



Motor
Vehicle Sales Authority
of British Columbia

Hearing File No. 13-08-001
Investigation File No. 13-05-029

**IN THE MATTER OF THE *MOTOR DEALER ACT, R.S.B.C. 1996, c. 316* and the
*BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004 c. 2***

BETWEEN:

**Motor Dealer Council of British Columbia dba
Motor Vehicle Sales Authority of British Columbia**

Complainant

AND:

**AutoCanada Northtown Auto GP Inc., a general partner of
Northtown Auto LP dba Northland Chrysler Jeep Dodge
(Dealer Licence: 30541)**

Respondent

AND:

**Frederick Brent Marshall
(Salesperson Licence: 105591)**

Respondent

AND:

**Murray Leonard Carlson
(Salesperson Licence: 114143)**

Respondent

**DECISION OF THE REGISTRAR OF MOTOR DEALERS
ON ADJOURNMENT APPLICATION BY
AUTOCANADA NORTHTOWN AUTO GP INC.**

Submissions received: April 7 and 8, 2015 at Vancouver, British Columbia

Submissions received from:

The Complainant

Robert Hrabinsky

The Respondent AutoCanada Northtown Auto GP
Inc., a general partner of
Northtown Auto LP dba Northland Chrysler Jeep
Dodge

Paul M. Pulver

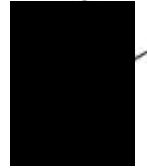
The Respondent Frederick Brent Marshall

Douglas McLauchlan

- [1]. In February and April 2014 the liability phase of the within hearing was completed. I rendered a decision on May 23, 2014 with respect to the liability issues.
- [2]. In the summer of 2014 the respondents, at that time represented by one law firm, brought an application seeking to have me recuse myself from the proceeding and vacate my May 23, 2014 decision. On September 11, 2014 I refused that application.
- [3]. On September 26, 2014 I was advised that the respondent Mr. Marshall had retained his own counsel, Mr. McLauchlan.
- [4]. In December 2014 I directed that the penalty phase hearing of this matter be set for hearing on April 13, 14 and 15, 2015.
- [5]. On April 7, 2015 I was provided with correspondence from counsel for the respondent AutoCanada Northtown Auto GP Inc., a general partner of Northtown Auto LP dba Northland Chrysler Jeep Dodge ("AutoCanada") indicating that based on information he had just received, he was of the view that Mr. McLauchlan was in a conflict of interest in acting for Mr. Marshall in the hearing set to commence on April 13, 2015.
- [6]. On April 8, 2015 I asked all parties to advise me of their position on whether an adjournment was required, and whether any relief would be sought from me in relation to the allegations of conflict of interest.
- [7]. All counsel responded to me as requested. Mr. McLauchlan took the position that no conflict arose on the facts, and that no adjournment was required. Mr. Hrabinsky, in the role of *amicus curiae*, provided me with law relating to the assessment of conflict of interest and indicated that it was his view that no adjournment was necessary. Mr. Hrabinsky also provided me with materials addressing my jurisdiction to assess conflicts of interest relating to counsel in hearings before tribunals.
- [8]. Mr. Pulver continued to seek an adjournment and took the position that he needed time to investigate and obtain details relating to the apparent conflict of interest of Mr. McLauchlan and his firm, and needed time to properly prepare his application on the basis of those details. Mr. Pulver also provided me with law relating to my jurisdiction to assess conflicts of interest of counsel.
- [9]. In light of the position taken by Mr. Pulver I am compelled to adjourn the hearing set to commence on April 13, 2015. I do so reluctantly given the passage of time since the hearing on liability completed, more than one year ago.
- [10]. I direct all counsel to appear before me at 10:00 am April 13, 2015 to discuss the terms of the adjournment, including the timing of Mr. Pulver's motion.

[11]. I am content for this appearance to occur by teleconference. Counsel can expect the MVSA staff to be contact with respect to the logistics of the teleconference.

DATED: April 9, 2015



Wendy A. Baker, QC
Acting Registrar