



**RE: THE MOTOR DEALER ACT R.S.B.C. 1996 C. 316 and the
SALESPERSON LICENSING REGULATION B.C. REG. 241/2004**

RE:

**ROYAL AUTO SALE LTD.
(Dealer Applicant # 31261)**

Motor Dealer Applicant

DECISION OF THE REGISTRAR OF MOTOR DEALERS

Date and Place of Hearing: November 28, 2012 at Surrey, British Columbia

Appearances for:

Royal Auto Sale Ltd.

Samander Jooya

Motor Vehicle Sales Authority of BC

Hong Wong, Manager of Licensing

Kim Murphy, Licensing Officer

Daryl Dunn, Manager of Compliance and
Investigations

Jas Virk, Compliance Officer

INTRODUCTION

[1] A hearing was held to review the application of Royal Auto Sale Ltd. ("Royal") for registration as a motor dealer. Samander Jooya is the declared owner, operator and directing mind of Royal.

[2] Manager of Licensing, Hong Wong, expressed two main concerns in registering Royal as a motor dealer. First, is the relationship between Samander Jooya, Royal, and his son Jaweed Jooya and Crown Autobody & Auto Sales Ltd. ("Crown") a cancelled motor dealer (# 30290). Second, is the proposed management of Royal.

[3] On September 21, 2009 I issued a compliance order and administrative penalties against Crown and Jaweed Jooya for what I found was deliberately rebuilding a motor vehicle that was unsafe for the road and misrepresenting to a consumer that the motor vehicle was safe and roadworthy. The compliance order and administrative penalties were filed in the B.C. Supreme Court and are deemed to be orders of that Court.

[4] I further found this conduct was contrary to the public interest and cancelled Crown's registration as a motor dealer. Mr. Jaweed Jooya was found to have not only rebuilt the vehicle in question, but to have made misrepresentations to the consumer. Mr. Jaweed Jooya is the son of Mr. Samander Jooya.

DISCUSSION

(a) Evidence from the Authority

Kim Murphy, Licensing Officer

[5] At the hearing, Ms. Murphy entered a hearing report with attached exhibits (Exhibit 2). Ms. Murphy reviewed her hearing report and highlighted several areas noting deficiencies with the business plan and the letter of credit that was submitted. Eventually the business plan submitted by Royal was amended as needed. The letter of credit remains outstanding and Mr. Jooya said he would attend to this once Royal received a motor dealer registration.

[6] Mr. Jooya had no problems with Ms. Murphy's evidence except he wanted it to be clear that his lease was with Crown Holding and not Crown Autobody (Transcript of Proceedings, page 16).

Jas Virk, Compliance Officer

[7] Mr. Virk provided evidence regarding several vehicle transactions and a civil claim where it appeared Mr. Samander Jooya was a named party. Mr. Virk presented a hearing report with attached exhibits (Exhibit 3 at the hearing).

[8] Mr. Virk researched the civil case and determined Mr. Samander Jooya was not actually a party to the civil claim.

[9] During Mr. Virk's search he noted an S.J. AutoSales registered at Mr. Samander Jooya's home address. A B.C. Registry search notes this sole proprietorship in operation since 2009 and Mr. Samander Jooya as the proprietor. This information was not on the two different applications for registration of Royal as a motor dealer submitted by Mr. Samander Jooya. Both applications asked for past work and business history. Mr. Virk states Mr. Jooya told him that he used this company to export salvage vehicles to Afghanistan where it was cheaper to repair those vehicles.

[10] Mr. Virk said that once when he attended at Royal's site, he saw who he believed to be Jaweed Jooya working in one of the bays. However, there was nothing definitive about this evidence.

[11] Mr. Virk questioned Mr. Jooya about some of the above referenced vehicle transactions during an interview. Mr. Virk provided a summary of that interview at the hearing and those vehicle transactions.

(i) 2004 Acura TL

[12] Mr. Virk's evidence was that Mr. Samander Jooya advertised for sale a 2004 Acura TL. An advertisement attached to Exhibit 3 shows the Acura for sale asking buyers to call a phone number which is associated to Mr. Samander Jooya (see Dealer Application Exhibit 2, page 5). The advertisement indicates it was posted online on March 4, 2011. During the interview, Mr. Virk says he asked Mr. Samander Jooya about this vehicle and Mr. Virk's evidence is that Mr. Samander Jooya replied that he was selling his own personal vehicle (Transcript of proceeding, page 22).

