



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

RE:

**CHILLIWACK AUTO PAWN LTD.  
(Dealer Applicant # 31240)**

Motor Dealer Applicant

AND:

**YOUSEF HOODNEH  
(Salesperson Applicant # 121335)**

Salesperson Applicant

**DECISION OF THE REGISTRAR OF MOTOR DEALERS**

Date and Place of Hearing: November 14, 2012 at Surrey, British Columbia

**Appearances for:**

Chilliwack Auto Pawn Ltd.	Yousef Hoodneh
Yousef Hoodneh	In person
Motor Vehicle Sales Authority of BC	Hong Wong, Manager of Licensing Ross Coté, Compliance Officer Jaydon Rush, Licensing Officer Sarah Kilback, Compliance Officer

**INTRODUCTION**

[1] A hearing was held to review the applications of Chilliwack Auto Pawn Ltd. for registration as a motor dealer and of Yousef Hoodneh as a licensed salesperson. Mr. Hoodneh is listed as the owner and operator of Chilliwack Auto Pawn Ltd. Of concern to the authority was Mr. Hoodneh's recent conviction for tax evasion in the State of California while he was operating a motor dealership in that state, and his initial failure to make certain declarations on application materials.

[2] After the hearing I rendered a preliminary decision dated December 3, 2012. I was concerned that Mr. Yousef Hoodneh had not fully understood the evidence presented at the hearing and did not provide fulsome responses to that evidence or questions asked. I ordered a process where Mr. Hoodneh was given a copy of the

transcript of the hearing<sup>1</sup> and allowed him time to provide a written response to the evidence provided at the hearing with the use of a translator. Mr. Hoodneh provided his written response and additional documents which were received on December 18, 2012.

## **Position of the Parties**

### **(a) The Authority**

[3] The Authority's staff raised concerns about Mr. Hoodneh being licensed as a salesperson and Chilliwack Auto Pawn Ltd. being registered as a motor dealer. Mr. Hoodneh will be the directing mind of Chilliwack Auto Pawn Ltd. The main concern raised was Mr. Hoodneh's guilty plea to tax evasion in the State of California. The staff's concern also included the amount of outstanding taxes owed by the dealerships run by Mr. Hoodneh in the San Diego area of California.

[4] Mr. Hoodneh had his California lawyer fax the Authority a copy of the Superior Court of California's disposition. Mr. Hoodneh was ordered to pay restitution in the amount of \$1,889,267.89 to the California State Board of Variance and to enter into a payment schedule. He was given a suspended sentence of 5 years' incarceration with one year in jail already having been served. He is to be on probation until September 16, 2015. The Court disposition date was noted as September 17, 2010: pages 93-95 of the exhibits attached to the Hearing Report of Licensing Officer Jaydon Rush (Exhibit 2 at the hearing).

[5] A review of the California State Board of Variance printout dated August 17, 2012, shows Mr. Hoodneh being delinquent in taxes in the amount of \$4,456,812. It is also noted that he ranked as the 12<sup>th</sup> largest delinquency in dollar amount in the State of California at that time. Mr. Hoodneh's California dealerships are also listed on that printout with Flamingo Motors Inc. owing \$2,258,539 (ranked 33<sup>rd</sup>) and Flamingo Car Group Inc. owing \$2,199,383 (ranked 37<sup>th</sup>).

[6] The staff also has a concern about Mr. Hoodneh never declaring this conviction on his application materials even though they clearly ask for this information, whether the conviction is inside or outside Canada.

[7] On the application materials, Mr. Hoodneh listed himself as being the President of Elite Auto Group (a registered motor dealer in British Columbia) from 2005-2011 as his only employment inside or outside Canada for the past 7 years. He did not declare his ownership or work in California.

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<sup>1</sup> Mr. Hoodneh already had a copy of all the documentary evidence presented at the hearing.

