



Hearing File No. 13-11-005

**MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA**

**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:**

**PETER FRYER  
(Salesperson Application # 200886)**

**APPLICANT**

**DECISION OF THE REGISTRAR OF MOTOR DEALERS**

**APPEARANCES**

For the Authority:                    Hong Wong, Manager of Licensing  
    Juwll Ireland, Licensing Officer  
    Larry Barteski, Compliance Officer

For Peter Fryer:                      In person

Date and Place of Hearing:    December 4, 2013, at Surrey, British Columbia

**INTRODUCTION**

[1] A hearing was called to review the application of Peter Fryer for licensing as a salesperson. The staff of the Motor Vehicle Sales Authority (the "Authority") raise the following three concerns:

- (a) Mr. Fryer's past criminal convictions;
- (b) Mr. Fryer provided false or incomplete declarations on his application materials; and
- (c) Mr. Fryer worked as a salesperson in B.C. and Alberta while unlicensed.

[2] For the reasons that follow, I am refusing to grant a salesperson licence to Mr. Fryer.

## **DISCUSSION**

### **(a) Criminal Convictions**

#### **(i) Facts**

[3] Mr. Fryer admitted to having past criminal convictions in his application form. Mr. Fryer had his lawyer provide the VSA with a copy of his convictions which was printed on October 28, 2013: see pages 10 to 12 of the Exhibits attached to the Licensing Hearing Report of Ms. Ireland (Exhibit 1 at the hearing).

[4] Between 1975 and July 4, 2012, Mr. Fryer has had 25 criminal convictions involving 44 separate counts (offences) in 38 years. While I will not review all of the convictions in detail here, they include convictions related to: driving, narcotics, theft, crimes against property and several serious violent crimes with one including the use of a weapon. His last conviction was in July of 2012, for break and enter. Also to note are convictions for 19 counts of failing to abide by a court order, probation order or a recognizance with the latest in July of 2012. Mr. Fryer had outstanding charges in Alberta stayed on November 20, 2013. These convictions have occurred in British Columbia, Alberta, Saskatchewan, Ontario and Quebec.

[5] Mr. Fryer did not deny these convictions. He blamed one breach conviction, for possessing copper wire, on someone else. However, he says had to take the blame because the wire was found where he was living. He admitted to the armed robbery; however, he says none of these involved customers while he was selling motor vehicles. I have to accept these convictions as being true facts of Mr. Fryer's past criminal conduct: *Toronto (City) v. C.U.P.E. Local 79*, 2003 SCC 63 (Supreme Court of Canada).

#### **(ii) The Law**

[6] Section 14 of the BC *Human Rights Code* prohibits refusing a license because of a criminal conviction that is unrelated to the intended licence. Whether the criminal convictions are related to the licence is dependent on all the circumstances of the case.

*B.C. Council of Licensed Practical Nurses v. Mans & Humphreys v. B.C. Council of Human Rights* 1993 CanLII 1501 (B.C. Court of Appeal)

*Woodward Stores (British Columbia) Ltd. V. McCartney* 1983 CanLII 444 (B.C. Supreme Court)

[7] As Registrar, I am to review the past conduct of an applicant and assess whether they pose a risk to the public interest if granted a licence: section 6 of the *Salesperson Licensing Regulation* B.C. Reg. 241/2004. From past Registrar decisions, the concern is with public safety, whether the applicant will be governable; and whether they will act in accordance with the law, honesty and

integrity: *Re: Bruce Ironside* (BC Registrar of Motor Dealers, File 11-025, May 27, 2011) at paragraph 8.

**(iii) Discussion**

[8] A licensed salesperson is in a position of trust with the buying public. The buying public relies on the salesperson to provide clear and honest information to make their decisions. The buying public expects to be safe if on a test drive with a salesperson. The buying public expects a licensed salesperson to keep consumer personal information, home address and financial information confidential.

[9] I find that Mr. Fryer's past criminal history is of concern and related to a salesperson licence. First, Mr. Fryer has committed violent crimes and extortion. While I recognize it has been some 13 years since his conviction for the last violent crime, they remain a concern considering his continued criminal conduct. As a salesperson, Mr. Fryer could be alone with consumers at a dealership or on test drives: *Grier v. Registrar, Motor Vehicle Dealer Act 2002* (7992/MVDA; July 8, 2013) (Ontario Licence Appeal Tribunal).

[10] Second, Mr. Fryer has a conviction for theft and I am concerned for consumers who may interact with him. Third, Mr. Fryer's last conviction was for break and enter. Mr. Fryer will have access to the personal information and home addresses of consumers and business addresses of business clientele. He may use information gained at the dealerships for unwanted purposes.

[11] There is also a concern about Mr. Fryer's numerous convictions for failing to abide by court, probation or other lawful orders. The last conviction was in 2012. This gives me concern that Mr. Fryer is ungovernable - that he will not abide by lawful orders of the Registrar and the Authority: *Evans v. Society of Notaries Public (British Columbia)* 2010 BCSC 1232 (Supreme Court).

[12] Finally, Mr. Fryer's last conviction was in 2012 and he had charges stayed on November 20, 2013, in Alberta. Mr. Fryer's criminal history spans 38 years and there is no indication Mr. Fryer has or will rehabilitate himself.

[13] I find Mr. Fryer's past criminal convictions are related to a salesperson licence. I also find Mr. Fryer's past and recent criminal convictions are sufficient to deny him a salesperson licence.

