

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

RE:

SG POWER PRODUCTS LTD.
(Dealer No. 8040)

MOTOR DEALER

DECISION OF THE REGISTRAR OF MOTOR DEALERS

1. On August 20, 2008 a hearing was held before me under sections 5 and 6 of the *Motor Dealer Act* R.S.B.C. 1996 c. 316 (the "MDA"). The reason for the hearing is there is evidence that SG Power Products Ltd. Dealer Number 8040 ("SG"), has or is engaging in the sale of motor vehicles to the retail public by utilizing persons not licensed as salespersons. Pursuant to section 4(4) of the MDA, a condition has been placed on the registration of SG making it "[c]onditional upon all staff, management, and other representatives involved in retail vehicle sales holding a valid salesperson license issued by the VSA".
2. SG did not attend the hearing although a Notice of Hearing was sent by registered mail on July 28, 2008 and the Canada Post website shows it was accepted at SG's address on July 29, 2008: Exhibit 1 of the Hearing. I was satisfied that service of the Notice met the requirements of sections 6 and 30 of the MDA and pursuant to section 6(e) of the MDA, I continued with the hearing.
3. Hong Wong, the Manager of Licensing at the Motor Vehicle Sales Authority of B.C. (the "VSA"), provided a "fax cover sheet" which was entered as Exhibit 3 at the hearing. The fax was sent to SG, attention Marc Lee Business Manager, and dated June 20, 2008. The letter states that the salesperson license of both Marc Lee and Michael Maillet expired on June 1, 2008 and needed to be renewed. The letter further warned that SG would be reviewed in one week time and if compliance had not been obtained, the dealership may be called to a hearing before the Registrar.

4. Hong Wong also provided evidence of the recurring problems with SG operating without licensed salespersons. Entered as Exhibit 4 at the hearing was an activity log from the VSA database system highlighting some of these problems. Hong Wong also stated that Gordon Browne's salesperson license expired on July 8, 2008 and was not renewed until July 28, 2008. He also noted that Marc Lee's license expired June 1, 2008 and was not renewed until August 7, 2008 – a week after SG received the Notice of Hearing. Mr. Wong says it now appears that all salespersons at SG are now licensed. Mr. Wong states the VSA is continuously chasing SG to get its salespersons licensed.

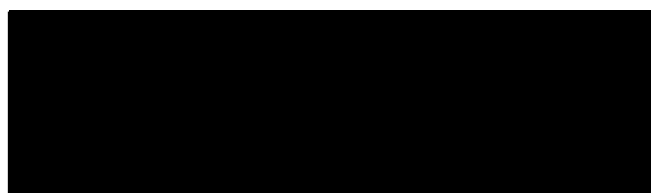
5. A written statement dated July 31, 2008 from John MacDonald, a Compliance Officer with the VSA, was entered as Exhibit 2. On July 11, 2008 John MacDonald visited SG and reviewed some of its sales agreements. He noted that SG had sold vehicles to the retail public using staff members who were not licensed. John MacDonald notes that there was no salespersons names indicated on various agreements and on 32 sales agreements he noted there was no signature from a representative of SG. In that statement Mr. Browne notes he and Marc Lee are the only persons who deal with sales at SG which is why no salespersons names are noted. Gordon Browne admitted to John MacDonald to having conducted some of the sales even though his salesperson license had lapsed. Mr. Browne also indicated that Marc Lee was involved in some sales. For example, on July 18, 2008 a purchase agreement between SG and Francis Veillete was completed by Marc Lee and Gordon Browne was the salesperson. During this time, neither was a licensed salesperson; meaning SG has breached the condition of its license.

6. The law and the conditions of SG's registration require the sale of motor vehicles to the retail public occur through licensed salespersons. SG has clearly breached that requirement. Obedience to the law is of concern to the public interest. I also note that this is not the first time SG has failed to ensure its salespersons are properly licensed and this appears to be a chronic problem. I recognize that SG's salesperson staff is now licensed, but that occurred only after a Notice of Hearing was sent to it. I believe some deterrence is necessary in order to ensure future compliance from SG in this regard.

7. In considering the appropriate enforcement step to take, I am mindful of the need for progressive enforcement and that the taking away of a persons ability to make a livelihood must be carefully considered, but that in cases such as this, the public interest is paramount: *Pacific*

International et al v. B.C. Securities Commission 2002 BCCA 421 (B.C. Court of Appeal) and *Dunsmuir v. New Brunswick*, 2008 SCC 9 (Supreme Court of Canada). Pursuant to section 5(b)(ii) of the MDA I order that SG's dealer registration be suspended for a period of three days. For clarity, SG's motor dealer registration shall be suspended from Thursday October 9, 2008 at 12:01 am until and including Saturday October 11, 2008 at 11:59 p.m. During Thursday October 9, Friday October 10 and Saturday October 11, 2008 SG may not engage in the "lease, exchange or other disposition or supply of a motor vehicle to an individual primarily for the individual's personal or family use".

Date: September 15, 2008.



Ian Christman B.A., LL.B.