[8] An interview with Mr. Hoodneh was conducted by Compliance Officer Ross Cote and Licensing Officer Jaydon Rush. The two confronted Mr. Hoodneh about the above discrepancies and Mr. Hoodneh asked to resubmit his applications to make the proper declarations and he did.

[9] The Authority also raises some concern regarding the start-up money of \$125,000 being the extent of the financial reserves for Chilliwack Auto Pawn Ltd. The evidence shows little in the way of credit available to operate the proposed dealership.

**(b) Mr. Hoodneh for himself and Chilliwack Auto Pawn Ltd.**

[10] Mr. Hoodneh did not deny the amount of taxes owed noted above, nor the conviction in California. During the hearing and in his written submissions he said his accountant and salespersons made errors and he had to accept the responsibility for their errors.

[11] In summary, Mr. Hoodneh also relayed the following either at the hearing or in his written submissions:

- (a) He did not declare the convictions on the application because he had a friend translate the application materials and he was uneasy letting his friend know about this conviction. He says he resubmitted the applications once Licensing Officer Jaydon Rush explained the importance of clear declarations.
- (b) He made an error in saying "no" regarding ever being registered as a motor dealer in BC. He notes he did later in the application indicate being owner and President of Elite Auto Group. He says this error was due to his poor English.
- (c) Mr. Hoodneh has made some payments towards the taxes owed. However, his written submissions do not indicate when they were made and if this reduced the \$1.8 million restitution ordered by the court, or if any of these payments were applied to the motor dealer companies he owned and operated.
- (d) Mr. Hoodneh gave evidence that he was praised for his businesses in San Diego and provided a copy of a proclamation dated October 9, 2004 by the then Mayor of San Diego making that day "Flamingo Car Group Inc. Day."

- (e) Much of his tax woes started when an ex-son-in-law took revenge on him and his family. The ex-son-in-law wrote letters to USA and Canadian authorities. Afterwards, Mr. Hoodneh states that he was then investigated by the FBI for his past political affiliations in Iran. After the FBI started these inquiries, Mr. Hoodneh says his taxes were looked into. He states he was cooperative during all these reviews and investigations.
- (f) Mr. Hoodneh says he left the USA penniless. At the hearing he says he needs to work and infers the motor dealer industry is what he has known and been successful at over these past years.

## THE LAW

[12] The general legal principles applicable to this case were most recently discussed in *Re: Alizera Zolnasr* (File 12-020: Registrar of Motor Dealers, August 1, 2012) at paragraphs 14 to 20<sup>2</sup>. In summary:

- (a) Past conduct is used as predictor of future conduct.
- (b) Conduct of concern encompasses any act or omission or course of behaviour that affords reasonable grounds to believe that the licensee will not conduct themselves in accordance with the law, honesty and integrity and there is a risk of harm to the public.
- (c) Each of applicants' unique facts must be assessed in considering whether or not to issue a licence.
- (d) The public interest and the protection of the public from future harm are paramount over the desire of a person to be licensed within a given industry.
- (e) Where there is a past criminal record or a record that would be considered an offence; the existence of such a record must be carefully considered and be related to any refusal of the licence.

[13] I keep in mind the various legal principles and decisions to assist me in assessing the credibility and reliability of the evidence presented: see *Roberts v. Matrix et al* (May 4, 2011: Files 09-70100 & 09-70695: Registrar of Motor Dealers) at paragraph 67.<sup>3</sup>

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<sup>2</sup>[http://www.mvsabc.com/images/pdf\\_files/Zolnasr%20Registrar%20decision%20August%201%202012%20Final.pdf](http://www.mvsabc.com/images/pdf_files/Zolnasr%20Registrar%20decision%20August%201%202012%20Final.pdf)

<sup>3</sup> [http://www.mvsabc.com/images/pdf\\_files/Roberts-v-Matrix-Foroghi-Karamali-and-Rezapoor-RegistrarsDecison%20May4-2011.pdf](http://www.mvsabc.com/images/pdf_files/Roberts-v-Matrix-Foroghi-Karamali-and-Rezapoor-RegistrarsDecison%20May4-2011.pdf)

## **DISCUSSION**

### ***(a) Overview***

[14] There is no dispute that Mr. Hoodneh pled guilty to tax evasion in 2010. He was incarcerated for a period of time and is on probation until 2015. He has been ordered to pay \$1.8 million in restitution.

