



Neutral Citation No. 2018-BCRMD-036

IN THE MATTER OF THE *MOTOR DEALER ACT*, R.S.B.C. 1996, C. 316

MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA

And

PEGASUS TECH. TRUCKING LTD. dba TRUCK TIME AUTO SALES
(#26445)

Respondent

BAHMAN (BOB) SHOKOHI MANESH

Respondent

And

MEHRAN (MIKE) SHOKOHI MANESH

Respondent

And

AHMAD (ALEX) REZAEI

Respondent

DECISION OF THE REGISTRAR

I. Introduction

[1] This hearing is to review the dealer registration of Pegasus Tech. Trucking Ltd. dba Truck Time Auto Sales ("Truck Time"). This review was requested by the Authority staff when Truck Time provided notice of a change in ownership as required by section 12 of the *Motor Dealer Act*, R.S.B.C. 1996, c. 316 (the "MDA").

[2] Briefly, the Authority's concern is Bob Shokohi becoming a 49% shareholder in Truck Time. The Authority notes that Bob Shokohi was the owner and directing mind of the motor dealer Best Import Auto Ltd. ("Best Import") and the Registrar cancelled Best Import's registration as a motor dealer and ordered a ten-year ban on it re-applying. The Authority also notes the Registrar's findings of fact about the conduct of Bob Shokohi, personally, in that case.

Re: *Best Import Auto Ltd. et al* (November 28, 2017, Hearing File 17-08-002, Registrar), varied but not on these points, *Best Import Auto Ltd. v Motor Dealer Council of British Columbia*, 2018 BCSC 834 (BC Supreme Court).

[3] In the Best Import November 28, 2017 decision, I also banned Bob Shokohi from being registered or licensed for ten years. The B.C. Supreme Court noted Mr. Shokohi was not provided proper notice of the potentiality of such a ban and set aside the ordered ban on Mr. Shokohi. The Court did uphold the Registrar's findings of fact in that case. The Court also noted it was open to the Registrar to reconstitute a hearing on proper notice to Mr. Shokohi and consider such a ban on him personally: *Best Import Auto Ltd. v Motor Dealer Council of British Columbia* (BCSC) at paragraphs 53 and 55-57.

[4] On October 12, 2018, I issued a decision rejecting the wholesaler licence application of Best Import, submitted by Bob Shokohi. I also ordered a ten-year ban on Mr. Shokohi from being licensed or registered in any capacity under the MDA: *Re: Bob Shokohi & Best Import Auto Ltd.* (October 12, 2018, Hearing File 18-06-005, Registrar).

II. Procedural History

[5] This hearing was conducted by way of written submissions. The following is a summary of the procedures to date:

- (a) On August 14, 2018, the Authority issued a Hearing Notice in this matter. An Amended Notice was issued on August 16, 2018. These were accompanied by two Licensing Hearing Reports of Juwll Ireland dated July 5 and 19, 2018 and a Licensing Hearing Report of Dan McGrath dated July 26, 2018. Written submissions from the Respondents were due by end of the day September 24, 2018.
- (b) These Notices were served upon Pegasus Tech. Trucking, Ltd. dba Truck Time Auto Sales ("Truck Time"), Bahman ("Bob") Shokohi, Mehran ("Mike") Manesh, and Ahmad ("Alex") Rezaei, principal of Truck Time.
- (c) On September 18, 2018, Mr. Rezaei sent an email to Ms. Ireland, withdrawing his application to add Mr. Shokohi as a 49% shareholder.
- (d) On September 23, 2018, Mr. Rezaei provided written submissions in the form of an email as to why he was withdrawing Truck Time's notice.
- (e) On September 24, 2018, legal counsel for Mike Manesh sought an extension of time to make submissions, as they had only been recently retained.

- (f) Late in the day of September 24, 2018, legal counsel for Mike Manesh sent in their client's written submissions.
- (g) Also, on September 24, 2018, the requested extension of time noted in (e) was brought to my attention. I issued a decision, granting a one-week extension. My decision and the submissions of Mr. Manesh's legal counsel appear to have missed each other. Mr. Manesh did not provide any additional submissions.
- (h) On October 12, 2018, the Authority provided written submissions in response to Mr. Rezaei's submissions and those of Mr. Manesh.
- (i) On October 15, 2018, Mr. Rezaei provided a response to the Authority's October 12 submissions.

