

**HEARING OF THE REGISTRAR
UNDER THE *MOTOR DEALER ACT***

In the Matter of

KEVIN DOUGLAS LENCH (102786)

**Motor Vehicle Sales Authority of B.C.
208 - 5455 152nd Street
Surrey, B.C. V3S 5A5**

April 14, 2011

IN ATTENDANCE:

Ian Christman
Denis Savidan
Mike Dorrان

Registrar
Manager, Compliance and Investigation
Compliance Officer (by phone)

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1 Surrey, B.C.

2 April 14, 2011

3 REGISTRAR: This is a hearing that was called in
4 relation to Mr. Kevin Douglas Lench, Salesperson
5 number 102786. The allegations are that he
6 breached his duty as a salesperson, and
7 specifically, that his conduct is contrary to the
8 public interest that he should be continued to be
9 registered pursuant to Sections 6 and 7 of the
10 Salesperson Licensing Regulation. It is also
11 alleged that Mr. Lench committed a deceptive act
12 or practice, contrary to Section 5(1) of the
13 *Business Practices Act*, specifically that during
14 a consumer transaction with Mr. Seniuk, he
15 falsified a document which potentially would have
16 deprived Mr. Seniuk of \$500.

17 Based on the evidence that I have received,
18 and specifically Exhibit B, the Compliance
19 Hearing Report and the testimony from all the
20 witnesses, I am satisfied that Mr. Lench did
21 commit a deceptive act or practice, contrary to
22 s. 5(1) of the *Business Practices and Consumer*
23 *Protection Act*.

24 I am further satisfied on the evidence that
25 this is conduct that is unbecoming of a

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1 salesperson to be licensed as a salesperson in
2 British Columbia. It does constitute conduct
3 that is contrary to the public interest, and the
4 potential was to have defrauded Mr. Seniuk of
5 \$500, and I also note that the public interest
6 includes the interest of the dealerships in
7 question, Sunwest, who potentially could have
8 been defrauded of \$500 as well. As well, this
9 public interest includes the interests of all
10 dealerships in B.C., and Mr. Lench did possibly,
11 by his conduct, which would be dishonest conduct
12 under the Compensation Fund Regulation, he
13 possibly could have caused a claim against the
14 Motor Dealer Customer Compensation Fund which all
15 motor dealers in the province pay into.

16 Based on all the evidence, and having no
17 evidence to the contrary, I am satisfied that Mr.
18 Lench's licence, number 102786 should be
19 cancelled, and I order it cancelled.

20 I note that the dealership is no longer out-
21 of-pocket so there is no need for an order of
22 restitution, so I make no order of restitution.

23 I do not see there is a need for an
24 administrative penalty under the *Business*
25 *Practices Act* under this matter as the

1 cancellation of the licence is sufficient.

2 That is my decision.

3 MR. SAVIDAN: Do you have any comments with regards to
4 a re-application of a licence?

5 REGISTRAR: Thank you, Mr. Savidan. In the past in
6 certain Registrar's decisions I have prohibited
7 persons from being able to apply under the
8 *Salesperson Licence Regulation Motor Dealer Act*.
9 Technically, Mr. Lench could re-apply for a
10 licence tomorrow.

11 The B.C. Court of Appeal in a case called
12 ***Pugliese and British Columbia Registrar of***
13 ***Mortgage Brokers*** 2008 BCCA 130, stated that it is
14 inherent in the authority of a body such as
15 myself to review the conduct and consider whether
16 or not it is necessary for the efficient
17 carrying-out of my authority to prohibit someone
18 from re-applying at any time, or for a time
19 period. I take into consideration similar cases
20 such as *Re: Anwar Badshah*, a decision of the
21 Registrar of December 24th, 2010, file number 09-
22 71010, as well a *Re: Mafcan Motors and Cheema*, a
23 decision of July 2nd, 2010, file 10-017. In
24 those cases Mr. Badshah and Mr. Mafcan (sic) were
25 given a length of time in which they were barred

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1 from re-applying.

2 I find this case more similar to the *Cheema*
3 case, which was a three-year prohibition from re-
4 applying, and I set a three-year prohibition from
5 today's date in which Mr. Lench can re-apply for
6 a salesperson licence. Whether or not he will be
7 granted a licence will depend on the facts that
8 exist three years from now.

9 MR. SAVIDAN: Thank you, Mr. Registrar.

10 REGISTRAR: This hearing is concluded.

11 (HEARING CONCLUDED)

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