



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:

CLAYTON JAMES WILLIAM NORRIS
(Salesperson License Reference # 115357)

APPLICANT

DECISION OF THE REGISTRAR OF MOTOR DEALERS

APPEARANCES

For the Authority:	Hong Wong, Manager of Licensing Kim Murphy, Licensing Officer Holly Childs, Compliance Officer Denis Savidan, Manager of Compliance and Investigations (observing)
Clayton James William Norris	In person
Date and Place of Hearing:	April 16, 2010, at Surrey, British Columbia.

Introduction

[1] A hearing was called pursuant to sections 6 and 7 of the *Salesperson Licensing Regulation* B.C. Reg. 241/2004 (the "Regulation") to review the application for a license submitted by Clayton James William Norris. The concern of the staff for the Authority is the existence of a criminal record and the fact the Authority has not been able to confirm the full details of that record.

[2] The Regulation makes it clear that the Authority is to assess the conduct of an applicant and consider if it is in the public interest that they should or should not be licensed. The protective purpose of regulations and the assessment of an applicant's conduct for licensing purposes was described in: *Re: LCB Auto Sales Ltd* (VSA File No. 10-009, April 1, 2010, Registrar of Motor Dealers) at paragraphs 4-6; *Re: McKinnon* (VSA File No. 09-70325, January 25, 2010, Registrar of Motor Dealers) at paragraphs 22-24; and in *Re:*

Basset (VSA File No. 09-108822, December 2, 2009, Registrar of Motor Dealers) at paragraphs 14-17.

[3] When the concern is focused on a past criminal record, the individual circumstances of the applicant should be considered and the overarching principle is that there should be no discrimination based on a criminal record unless the record relates to the occupation in which the licence is sought: section 14 *Human Rights Code* R.S.B.C. 1996 c. 210 and see *Re: Basset*.

The Application

[4] Before Mr. Norris even applied for a licence, he called the licensing department and asked what special steps he needed to take in applying for a licence as he had a criminal record. It is clear that Mr. Norris attempted to be as clear and transparent about his criminal record to the best of his abilities. Mr. Norris went so far as making a freedom of information request to Corrections Canada, obtained his file with Corrections Canada and disclosed that entire personal file to the Authority. Mr. Norris was interviewed by compliance officer Holly Childs and Licensing Officer Kim Murphy and it appears he was very upfront and transparent with them.

[5] Concern was raised when Mr. Norris's statutory declaration about the details of his criminal record were returned twice as being incomplete. Mr. Norris provided additional details after the first failure, but he could not explain why the second attempt also came back incomplete. At the hearing I informed Mr. Norris that a "criminal record check" may be a bit misleading as provincial offences may also be captured in such a record check. I then provided him an example of a driving offence to which he replied, "I got one of those".

[6] I found Mr. Norris was very animated during the hearing, accepted full responsibility for his past conduct and was very forthright and transparent throughout the hearing. I do not believe Mr. Norris is trying to hide his past but that he is unsure of the process. I note Mr. Norris has completed his probation requirements and his probation officer provided a commending letter. I note that the probation officer made the same mistake in specifically identifying Mr. Norris charge that Mr. Norris did on his first statutory declaration. Such a mistake could cause a criminal record check to be returned as incomplete.


[7] I find Mr. Norris's criminal record is, in part, related to the occupation of a licensed salesperson. However, I am also satisfied at this time that any risk Mr. Norris poses to the public interest can be dealt with by placing proper conditions on his licence. I believe Mr. Norris's after offence conduct and facts are similar to those in *Re: Jenkins* (VSA File No. 10-

014; April 16, 2010, oral reasons of the Registrar of Motor Dealers), and do not approach the concerns noted in *Re: Basset*.

[8] In order to ensure proper and full information is before the Authority to fully and properly assess Mr. Norris, I believe it is important to obtain a criminal record check with full details. The R.C.M.P., who operates the Canadian Police Information Centre where such checks flow through, has recently changed their policy in obtaining such a detailed record. The procedure, we are told, can take up to 12 months before a detailed criminal record check can be produced. I find it would be too much of a hardship to require Mr. Norris to wait that amount of time, given Mr. Norris's particular facts and what I have found to be his attempt at being transparent with the Authority. I therefore am going to allow Mr. Norris a conditional salesperson licence with the following conditions:

- (1) Mr. Norris is to, at his own cost, obtain a full detail criminal record check and provide it to the Authority. (Mr. Norris may contact Hong Wong, Manager of Licensing, about the processes to obtain such a criminal record check.)
- (2) Mr. Norris's licence is non-transferable to another dealer without prior approval of the Authority.
- (3) Mr. Norris is not to occupy a management position without prior approval of the Authority.
- (4) Mr. Norris is not to handle consumer's money except for the taking of deposits and is to provide any such consumer money to his employer as soon as possible.
- (5) Mr. Norris's licence and conditions are to be reviewed after the Authority receives the full detail criminal record check. The Manager of Licensing may conduct that review and remove all, some or none of the conditions at that time.
- (6) Mr. Norris may ask for a hearing before the Registrar to review the Managers' decisions under (5) or ask that a condition be removed at any time.

Date: April 23, 2010


Ian Christman B.A., LL.B.

Note: Mr. Norris has provided his entire file from Corrections Canada in confidence to the Authority. This document is personal and confidential and is not to be disclosed to anyone other than Mr. Norris; except where required by law.