III. Preliminary matter - Jurisdiction

[6] Given that Truck Time has requested to withdraw its Notice of Change in the beneficial shares of the company, a question arises as to whether I can continue my review of Truck Time. The key issue is whether Truck Time should be deregistered as a motor dealer, due to the involvement and ownership of Bob Shokohi in the dealership.

[7] Mr. Rezaei, for Truck Time, states that its submission of the Notice of Change, was just an intended application and not an actual application to add Mr. Shokohi as a shareholder. Mr. Rezaei submits that he was advised to make the application; the Authority would review it and then let Mr. Rezaei know if the Authority had concerns with his adding Mr. Shokohi as a 49% shareholder.

[8] The Authority submits that I can continue my review. It notes that the Notice of Change is just that: notice that the shareholders have changed. Further, there is other evidence to suggest that Bob Shokohi was a shareholder, including Mr. Shokohi signing and submitting a dealer applicant profile on behalf of Truck Time. There is also the evidence from Compliance Officer Dan McGrath, along with some pictures where Mr. Shokohi and his son, Mike Manesh, arriving on the lot of Truck Time in their personal cars. Mike Manesh's vehicle was observed displaying a dealer licence plate belonging to Truck Time. The Authority notes that the concern is not the Notice of Change advising of the relationship between Truck Time and Bob Shokohi, but the facts of that possible relationship, which needs to be reviewed.

[9] In the case of *Re: Key Track Auto Sales & Detailing Ltd.* (May 11, 2010, File 10-013, Registrar), the dealer was denied a licence because the underlying ownership was viewed as colourable. The evidence showed Key Track was, in fact, Massive Truck Sales Ltd. reborn to avoid Massive Truck's prior compliance liabilities. Citing several cases in Key Track, I noted the basic legal principal that, in a licensing regime, a

regulator may look beyond the corporation's legal identity and review those who are its directing minds to see if any concerns exist, which may be adverse to the public interest. This includes relationships to third parties. This principal was more recently applied and approved in the case of *Re: Best Import Auto Ltd. et al* (November 28, 2017, File 17-08-002, Registrar) varied but not on this point *Best Import Auto Ltd. v Motor Dealer Council of British Columbia*, 2018 BCSC 834 (BC Supreme Court) at para. 30.

[10] Finally, section 5 of the MDA provides authority to review a motor dealer's registration, and look behind the corporate veil

if the financial responsibility or past conduct of an applicant or person registered, or its officers or directors if the applicant or person registered is a corporation, is, in the opinion of the registrar, such that it would not be in the public interest for the applicant or person to be registered or continue to be registered.

By submitting the Notice of Change and noting Bob Shokohi's involvement with the daily operation of Truck Time, section 5 of the MDA is engaged.

[11] Even though Truck Time says that it is withdrawing its Notice of Change, based on the forgoing, I may still review the relationships that exist between Truck Time, Mr. Rezaei on the one hand and Bob Shokohi and his son Mike Manesh on the other to assess any concerns to the public interest.

IV. Position of the Parties

A. Truck Time and Mr. Rezaei

[12] Truck Time and Mr. Rezaei say that they advised the Authority of their intention to have Bob Shokohi become a shareholder of Truck Time - and not that the change had occurred. They say that they contacted staff of the Authority to inquire if adding Mr. Shokohi as an investor would be acceptable to the Authority. Truck Time and Mr. Rezaei say that they were told the Authority could not answer that question and that Truck Time and Mr. Rezaei would have to file the Notice of Change. Only then would the Authority assess the situation.

[13] Truck Time and Mr. Rezaei also advise that, when they moved their dealership location to the premises in Burnaby, owned by a company in which Bob Shokohi's son is a director, the Authority did not raise an objection. Truck Time now says that it will be leaving that Burnaby premises and relocating to Port Coquitlam. Truck Time and Mr. Rezaei provide assurances that Bob Shokohi will not have any part of the

dealer's operations. Mr. Rezaei, for Truck Time, notes that the use of his dealer plate by Mehran (Mike) Manesh was without his permission. Mister Rezaei says that Truck Time has instigated better controls over its dealer plates.

B. Bob Shokohi

[14] Bob Shokohi did not provide any submissions.

C. "Mike" Manesh

[15] Mike Manesh's submissions focused on the evidence that he was present at the Burnaby dealer location of Truck Time and allegedly using the dealer plate associated with Truck Time on Mr. Manesh's personal vehicle. Mr. Manesh counters that he is on the dealer premises as an owner of the property and that the evidence does not establish that the dealer plate belonged to Truck Time.