**(b) False or misleading information**

[14] In his application, Mr. Fryer stated he was employed as a salesperson by Carter Dodge starting October 15, 2013. For his work history from 2005 to 2013, he indicated on his application that he was self-employed as an author. He was not. Mr. Fryer stated he was not trying to be deceitful, but he was being lazy.

[15] As part of the application process, applicants with past criminal convictions are required to list their convictions and the dispositions on a statutory declaration. Mr. Fryer listed seven convictions before he ran out of room on the form. The application form was otherwise filled out in its entirety. Also, Mr. Fryer was asked to provide a written statement about his past convictions and he provided a one and one-half page typed and formatted written statement. Except for the employment declaration, Mr. Fryer completed the application in its entirety.

[16] I am satisfied that Mr. Fryer purposely did not provide his past work history to avoid showing he was working as an unlicensed salesperson in B.C. and in Alberta, which is discussed next. Falsifying information to the Authority gives concern that Mr. Fryer will provide false information in the future. This is conduct which is of concern to the public interest as it indicates a willingness to be dishonest and grounds to refuse a licence: *Grier v. Registrar, Motor Vehicle Dealer Act 2002* (7992/MVDA; July 8, 2013) (Ontario Licence Appeal Tribunal).

**(c) Working as an unlicensed salesperson**

[17] Evidence was provided, with no evidence to the contrary, that Mr. Fryer had worked at Coquitlam Chrysler as a salesperson for three weeks before he went to work at Carter Dodge. It was noted Mr. Fryer had to leave Coquitlam Chrysler because he was not licensed. The evidence also shows Mr. Fryer was made aware he had to be licensed but did not get licensed. Instead he went to Carter Dodge and worked there unlicensed and received commission for sales which is based on Mr. Fryer's own testimony and evidence provided at the hearing: Exhibit 4.

[18] Mr. Fryer also worked at an Alberta dealership for the month of March 2013, and the Alberta Motor Vehicle Industry Council, that license and regulates car salespeople in that province, confirmed Mr. Fryer was not licensed at the time. Mr. Fryer knew he had to be licensed in Alberta as he admitted at the hearing and as noted in the Hearing Report on page 21 of the documents.

[19] I note Mr. Fryer never denied he had worked at the two B.C. and one Alberta dealerships while he was unlicensed.

[20] I am satisfied that Mr. Fryer acted as an unlicensed salesperson in British Columbia and in Alberta when he knew he had to be licensed. I am also satisfied Mr. Fryer did not want to advise the Authority of his past work history because he knew he had to be licensed before working as a salesperson. These facts assist in my determination that Mr. Fryer would be ungovernable and would more likely than not, refuse to obey the law in the future. I would not grant a licence to Mr. Fryer on this finding alone.

**(d) Lost work**

[21] At the hearing, Mr. Fryer accused Compliance Officer, Mr. Barteski, of causing Mr. Fryer to lose his job at Carter Dodge. During Mr. Barteski's interview

with Mr. Fryer as part of the application process, Mr. Barteski asked if both Coquitlam Chrysler and Carter Dodge were aware of his criminal record. Mr. Fryer stated they were. Mr. Barteski followed up with both dealerships to confirm and was told Mr. Fryer had not told the dealerships the extent of the criminal history and that it had happened long ago. Mr. Barteski stated he did not divulge details of the convictions to the dealerships, but said Mr. Fryer had recent charges in Alberta. Mr. Barteski's conversations with the dealers occurred on November 28, 2013.

[22] In support of Mr. Fryer's argument, he tendered three pages which were entered as Exhibit 4 at the hearing. Those documents show Mr. Fryer's last commission sale was on November 8, 2013, and that he was released from Carter Dodge because he had not obtained a salesperson licence.

[23] Mr. Fryer's own documents show his employment ended well before Mr. Barteski placed his phone calls and because he was not licensed as required by B.C. law. I find Mr. Fryer's allegation unsupported by the evidence and also find no breach of procedural fairness. Regardless, these facts would not change the outcome of my decision.

## **CONCLUSION**

[24] Mr. Fryer is denied a salesperson licence.

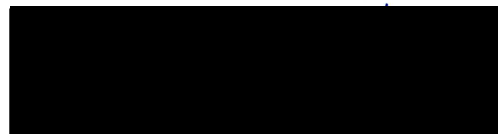
[25] Given:

- (a) Mr. Fryer's extensive criminal history spanning 38 years, the most recent for break and enter in 2012;
- (b) Mr. Fryer's admission of and conviction for committing several violent crimes, one involving a weapon;
- (c) Mr. Fryer's clear continuing disregard to abide by court and probation orders, the last being in 2012;
- (d) Mr. Fryer knowingly acted as an unlicensed salesperson;
- (e) Mr. Fryer knowingly provided false answers on his application form; and
- (f) There is no indication that Mr. Fryer is attempting to rehabilitate himself,

I find it necessary to refuse to accept any future applications from Mr. Fryer to be licensed as a salesperson or registered as a motor dealer, or where Mr. Fryer has any involvement in a motor dealer: *Pugliese v. Clark (B.C. Registrar of Mortgage Brokers)* 2008 BCCA 130 (Court of Appeal).

[26] If there is disagreement with this decision, it may be challenged by way of judicial review before the BC Supreme Court under the *Judicial Review Procedures Act*.

Date: December 13, 2013



Ian Christman J.D., Registrar

