



**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:**

**101074603 SASKATCHEWAN LTD. dba  
WHITE ROCK HYUNDAI  
(Dealer No. 30780)**

**MOTOR DEALER**

**DECISION OF THE REGISTRAR OF MOTOR DEALERS**

Appearing for the Authority: Hong Wong, Manager of Licensing  
Denis Savidan, Manager of Compliance and Investigations  
Holly Childs, Compliance Officer

Appearing for White Rock Hyundai: Mark Leoppky, Dealer Principal  
Rena Bohdanowicz, Controller

Date and Place of Hearing: January 22, 2009, at Surrey, British Columbia.

**INTRODUCTION**

1. The hearing before me was pursuant to sections 5 and 6 of the *Motor Dealer Act* R.S.B.C. 1996 c. 316 (the "MDA") where it was alleged that 101074603 Saskatchewan Ltd. dba White Rock Hyundai with dealer registration number 30780 (White Rock Hyundai), was engaged in the sale of motor vehicles using unlicensed salespersons contrary to the conditions of its motor dealer registration and the *Salesperson Licensing Regulation* B.C. Reg. 241/2004. At the hearing I provided an oral decision. Subsequently, a written decision has been requested.

**FACTS**

2. Ms. Childs gave evidence at the hearing detailing the persons who were unlicensed, some having been brought in from the USA and some to consult. Ms. Childs entered as an exhibit a summary of her findings. She noted that Rena Bohdanowicz was very cooperative with her

investigations and provided Ms. Childs with a list of salespeople which was checked against the MVSA database for licensed salespersons. Several were identified as being unlicensed.

3. Mr. Wong also provided a summary of his discussions with the dealership about unlicensed salespeople. It appears that the issue of unlicensed salespersons is a recent event. Mr. Wong noted that Mark Leoppky has been very cooperative and met with Mr. Wong the day prior to the hearing to obtain directions as to the dealership's obligations.

4. Mr. Leoppky provided some background to this dealership. It is owned and operated by a "parent" company from Saskatchewan and he noted there have been some very recent staffing issues including management at this dealership. He also identified the difficulties that a company in Saskatchewan has in dealing with several dealerships in different provinces and assured it was not the intention of the dealership to circumvent the laws of British Columbia and the requirements of the MVSA. He noted that Rena Bohdanowicz has been appointed the local person to deal with licensing issues and steps will be taken to ensure salespersons are properly licensed. Mr. Leoppky also asked for directions as to what their consultants could or could not do at the dealership. I informed him of the definition of "sale" in the MDA and stated if the consultants engage in a sale as defined in the MDA, they must be licensed salespersons.

5. Ms. Childs informed me that she has a good relationship with Rena Bohdanowicz, having dealt with her in the past, and finds her to be very cooperative and "upfront". Ms. Childs stated she is pleased that Ms. Bohdanowicz will be the point person at this dealership for licensing issues.

## **THE LAW**

6. Where a motor dealer has breached the MDA and/or a condition of its license, and where the public interest warrants, sub-section 4(6) of that Act provides that I may place a condition on the motor dealer's license and sub-sections 6(b) and (c) provide that I may cancel or suspend a motor dealer's license. Currently, there is no authority to fine a motor dealer for such breaches.

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 person's ability to make a livelihood, even for a short time, 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). I

am also mindful that if I were to suspend this motor dealer's license, the ability of its staff members to seek their livelihood would be affected.

## **DISCUSSION**

8. I explained to Mr. Leoppky my past decision in S G Power Products Ltd. (which highlights the above law) to suspend that dealer's registration for two days because it was using unlicensed salespersons. As in S G, canceling the registration of White Rock Hyundai is too draconian a step to take for this infraction.

9. I also find that in this case, a suspension is not in order as:


- (a) Unlike S G Power Products Ltd., White Rock Hyundai took positive steps to address this issue, meeting with MVSA staff prior to the hearing to obtain directions;
- (b) Unlike S G Power Products Ltd., White Rock Hyundai admitted that some of its staff were unlicensed;
- (c) Unlike S G Power Products Ltd., White Rock Hyundai came to the hearing to address this issue and did so in a cooperative manner;
- (d) Licensing applications have been received for White Rock Hyundai's unlicensed staff; and
- (e) White Rock Hyundai also sought my directions regarding its consultants to ensure they did not engage in the sale of motor vehicles.

10. The above factors and the evidence from Ms. Childs as detailed above and that she has not had many issues regarding licensing from this dealer in the past and similar evidence from Mr. Wong, militate in favour of not suspending White Rock Hyundai's registration.

## **DISPOSITION**

11. White Rock Hyundai did not dispute that it sold motor vehicles with unlicensed salespeople. This decision shall be placed in the dealer's file and shall serve as a written warning for it having sold motor vehicles using unlicensed salespersons. Ms. Childs is to monitor the dealer and follow up in the coming months.

Date: January 28, 2008



Ian Christman, B.A. LL.B.