D. The Authority

[16] The Authority's position is summarized in the Hearing Notice and at paragraphs 1-2 and 8 above. Generally, there is a concern in allowing Truck Time to continue to be registered with Bob Shokohi having an ownership stake or control over the day-to-day operations of Truck Time. The factual basis for that concern are contained in the above noted Registrar decisions involving Best Import and Bob Shokohi.

[17] The Authority states that there is evidence to show Mehran (Mike) Manesh was using the dealer plates belonging to Truck Time, and his continued presence at the lot of Truck Time.

V. Legal Principles

[18] As already noted, a licensing body may review the realities of a registrant or licensee to assess any risk to the public if they were to be registered/licensed or continue to be so. This includes consideration of a motor dealer's relationship with third parties.

[19] A review of conduct is not limited in time, location, or type. The question is whether the conduct is such that the person should not be registered or licensed: *Re Best Import* (November 28, 2017).

[20] Taking away a person's ability to earn a livelihood in their chosen field is an important decision that is not to be taken lightly. When weighing the protection of

the public with the desire of a person (real or corporate) to be registered or licensed in the industry, the protection of the public is the paramount concern: *Re Best Import* (November 28, 2017) para. 34, citing *British Columbia (Securities Commission) v. Pacific International Securities Inc.*, 2002 BCCA 421 (BC Court of Appeal).

[21] The burden of proof is on the Authority to show that Truck Time's continuing to be registered as a motor dealer is contrary to the public interest. The burden is on a balance of probabilities, often reframed as being more likely than not: *F.H. v. McDougall* 2008 SCC 53 (Supreme Court of Canada).

VI. Discussion

A. Is there a concern for the public interest if Bob Shokohi is part of Truck Time?

[22] The concern in Bob Shokohi's being an owner and directing mind of Truck Time arises from my findings of fact in *Re: Best Import* (November 28, 2017). The following are my key findings in that case:

[114] Based on the forgoing, I make the following findings:

- (a) Best Import advertised five motor vehicles for sale without representing them as "not suitable for transportation" in its advertisement as required by the legislation. This is a failure to state a material fact contrary to section 5(1) of the BPCPA. I have found that conduct to be reckless amounting to deliberate conduct.
- (b) Best Import re-advertised motor vehicles for sale, which were not compliant with the *Motor Vehicle Act* and after being advised by the Ministry of Transportation's Commercial Vehicle Safety Enforcement Branch of that fact. This conduct was also a breach of section 5(1) of the BPCPA and was deliberate conduct.
- (c) Best Import misrepresented a motor vehicle as having "no accident" when it knew that to be untrue. This conduct was also a breach of section 5(1) of the BPCPA and was deliberate conduct.
- (d) Best Import allowed an unlicensed person to act as a salesperson contrary to section 13.1 of the *MDA*.

- (e) I find that Best Import was in breach of the conditions placed on its registration to have motor vehicles inspected by a red seal mechanic or a designated inspection facility.
- (f) I find that Bob Shokohi, the directing mind of Best Import, intentionally tried to mislead the Registrar during the course of the hearing.
- (g) I find that the cumulative conduct of Best Import disregarding lawful orders and Bob Shokohi attempting to mislead the hearing, make Best Import ungovernable.

[23] As to those findings, the B.C Supreme Court noted:

[55] The petitioners accept that if I conclude that Best Import's ten-year ban on reapplication was reasonable based only on the accepted findings at (a) through (e) in para. 114 of the reasons set out above, then the penalty could be upheld even if there was no basis for findings (f) and (g). I find that this is indeed the case. Those findings reflect serious concerns about the public interest. Imposing a ten-year ban on reapplication for Best Import on those grounds alone "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *Dunsmuir* at para. 47.

[56] Furthermore, on a review of the entire reasons, rather than the "parsing" approach proposed by the petitioners, I cannot find that it was unreasonable for the Registrar to have made the challenged findings [paragraphs (e) and (f)]...

[Underlining added]

[24] Those findings, led to the refusal of licensing Best Import as a wholesaler and imposing a ten-year ban on Bob Shokohi in applying to be registered or licensed under the *MDA: Re: Best Import and Bahman (Bob) Shokohi* (October 12, 2018).

