cars in Ontario: see the Supplementary Affidavit of Viktor Morgulis sworn May 6, 1999, at paragraph 18 attached to Exhibit 8.

25. I am guided in my decision by the case of *Pacific International et al v. B.C. Securities Commission* 2002 BCCA 421, where Smith J.A., writing for the Court, stated that fairness must be shown and due consideration given to an applicant such as Mr. Morgulis, where such a decision may affect his interest. Mr. Justice Smith also agreed that where a person is seeking the privilege of being a licenced salesperson (a securities broker in *Pacific International*), that the level of fairness is relatively low on the fairness spectrum and that the public interest is paramount. See also *Lorindale Holdings et al v. BC Assets and Land Corp. et al*, 2004 BCCA 352. These principles were recently reaffirmed by the Supreme Court of Canada in *Dunsmuir v. New Brunswick* 2008 SCC 9 at paragraphs 79-90 and 137.

26. This concept was well captured by Mr. Justice Cory in *R v. Wholesale Travel Group Inc.* [1991] 3 S.C.R. 154 at 219:

The objective of regulatory legislation is to protect the public or broad segments of the public (such as employees, consumers and motorists, to name but a few) from the potentially adverse effects of otherwise lawful activity. Regulatory legislation involves a shift of emphasis from the protection of individual interests and the deterrence and punishment of acts involving moral fault to the protection of public and societal interests. While criminal offences are usually designed to condemn and punish past, inherently wrongful conduct, regulatory measures are generally directed to the prevention of future harm through the enforcement of minimum standards of conduct and care. [underlining is added]

### Analysis

27. After consideration of the above facts and giving them their individual due weight, it is my opinion that it would not be in the public interest to issue Mr. Morgulis a salesperson licence.

28. I am most concerned that Mr. Morgulis is presently, and has in the past, shown a disregard for the law, orders of the courts and regulatory authorities.

29. First, Mr. Morgulis was convicted of uttering death threats against his ex-wife. This is a crime of a violent nature. Mr. Morgulis' emails indicate an aggressive behaviour towards Mr. Wong which is supported by the testimony of Jennifer Doyle and Holly Childs. I am concerned about the potential future harm to a consumer, a fellow co-worker or a VSA staff member in dealing with Mr. Morgulis, if he should become agitated or frustrated. It should be noted that Mr. Morgulis would have to go through this application

process, albeit to a lesser extent, each year when his licence comes up for renewal if he were granted one.

30. Second, Mr. Morgulis has on six occasions disregarded a Court imposed restraining order. This he has not denied. I must question whether it is in the public interest that a person willing to disregard the law and a court order should be licenced. If the Registrar of Motor Dealers issues an order requiring Mr. Morgulis to do something, will he comply? I note from Exhibit 6, the similar difficulties OMVIC faced in obtaining Mr. Morgulis' compliance with the law in Ontario. Again, I note that it was Mr. Morgulis who tendered Exhibit 6 into evidence and he did not challenge its contents.

31. Third, it is apparent Mr. Morgulis is evading paying child support as required by an Ontario Court Order of January 11, 2006, (attached to Exhibit 2). Mr. Morgulis has stated he has not worked and has had no income to pay. This would appear to be the case for some several years now, even though he admitted at the hearing to working at an Art Gallery on Bowen Island and to working for a time in Alberta.

32. Exhibit 8 contains Affidavits that were filed in support of divorce and child maintenance proceedings in the Ontario Superior Court of Justice. The various affidavits are replete with Mr. Morgulis claiming he has no money and his ex-wife saying he is hiding his money. Again, it was Mr. Morgulis who entered the Affidavit as an exhibit.

33. It is to be noted that the Ontario Superior Court of Justice Court Order of January 11, 2006, made an order requiring Mr. Morgulis to pay \$500.00 a month for ongoing child support based on the evidence before it (attached to Exhibit 2). I must give full credit to this court decision and accept that Mr. Morgulis has, at least sometime in the past, had the ability to pay child support and chose not to do so. He spent 60 days in "gaol" for this very reason. I accept that Mr. Morgulis has been able to make a living outside of the car sales industry.

34. Fourth, Mr. Morgulis failed to disclose to the VSA all relevant information necessary for it to carry out its regulatory function of evaluating his fitness to be a licenced salesperson. Fitness in the regulatory sense does not mean his ability to sell cars, but to sell cars in a consistent and verifiably lawful manner meeting a "minimum standard of conduct and care" as set by the relative legislation and by the Registrar of Motor Dealers, such as through the Salesperson Guidelines. Section 8 of the Salesperson Regulation requires Mr. Morgulis to provide the VSA with all the information it requested in the Application. Up until the time of the hearing, Mr. Morgulis had yet to fully comply with that request. He stated at the hearing that he gave that information to his prospective employer. The law requires he also give that information to the VSA who is independent of his prospective employer.

35. Finally, I am also concerned about Mr. Morgulis' comments about being paranoid and what appears to be his inability to distinguish between the VSA and OMVIC. It is clear from his evidence that he distrusts OMVIC, feels that authority persecuted him and believes the VSA is doing the same. The only conduct of the VSA towards Mr. Morgulis has been to process his application for a licence and obtain necessary details of his past that he refused to divulge.

36. I would note that some of the above noted concerns, if they stood alone, would not necessarily bar Mr. Morgulis from becoming a licenced salesperson. For instance, his anger management issues may have been dealt with by placing an appropriate condition on his licence. However, that is not the only fact I must consider and in my opinion, the totality of the evidence indicates that Mr. Morgulis is currently untrusting of regulatory authorities, that he does not hold obedience to the law as a necessary standard of conduct and that he will not obey a lawful request to provide information necessary for the VSA to evaluate his conduct so as to ensure he maintains the “minimum standards of conduct and care” required of a licensed B.C. salesperson.

37. For these reasons, it is my opinion that it would not be in the public interest for Mr. Morgulis to be issued a salesperson licence.

### **Decision**

38. Mr. Morgulis is refused a salesperson licence.

Dated: April 22, 2008

A large black rectangular redaction box covers the signature area. A small handwritten mark resembling the letter 'A' is visible above the top right corner of the box.

Ian Christman B.A., LL.B.