[13] Mr. Virk's report says he did a search of the ICBC motor vehicle registry and did not find any 2004 Acura TL ever registered to Mr. Samander Jooya or any other member of his family at his residential address.

[14] At the hearing, Mr. Samander Jooya generally addressed this advertisement by saying he had been told by a Sean at Impact Auto Auction that he was allowed to sell 6 cars without being licensed. He also noted issues with the VIN (vehicle identification number) for this vehicle.

(ii) 2008 Infiniti QX56

[15] Mr. Virk's research showed Mr. Samander Jooya selling a 2008 Infiniti QX56 to a person in Delta, British Columbia on August 30, 2012.

[16] Mr. Samander Jooya addressed this by speaking of an issue with the Infiniti's VIN being missing on the dashboard and the airbag being deployed. He says "the mechanic" applied to ICBC to have a BC "number" (BC assigned VIN) for the Infiniti. Mr. Samander Jooya further says ICBC phoned him and told him the vehicle had to be registered in his name. He states he could not afford the gas on this vehicle and sold the Infiniti.

(iii) 2009 Honda Civic

[17] Mr. Virk's research showed Samander Jooya dba SJ AutoSales transferring a 2009 Honda Civic to Froozan Jooya (his daughter) on April 1, 2011. On June 1, 2011 Froozan Jooya transfers the 2009 Honda to another person in Surrey, British Columbia.

[18] Mr. Jooya stated he bought this Honda for his daughter, but his daughter felt the car was too low for her and was not safe: Transcript of proceedings, pages 24-25. The 2009 Civic was sold and his daughter bought a different vehicle – a Toyota Corolla.

(iv) 2010 Honda Civic

[19] Mr. Virk's research also showed Samander Jooya selling a 2010 Honda Civic to a person in Surrey, British Columbia. The vehicle was sold to the individual as a salvage vehicle. Mr. Samander Jooya did acknowledge selling this vehicle although he inferred that the Impact Auto Auction (in Richmond) said he could sell six cars a year: Transcript of proceedings page 25.

(v) Land Rover sold By Crown Autobody

[20] Mr. Virk also discovered that Crown had sold a Toyota Land Rover to an individual in Surrey, British Columbia on October 21, 2012. Mr. Samander Jooya was asked if he knew anything about this transaction. Mr. Samander Jooya explained that the Land Rover was actually sold to the individual before Crown had lost its registration as a motor dealer. The Land Rover was sold as salvage and the paperwork was not dealt with until the individual came back looking to have the Land Rover transferred to him from Crown. Mr. Jooya explained his son had a dilemma because he was no longer registered as a motor dealer and refused to do the transfer. Mr. Samander Jooya alleges that the individual must have forged the document. Mr. Samander Jooya stated they went to the police to report this, but the police said it was not a matter for them and to go to I.C.B.C.

Daryl Dunn, Manager of Compliance and Investigations

[21] Mr. Dunn conducted an interview of Mr. Samander Jooya in relation to the business plan he submitted. Mr. Dunn said he questioned Mr. Samander Jooya whether his son Jaweed Jooya would have anything to do with the operation of Royal. According to Mr. Dunn, Samander Jooya said Jaweed Jooya would have nothing to do with the business of Royal. At the hearing I asked Mr. Samander Jooya if "your son would have nothing to do in the business?" Mr. Samander Jooya replied "no."

(b) Evidence from Samander Jooya

[22] Samander Jooya's evidence can be summarized as follows:

- (1) Samander Jooya did not contest Ms. Murphy's evidence or challenge her Hearing Report and the documents contained within that Report. He did

want to make it clear that the lease agreement was with Crown Holding and not Crown Autobody.

- (2) Samander Jooya provided explanations and responded to Jas Virk's evidence as outlined above.
- (3) Samander Jooya corrected Mr. Dunn's evidence about his son's occupation. Samander Jooya says his son was working in construction at the time of his interview with Mr. Dunn, and not managing an apartment building.
- (4) Mr. Samander Jooya did eventually indicate that if his work is busy, his son Jaweed Jooya would help him in his business by repairing vehicles.
- (5) Mr. Samander Jooya also noted that he understands the close scrutiny Royal would be under if registered and even invited such close scrutiny. He noted that if he or Royal did anything wrong then they could be removed from the industry.