[25] There is sufficient concern for the public interest if Bob Shokohi is an owner and directing mind of Truck Time, whether that direction occurs overtly or covertly.

B. Truck Time's and Alex Rezaei's relationship with Bob Shokohi and Mike Manesh?

[26] There are many instances to show a relationship between Mr. Rezaei and Truck Time with Bob Shokohi - as well as with Best Import.

1. Re: Best Import Decisions

[27] At the September 1, 2017, hearing where Best Import's motor dealer registration was suspended, Mr. Rezaei represented Best Import, while Bob Shokohi was out of the country. Mr. Rezaei stated that he was the new manager for Best Import, replacing Mr. Anvari. At the November 28, 2017 hearing, involving Best Import, evidence was provided showing that Mr. Rezaei had been replaced as Best Import's manager. This does show connections among Best Import, Mr. Rezaei and Bob Shokohi, which preceded the Notice of Change in ownership under consideration in this case.

2. Truck Time selling Best Import Inventory

[28] After Best Import's dealer registration was cancelled, its vehicle inventory was sold by Truck Time at the same location that was occupied by Best Import. Compliance Officer Dan McGrath attended the lot and advised Mr. Rezaei to ensure the vehicles being sold were safe to sell and to be inspected and repaired as needed. A subsequent inspection determined that Truck Time was selling motor vehicles without any inspection or repairs. The Ministry of Transportation and Infrastructure's Commercial Vehicle Safety Enforcement branch ("CVSE") attended Truck Time's lot and determined several vehicles were not compliant. The CVSE issued Notice and Orders against those vehicles for safety violations being present: Licensing Hearing Report of Dan McGrath, dated July 26, 2018. The Authority imposed conditions on Truck Time's motor dealer registration, requiring third party vehicle inspections prior to their sale to consumers. This evidence was not contested.

[29] This pattern of conduct is identical to the pattern of conduct by Best Imports that resulted in its registration being revoked and a ten-year ban being imposed. This identical pattern of selling vehicles from the same location as Best Import, and with some of Best Import's prior inventory, does indicate connections among Truck Time, Best Import, Mr. Rezaei, and Bob Shokohi. It suggests Truck Time's selling process relating to vehicles with safety issues, was the same as Best Import's, which was managed by Bob Shokohi.

3. Truck Time's Notice of Change of Shareholders

[30] Truck Time's Notice of Change in shareholders was dated June 18, 2018 and received by the Authority on July 10, 2018. The Notice of Change shows Bob Shokohi as a 49% shareholder of Truck Time. That Notice does not indicate it is conditional. In Mr. Rezaei's submissions, he states that the Notice was provided to the VSA with a cover letter, indicating that it was a proposal and not an actual Notice of Change in

shareholders: point 4 in the email of Alex Rezaei dated September 23, 2018. There is no such cover letter in the evidence.

[31] The Licensing Hearing Report of Dan McGrath notes a conversation he had with Mike Manesh on June 8, 2018, about his father being in the vehicle sales business. It is Mr. McGrath's evidence that he stated to Mr. Manesh something such as "Bob was free to apply for a license if he wished and there was nothing stopping him from doing so and it will receive the same consideration as all of the requests that VSA process:" Licensing Hearing Report of Dan McGrath dated July 26, 2018.

[32] The decision of the BC Supreme Court to quash the ban imposed on Bob Shokohi was made on May 22, 2018. So, Mr. McGrath was correct when on June 8, 2018, he said there was nothing stopping Bob Shokohi from applying for a licence and the application would be reviewed. Dan McGrath's evidence indicates he was none committal about the outcome of the review of such an application.

[33] The Notice of Change includes an applicant profile form, called a Form 1A. The Form 1A instructs applicants to identify each "owner, partner, shareholder or officer/director of the dealership." The Form 1A identifies Bob Shokohi, provides the required declarations, and is signed by Bob Shokohi as the Applicant. Reading the section on the last page entitled "Additional Documentation Required," it is clear the Form 1A is to be completed by the applicant, in this case Bob Shokohi. In this form, Mr. Shokohi notes that the BC Supreme Court quashed the penalties against him.

[34] The Notice of Change is to report a notice of change in the ownership of Truck Time. It suggests that such a Notice is given, once the ownership change has occurred, which is in-line with section 12 of the *MDA*. The wording of the Form 1A indicates that it is to be completed once there is a new owner, partner, shareholder or officer/director of a dealership. Again, the language of the Form 1A speaks of something having happened as contemplated by section 12 of the *MDA*. The fact that Bob Shokohi completed and signed the Form 1A does indicate an ownership change and his association with Truck Time.