[15] There is no dispute that Mr. Hoodneh's two motor dealerships in California owed and still owe the State of California over \$4.4 million USD for unpaid taxes.

[16] There is no dispute that Mr. Hoodneh's guilty plea and criminal conviction was for conduct associated with running motor dealerships. His guilty plea is clearly relative to his application to open a dealership in British Columbia.

### ***(b) Failure to make proper declarations on the applications***

[17] Mr. Hoodneh states that due to his poor English he made an incorrect declaration of having been a previous motor dealer in B.C. or elsewhere. He noted he did declare further in his application about being the owner of a B.C. Motor Dealer when his work history was asked. He said his friend was helping him fill out the form and did not fully explain the question to him.

[18] This is somewhat inconsistent. He has admitted that he was aware that the application asked for his work experience (inside or outside Canada) and this included his operating a dealership resulting in his declaring his B.C. experience. If he was aware that the application asked for his work experience, he should also have declared his California work experience.

[19] In declaring "no" for any previous criminal conviction or charge, Mr. Hoodneh says he was too embarrassed to provide an answer because he did not want his friend to know this was the case. He had a friend helping him fill out the dealership application. However, Mr. Hoodneh made no attempt to advise the VSA of this conviction after he submitted the application. He clearly states he knew the question was asked and he knew he provided an incorrect answer. Mr. Hoodneh did not declare this conviction until after the VSA staff discovered the California conviction and confronted him.

[20] I note that on the motor dealer application materials, Mr. Hoodneh provided a Vancouver address for his residence from 2004 to 2011. The application asked for his residences inside or outside Canada for the past seven years. On July 17, 2012, Mr. Hoodneh was confronted with the VSA's knowledge of his California dealerships and conviction. Mr. Hoodneh then provided a new application on July 18 listing his San Diego residence between 2000 and 2010. On July 30, 2012, Mr. Hoodneh supplied his biography identifying his time in the USA.

[21] It is also important to note that there does not seem to have been any other misunderstanding or miscommunication on the part of Mr. Hoodneh when making the remainder of the declarations on the application. All the misunderstandings or miscommunications seem to center on his time in California. If he did not understand the questions, I would expect he would have provided inaccurate declarations throughout the application materials and including his time in Canada.

[22] I find on the above evidence that Mr. Hoodneh knew he was asked about his past convictions and asked about his past work experience. I also find on a balance of probabilities that he deliberately did not declare his past California conviction or his ownership of the California dealerships on his application. The evidence shows Mr. Hoodneh originally did not acknowledge his past dealerships in California, his conviction in California, or his residency in California until the VSA confronted him with this information.

[23] Again, the evidence shows Mr. Hoodneh did not have a problem with the remainder of the declarations or declaring his relationship with the B.C. motor dealership.

**(c) Past Conviction**

[24] Mr. Hoodneh pled guilty to tax evasion. This is a form of fraud on the state. It indicates a willingness to hide information from regulators. Importantly, it was conducted while operating a motor dealership.

[25] Mr. Hoodneh blames his accountant and his reliance on English speaking salespersons for his accounting mess. If his accountant was to blame, I find it very odd indeed that Mr. Hoodneh would accept liability for a \$1.8 million USD judgment which included incarceration. In any regard, I must accept Mr. Hoodneh's guilty plea as an admission of his guilt. I cannot retry his California case.