ANALYSIS

(a) Legal Principles

[23] The *Motor Dealer Act* empowers the Registrar to look behind the corporate applicant to see the reality of its operations and review those who will be directing or otherwise employed by the corporation. It is in the public interest that this occurs as a corporation makes its decisions through individuals. The common law provides the same authority as was more detailed in *Re: Key Track Auto Sales & Detailing Ltd.* (Registrar of Motor Dealers; May 11, 2010; Hearing File 10-013) and that case describes other relevant legislation and legal principles to be applied in this case.¹

(b) Relationship between Royal, Crown and others

[24] Attached as a Schedule to this decision is a table showing various relationships between the applicant Royal and: Crown; Samander Jooya; Jaweed Jooya; SJ AutoSales and MJA Autobody as shown in the documentary and oral evidence. In summary:

- (1) The business address of Unit 107, 13112 84th Avenue, Surrey, B.C., has been used by Royal, MJA Autobody, SJ AutoSales, Crown and Jaweed Jooya personally.

¹ http://www.mvsabc.com/images/pdf_files/File10-013KeyTrackAutoSales&DetailingLtdMay112010.pdf

- (2) The address of 15578 92nd Avenue, Surrey, B.C., has been used as a residential address for Samander Jooya and a business address of Royal, MJA Autobody, SJ AutoSales, and Crown.
- (3) The phone number of 604-308-3161 has been used by Samander Jooya when placing an advertisement to sell the Acura, by SJ AutoSales when exporting a vehicle; and for Royal in its application to be registered as a motor dealer.
- (4) The phone number of 604-507-1100 is associated with Jaweed Jooya (owner of Crown at the time it was registered) and is the declared facsimile number for the applicant Royal.
- (5) The lease for the property from which Royal will operate, as presented by Mr. Samander Jooya, is actually between MJA Autobody and Crown Holding. The building is owned by Mr. Samander Jooya's son - Jaweed Jooya.

[25] There is no contention that Samander Jooya and Jaweed Jooya are father and son respectively.

(c) Business Plan

[26] Royal intends on buying vehicles that have been branded as salvage and rebuild them for sale to consumers. Royal intends on using Cale Bath as its autobody inspector for this purpose. This business model and using Cale Bath to do the autobody inspections is similar to Crown's: see *Re: Key Track*.

[27] Royal intends to operate from the same premise as Crown when it was registered as a motor dealer.

[28] Royal shows under \$50,000 in cash available to get its operations going and no line of credit. This seems light on cash or credit to start up a new motor dealer operation when considering initial lease payments, wages, WCB payments, insurance costs and other statutory payments that will have to be covered along with the need to acquire inventory and parts and supplies to rebuild motor vehicles before revenue starts to come into the operation. This fact gives me some concern that Royal is being supported by other operations at the 84th Avenue or 92nd Avenue, Surrey locations and not expressly identified in its application materials. Again, I note the relationships cited at paragraph 24 and in the attached Schedule.

[29] At the hearing, Mr. Samander Jooya advised he would provide the necessary letter of credit once he had received his motor dealer registration. One purpose of the

letter of credit is to assess the financial strength and responsibility of a start-up motor dealer: sections 4(4), 4(5) and 5 of the *Motor Dealer Act*. Royal has deprived the Registrar of one factor used to assess an application for registration as a motor dealer.

[30] Mr. Samander Jooya testified that if the business was busy, his son Jaweed Jooya would help in the shop: Transcript of proceedings, pages 29 to 31.

(d) Royal Auto and SJ AutoSales

[31] In the first application for registration as a motor dealer submitted by Royal and received by the VSA on November 30, 2011, Mr. Samander Jooya was asked to provide his business experience inside or outside Canada for the past seven years. There was no mention of SJ AutoSales although he did identify MJA Autobody.

[32] In the next application for registration as a motor dealer submitted by Royal, and received by the VSA on August 31, 2012, Samander Jooya was asked to provide his business experience inside or outside Canada in the past seven years. There was again no mention of SJ AutoSales although he did again identify MJA Autobody.

[33] The documentary evidence shows SJ AutoSales was registered with B.C. Registry Services as a sole proprietorship with Samander Jooya as proprietor, on August 5, 2009 with a noted business start date of August 1, 2009.

[34] The report obtained from "importgenius.com"² shows SJ AutoSales exporting used vehicles on December 23, 2011. SJ AutoSales was active during this time which is in between Royal's first and second application for registration.

[35] An APV9T B.C. Provincial Transfer/Tax Form shows SJ AutoSales transferring a motor vehicle on April 1, 2011. An APV9T B.C. Provincial Transfer/Tax Form shows SJ AutoSales transferring a motor vehicle on September 2, 2012. Both APV9T's show Samander Jooya dba SJ AutoSales as seller. SJ AutoSales was active during this time.