[35] To recap, after the B.C. Supreme Court decision, and on June 8, 2018, Bob Shokohi's son (Mike Manesh) speaks to Compliance Officer Dan McGrath about his father, Bob Shokohi, applying for licensing. This occurs on the lot of Truck Time. Instead of Bob Shokohi applying for a licence, Truck Time submits a Notice of Change in the shareholders of Truck Time, notifying that Bob Shokohi is a 49% shareholder. The Notice is dated June 18, 2018. This is ten days after the conversation between Compliance Officer Dan McGrath and Mr. Shokohi's son, Mike Manesh. The Notice and accompanying Form 1A are advisory of something that has happened, and not of something that was possibly going to happen. These series of events and documents

show connections among Truck Time, Mr. Rezaei, Bob Shokohi and Mike Manesh, which forms a part of my considerations.

4. The presence of Bob Shokohi and Mike Manesh on the lot of Truck Time

[36] Dan McGrath's evidence is that on June 8, 2018 he attended the lot of Truck Time and saw Bob Shokohi and Mike Manesh on the lot. Not only were they on the lot but were in the offices inside the building occupied by Truck Time. Dan McGrath says Mr. Rezaei was in the sales office along with Mehran (Mike) Manesh. Bob Shokohi emerged from a different office. The reason given for Mr. Shokohi's and Mr. Manesh's presence was that they were the landlords with a right to be on the lot to inspect it and - in the case of Mike Manesh - ensuring the landscaping was proper. Mr. Manesh emerged from the office with a yellow high visibility vest and tape measure. A picture of this is in evidence. Mr. Rezaei also says the landlords have control over half the office space.

[37] Dan McGrath attended Truck Time's lot on July 23, 2018. This time, Mr. Rezaei was not on the lot, but Bob Shokohi was in an office on the lot. There was also a licensed salesperson present.

[38] As landlords, there is no doubt that Bob Shokohi and Mike Manesh are allowed on their property to inspect its condition, subject to any terms in a rental or lease agreement with Truck Time. However, Bob Shokohi was present within a few weeks on two occasions. Mr. Shokohi and Mr. Manesh emerged from offices within the lot, as opposed to being seen walking the lot and inspecting it. On June 8, Bob Shokohi was seen emerging from a separate office than Mr. Rezaei and Mr. Manesh. The above evidence suggests a relationship that extends beyond a landlord-tenant relationship.

5. Mike Manesh's use of Truck Time's dealer plate

[39] Dan McGrath's Report states that he observed Bob Shokohi and Mike Manesh arrive at the lot of Truck Time in separate vehicles on June 8, 2018. Dan McGrath says the Mercedes driven by Mike Manesh had a dealer plate on it that belonged to Truck Time. There is a picture in evidence to show the Mercedes and the dealer plate. Mr. McGrath's report noted that he confronted Mr. Manesh with this evidence and that Mr. Manesh's response was that he was using an expired plate from Best Import.

[40] Mike Manesh's written submissions states that there is no evidence that the dealer plate belonged to Truck Time. Those submissions do not deny Mr. Manesh said the dealer plate was an expired Best Import dealer plate.

[41] There is evidence that the dealer plate belonged to Truck Time. Dan McGrath provided evidence by way of his Licensing Report. Further, Mr. Rezaei in his written submissions did not deny the dealer plate belonged to Truck Time. Mr. Rezaei stated that the plate's use was not authorized by him. Mr. Rezaei goes on to describe how Truck Time's dealer plates are used and the controls on their use that he had in place at that time. Mr. Rezaei adds that he will instigate better controls to ensure that the dealer plates are not misused. From the submissions of Mr. Rezaei, I am led to believe that he had little control over the comings and goings of the landlords Bob Shokohi and Mike Manesh, such that they can gain access to the building his dealership is in, including after hours, and avail themselves of Truck Time's assets.

[42] Mike Manesh's use of Truck Time's dealer plate suggests not only the existence of connections among Truck Time, Mr. Rezaei, Bob Shokohi and Mike Manesh. It also shows the beneficial use of Truck Time by Mike Manesh, beyond receiving rent as a landlord. This further suggests that the association of Bob Shokohi, along with his son Mike Manesh, with Truck Time was real and not a proposal.