**(d) Conclusion**

[26] I find that it would not be in the public interest to register Chilliwack Auto Pawn Ltd. as a motor dealer and licence Mr. Hoodneh as a salesperson. Mr. Hoodneh would be the directing mind of Chilliwack Auto Pawn Ltd.

[27] Mr. Hoodneh has past conduct showing a willingness to effectively commit fraud. Tax evasion is a fraud on the state. Further, it shows a willingness to hide facts from a regulatory body. This is a concern for me as Registrar as I am unsure what other facts Mr. Hoodneh is willing to hide if his company was to be registered as a motor dealer and he licensed as a salesperson. Of assistance to me is the BC Supreme Court in *Fast Trac Bobcat & Excavating Service v. Riverfront Corporate Centre Ltd.*, 2009 BCSC 268 regarding assessing the credibility of witnesses:

[19] Crimes of deceit and fraud, for example, are universally regarded as reflecting adversely on a person's honesty and integrity...

[28] I find that Mr. Hoodneh deliberately withheld information on his application. Again, this shows a willingness to hide information from the regulator. This makes it hard for a regulator to properly assess the risk a licensee may pose and make a proper assessment of a licensee or applicant. Again, what else is Mr. Hoodneh willing to withhold from the Registrar?

[29] I note the failure to fully declare his past work experience, the ownership of dealerships, his conviction and his residency all revolve around his time in California and his dealership operations. His time and operations in California were initially completely omitted from the application for registration as a motor dealer. I am satisfied on a balance of probabilities that this was deliberate.

[30] I therefore find it is in the public interest to refuse to register Chilliwack Auto Pawn Ltd. as a motor dealer and refuse to licence Mr. Hoodneh as a salesperson.

[31] Based on the above findings and my decision on those findings, I do not find it necessary to deal with the concern regarding the amount of start-up funds.

**FUTURE APPLICATIONS**

[32] The wording of the *Motor Dealer Act* would allow Mr. Hoodneh to reapply within a very short time if he so wished. I find it necessary to protect the Registrar's process by setting a time frame in which I would not accept an application from Mr. Hoodneh to either register a motor dealer with him as owner or

license him as a salesperson: *Pugliese v. Clark as Registrar of Mortgage Brokers, British Columbia* 2008 BCCA 130 (BC Court of Appeal).

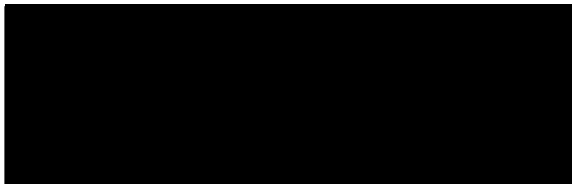
[33] Mr. Hoodneh's conviction is serious and the amount of taxes owing are substantial. Further, his willingness to hide facts from the Registrar is troubling as I presently have no assurance Mr. Hoodneh is providing all the information and all truthful information so that I may properly assess him to see if he poses a risk of future harm to the public interest.

[34] I note probation in his California case is to continue until September 16, 2015. I also consider the seriousness of Mr. Hoodneh's actions in California. I also believe I need to see some history from Mr. Hoodneh as a licensed salesperson in good standing before he should be allowed and trusted to be registered as a motor dealer. Mr. Hoodneh needs to rebuild public trust in him.

[35] The Registrar will not accept an application from Mr. Hoodneh to be licensed as a salesperson until after September 16, 2015. Whether Mr. Hoodneh will be granted a licence at that time will depend on the facts that exist at that time. The Registrar would certainly want to know, at a minimum, the steps Mr. Hoodneh has taken to satisfy his California judgment and what he has done to rehabilitate himself and regain the public's trust.

[36] Before considering registering a motor dealer with Mr. Hoodneh as owner or a directing mind, Mr. Hoodneh would have to been licensed as a salesperson in good standing for at least two years. Again, whether a registration would be granted would depend on the unique facts that exist at the time the application is made.

Dated: January 11, 2013



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