[36] I am satisfied on a balance of probabilities that Samander Jooya specifically did not declare SJ AutoSales on Royal's two applications for registration as a motor dealer in order to hide this fact from the Registrar. He clearly understood the question as he identified MJA Autobody on both of those applications. Further, through his testimony at the hearing, he was clearly aware of the importance and legal requirement to be registered as a motor dealer before acting as one. Mr. Samander Jooya's evidence regarding his son's situation with Crown and notably in his responses involving the sale of the Land Rover, as discussed above, are indications of that knowledge.

² The report indicates this information comes from US Customs records.

[37] I have in past decisions explained the importance of the Registrar being provided with all important information so he can assess an applicant for risks to the public interest including any business risks. Importantly, I have also stressed the concern where a person purposively withholds information from the Registrar: see for example *Re: Sharma* (October 25, 2011: File 11-042: Registrar) and the cases cited within.³

(e) Vehicle Sales

[38] Based on the above evidence, I am satisfied on the balance of probabilities that Mr. Samander Jooya either personally or doing business as SJ AutoSales acted as a motor dealer when he advertised or otherwise offered to sell the 2004 Acura to the public and which was not his personal vehicle. The phone number of 604-308-3161 is associated to both Mr. Samander Jooya and SJ AutoSales. He did so while not registered as a motor dealer, which is an offence under the *Motor Dealer Act*. Mr. Samander Jooya's explanation of it being a personal vehicle was not supported by a search of the vehicle registry by Mr. Virk.

[39] Based on the above evidence I am satisfied on a balance of probabilities that Samander Jooya doing business as SJ AutoSales acted as a motor dealer by selling a motor vehicle to a consumer when he sold the 2010 Honda Civic on September 5, 2012. The APV9T specifically identifies this as the case. He did so while not registered as a motor dealer, which is an offence under the *Motor Dealer Act*.

[40] I am not satisfied with the evidence of Mr. Samander Jooya that he was told he could sell up to six vehicles by Sean at Impact Auto Auction. Mr. Samander Jooya's son ran a motor dealership for several years and Mr. Samander Jooya's evidence at the hearing shows he clearly understood the need to be registered as a motor dealer. Mr. Samander Jooya, I find, also hid his involvement with SJ AutoSales because he knew he had to be a registered motor dealer in order to sell motor vehicles to consumers.

Conclusion

[41] Given the relationships noted in paragraph 24; the similarity in the business plan between Royal and Crown and the admission that Jaweed Jooya would have some involvement in the operation of Royal, I am satisfied on a balance of probabilities that Royal is really an attempt to bypass Crown's liabilities imposed on it by the Registrar and which are now orders of the B.C. Supreme Court. As I noted in the *Re: Key Track* decision:

³ http://www.mvsabc.com/images/pdf_files/Sanjay-SharmaRegistrarsDecisionOctober252011.pdf

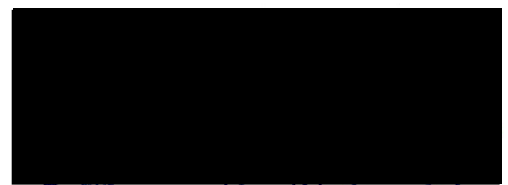
[33] For the above reasons, I find on a balance of probabilities, that Key Track's application is an attempt to bypass obeying the order of the Registrar and of the B.C. Supreme Court requiring Massive Truck to pay the remainder of its Administrative Penalty, and having to inspect vehicles prior to sale. If Key Track were to be registered under these circumstances, it would set a precedent allowing any company to avert obeying the Registrar's orders. Any company not wanting to abide by such an order could simply be wound down by its principals, who then would incorporate a new entity with a new declared owner [the wife of the past owner in this case], and start all over again. Under such a precedent, any meaningful enforcement of the Registrar's orders would cease to exist; which would be contrary to the public interest. It would not be in the public interest to allow such a circumvention of the Registrar's and B.C. Supreme Court's orders.

[42] I have also found on a balance of probabilities that Samander Jooya deliberately withheld important information from the Registrar - his involvement with SJ AutoSales. He had an opportunity to identify his involvement with SJ AutoSales on both of Royal's applications for registration as a motor dealer. This withholding of information deprived the Registrar of fully assessing Mr. Samander Jooya's past conduct to see if there was a public interest concern in registering Royal as a motor dealer. Further, if Mr. Samander Jooya is willing to withhold this important information on an application for registration, I am concerned of the information he is willing to withhold should an investigation into a complaint become necessary or if information is requested on a routine inspection. I note Mr. Samander Jooya is listed on the motor dealer applications as being the controlling mind of Royal.