6. Truck Time and Alex Rezaei stating they are moving operations and are no longer pursuing Bob Shokohi as an owner

[43] In his email of September 18, 2018 to Juwll Ireland, Mr. Rezaei says that he is withdrawing his application for Notice of Change of ownership. In that email, Mr. Rezaei also says "as on my phone conversation with you around the month of June I indicated that I was no longer interested to enter in to any business affiliation with Mr. Bob Shokohimanesh [sic]". This email was followed up by an explanatory email dated September 23, 2018.

[44] I have a concern with Mr. Rezaei's evidence that he advised Juwll Ireland of the Authority in June that he no longer wanted a business relationship with Bob Shokohi. The reason is that the Notice of Change, signed by Mr. Rezaei, is dated June 18 and was received by the Authority on July 10, 2018. If Mr. Rezaei decided in June not to pursue a business relationship with Bob Shokohi, waiting until July to send the Notice of Change seems suspect.

[45] In the September 23 explanatory email, Mr. Rezaei says (paraphrased):

- (a) "Droll" had no problem with Truck Time moving to the Burnaby location.
- (b) "Droll" cautioned Truck Time that if it took over the inventory of Best Import, that inventory should be inspected by a red seal mechanic.
Given the context, "Droll" appears to be Dan McGrath.

- (c) Mr. Rezaei called Mr. Wong a week or two before filing the Notice of Change to confirm Bob Shokohi won the BC Supreme Court case. Mr. Wong confirmed that to be the case. Mr. Wong would not commit to whether the Authority would accept Bob Shokohi as an owner of Truck Time. Only once an application is received would the Authority opine.
- (d) Mr. Wong suggested the application be accompanied by a cover letter which indicated the application was a proposal and if the Authority objected to Mr. Shokohi, then the proposal should be null and void.
- (e) Mr. Rezaei commits to moving back to his old location in Port Coquitlam once he has reduced the size of his inventory to move.

[46] In his October 15, 2018 email, Mr. Rezaei again commits to moving his dealership once his dealer inventory has been reduced or a location to store excess inventory can be secured.

[47] The reply submissions of the Authority dated October 12, 2018, from Hong Wong, does not deny that there was a cover letter sent along with the Notice of Change, indicating it was a proposal. None is in the evidence before me. However, I note that Mr. Rezaei has indicated two staff members of the Authority, Dan McGrath and Hong Wong, were non-committal about the Authority's position if an application for a licence from Bob Shokohi or ownership change involving Bob Shokohi were submitted. This is consistent with the Report of Dan McGrath.

7. Findings on the relationship between the Respondents

[48] Based on the foregoing evidence, I am satisfied on a balance of probabilities that:

- (a) Bob Shokohi is a concern to the public interest, such that he should not have any involvement in a motor dealership;
- (b) There was an employer-employee relationship between Bob Shokohi and Mr. Rezaei, involving Best Import, that preceded the Notice of Change completed by Mr. Rezaei and the Form 1A completed by Mr. Shokohi;
- (c) There were on-going business relationships among Mr. Rezaei, Truck Time, Best Import and Mr. Shokohi, based on the following:
 - (1) Truck Time moved onto the lot of Best Import, with Bob Shokohi and Mike Manesh described as landlords;
 - (2) Truck Time sold the motor vehicles of Best Import, without inspection or repairs, despite those vehicles' having safety issues. This resulted in

the CVSE issuing Notices and Orders against some of those vehicles. This selling process mirrors that of Best Import while under the management and control of Bob Shokohi;

(3) Bob Shokohi was present on the lot and in the offices of Truck Time on two occasions in fairly-short order, including once when the owner of Truck Time, was not present;

(4) Mehran (Mike) Manesh was benefiting from the use of an asset belonging to Truck Time, using the dealer plate on the Mercedes; and

(d) The Notice of Change in ownership submitted and signed by Mr. Rezaei and the accompanying Form 1A completed by Bob Shokohi are indicative of an ownership change having occurred. Mr. Rezaei's statement that as of June he no longer wished to pursue a business relationship with Bob Shokohi is inconsistent with having submitted the Notice of Change on July 10, 2018.