[43] I also find on a balance of probabilities that Mr. Samander Jooya acted as a motor dealer, using SJ AutoSales, while not registered. The BC Legislature has viewed such conduct as of grave concern to the public interest by making it an offence to operate as a motor dealer without being registered: sections 35 and 35.1 of the *Motor Dealer Act*.

[44] Any of the reasons summarized in paragraphs 41, 42 and 43 would, taken individually, be reason to refuse registering Royal as a motor dealer. For all these reasons, I hereby refuse to register Royal as a motor dealer under the *Motor Dealer Act*.

Dated: December 28, 2012



Ian Christman J.D.
B.C. Registrar of Motor Dealers

Schedule

Re: Royal Auto Sale Ltd. Application for Registration (Hearing # 12-028: Registrar of Motor Dealers)

Relationships

Person/Entity/Item	Person Associated with	Unit 107, 13112 84 th Ave, Surrey	15578 92 nd Ave, Surrey	Document/Evidence
Samander Jooya			Yes	<ul style="list-style-type: none"> Listed in VSA database; BC Registry Services notes as residential address; APV9T transferring a 2008 Infiniti (Hearing Report of Jas Virk); Application for Registration as a motor dealer; City of Surrey Business Licence; Equifax Report; RCMP Criminal Record Check Consent for Disclosure; BC Driver's Licence (Hearing Report of Kim Murphy)
Royal Auto Sale Ltd	Samander Jooya	Yes	Yes	<ul style="list-style-type: none"> City of Surrey Business License; BC Registry Services Corporate printout; TD Canada Trust Printouts; TD Canada Trust Letter of Credit; Canadian Revenue Agency GST Return (Hearing Report of Kim Murphy) City of Surrey Business License; Business Plan submitted to the VSA; application for registration as a motor dealer (page 71) (Hearing Report of Kim Murphy)
MJA Autobody	Samander Jooya	Yes	Yes	<ul style="list-style-type: none"> Application for registration as a motor dealer (Hearing Report of Kim Murphy) City of Surrey Business License; Lease Agreement between Crown Holding and MJA Autobody (Hearing Report of Kim Murphy)
SJ Auto Sales	Samander Jooya	Yes	Yes	<ul style="list-style-type: none"> "importgenius.com"; BC Registry Services; APV9T transferring a 2009 Honda Civic; (Hearing Report of Jas Virk); Application for Registration as a motor dealer (Hearing Report of Kim Murphy) APV9T transferring 2010 Honda Civic (Hearing Report of Jas Virk)

Schedule

Jaweed Jooya		Yes		<ul style="list-style-type: none"> Listed in VSA database (Hearing Report of Jas Virk); (Hearing Report of Kim Murphy)
Crown Autobody & Autosales Ltd.	Jaweed Jooya	Yes		<ul style="list-style-type: none"> APV9T transferring a 2000 Land Rover (Hearing Report of Jas Virk); ICBC Salvage Invoice (page 129); Structural Integrity Assessment Report from Cale Collision Rebuilders; Private Vehicle Inspection Report from J-Kam Auto (Hearing Report of Kim Murphy) Listed in VSA Database; Registrar's decision of September 21, 2009; APV9T transferring a 2005 Toyota Prius (page 128); Motor Dealer Registration (pages 131-132); ICBC Certificate of Insurance and Vehicle License (Hearing Report of Kim Murphy)
604-308-3161	Samander Jooya SJ Auto Sales Royal Auto Sale	Yes		<ul style="list-style-type: none"> Advertisement of Acura for sale; VSA salesperson license database print out (Hearing Report of Jas Virk) and testimony of Jas Virk (Transcript of Proceedings page 22) "importgenius.com" report (Hearing Report of Jas Virk) Application for registration as a motor dealer (Hearing Report of Kim Murphy)
604-507-1100	Jaweed Jooya Royal Auto Sale			<ul style="list-style-type: none"> Listed with the VSA (Hearing Report of Jas Virk); (Hearing Report of Kim Murphy (page 134)) Listed as fax number in the application for registration as a motor dealer (Hearing Report of Kim Murphy (pages 2, 14 and 72))
Lease Agreement	Jaweed Jooya MJA Autobody Royal Auto Sale	Yes		<ul style="list-style-type: none"> Is the owner of the building Lease agreement submitted as being Royal's is actually between MJA Autobody and Crown Holding As above <p>See the Hearing Report of Kim Murphy page 5 and page 114 of the Exhibits for the above.</p>