VII. Legitimate Expectation as to Process

[49] I do have one concern involving the fairness of the process. Mr. Rezaei has stated he sent his Notice of Change of ownership as a proposal on the suggestion of the Authority, i.e. Licensing Manager Hong Wong. Mr. Rezaei says that there was a cover letter to that effect sent along with, what he continuously calls, the application. Mr. Rezaei says that the cover letter indicated that, if the Authority were to find Bob Shokohi unacceptable, Mr. Rezaei would not go forward with the business relationship with Mr. Shokohi. Mr. Rezaei confirms that, in speaking with two employees of the Authority, the Authority was non-committal on what would be the outcome of such a review. The existence of that cover letter or of this process being discussed has not been denied by the Authority.

[50] From time-to-time, the Authority has provided what is colloquially called a "comfort letter." That is, an advisory statement by the Authority that, if there were to be a proposed change in ownership, the Authority would (or would not) find the new ownership structure acceptable, based on the facts currently available. So, Mr. Rezaei is describing a process the Authority has undertaken in the past.

[51] If these facts occurred, then Mr. Rezaei may have a legitimate expectation that this process would be followed. The Authority cannot change the process it agreed to follow without giving Mr. Rezaei notice of that change and allow Mr. Rezaei an opportunity to reconsider his position. A legitimate expectation forms a part of procedural fairness and natural justice: *C.U.P.E. v. Ontario (Minister of Labour)*, [2003] 1 SCR 539, 2003 SCC 29 (Supreme Court of Canada). A breach of procedural fairness causes any decision rendered void *ab initio* - from the outset: *Dunsmuir v. New Brunswick*, [2008] 1 SCR 190, 2008 SCC 9 (Supreme Court of Canada). Such a

breach at the investigation stage, as here, can be cured at the hearing stage of a proceeding: *Taiga Works Wilderness Equipment Ltd. v. British Columbia (Director of Employment Standards)*, 2010 BCCA 97 (BC Court of Appeal), applied in *Higgins v. Canada (Attorney General)*, 2018 FCA 49 (Federal Court of Appeal). Importantly, the Authority staff have not committed to any decision. It has been left to me to adjudicate the matter.

[52] Given that Mr. Rezaei's evidence on this point has not been refuted by the Authority, I accept he proposed a process seeking what I will call a preliminary opinion as to the suitability of Bob Shokohi's ownership in Truck Time. The answer to that is "no." Mr. Shokohi is not suitable as an owner of a motor dealer.

[53] I decline to make any decision as to the continued registration of Truck Time. I have found a legitimate expectation by Truck Time that the Authority would opine on Mr. Shokohi's suitability, and if it were an adverse opinion, Truck Time would not complete the 49% ownership sale to Mr. Shokohi and be allowed to withdraw its Notice.

VIII. Next Steps

[54] I have found ongoing business relationships among Truck Time, Mr. Rezaei and Bob Shokohi. The evidence would appear to include conduct up to late July 2018, with the evidence of Dan McGrath's attendance at Truck Time. Since then, there is a commitment to divorce any business dealings among Truck Time and Mr. Rezaei from Bob Shokohi, including physically moving Truck Time.

[55] Balancing fairness to Truck Time and Mr. Rezaei with the protection of the public, I find the following orders are appropriate:

- (a) Pegasus Tech. Trucking Ltd. dba Truck Time Auto Sales is put on notice that it may not have any business relationship with Bob Shokohi in the operation of the registered motor dealer.
- (b) A condition is placed on the motor dealer registration of Pegasus Tech. Trucking Ltd. dba Truck Time Auto Sales that it has until December 31, 2018 to fulfill its promise to move its dealership from the Burnaby location formerly occupied by Best Import. If additional time is necessary, Truck Time can apply to me for an extension by way of written submissions detailing why it is delayed. Such an application must be made by December 14, 2018.

[56] If new evidence arises that Truck Time has an ongoing relationship with Bob Shokohi that I have prohibited, the Authority may call a new hearing on proper notice to Truck Time and any other appropriate party.

IX. Further review

[57] The condition added to the registration of Pegasus Tech. Trucking Ltd. dba Truck Time Auto Sales may be reviewed by making a written request for reconsideration in accordance with section 26.11 of the *MDA* within 30 days of this decision. Such a written request must be accompanied with the new evidence as noted in section 26.12(2) of the *MDA*.

[58] This decision may be reviewed by petitioning the B.C. Supreme Court for judicial review pursuant to the *Judicial Review Procedure Act*. Such a petition must be filed within 60 days of this decision being issued: section 7.1(t) of the *MDA*.

Date: December 5, 2018

Original Signed
Ian Christman J.D., Registrar