

Investigation File No.: C-24-10-502
Hearing File No.: H-26-01-004

**IN THE MATTER OF *THE MOTOR DEALER ACT*, R.S.B.C. 1998, c.316 and
THE BUSINESS PRACTICES AND CONSUMER PROTECTION ACT, S.B.C. 2004, c.2**

BETWEEN:

THE MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA

THE AUTHORITY

AND:

CANWEST AUTO INC.

RESPONDENT/MOTOR DEALER

**DECISION OF THE REGISTRAR OF MOTOR DEALERS
RE: APPLICATION FOR RECONSIDERATION**

Date and location of decision: April 9, 2026, at Langley, British Columbia

By way of written submissions

Counsel for the Authority: Claudia Arrietta

Appearing on its own behalf: Canwest Auto Inc.

I. Introduction

1. In my decision dated March 16, 2026, I found that the Respondent, Canwest Auto Inc. (“Canwest”), contravened the *Motor Dealer Act Regulation*. As a result, a Notice of Administrative Penalty was issued to Canwest in which it was ordered to pay an administrative penalty of \$7,500.00. Further, a Compliance Order was issued in which Canwest was ordered to pay the aforementioned administrative penalty along with the Authority’s costs in the amount of \$2,500.00.
2. On April 2, 2026 Canwest requested that “the penalty” be reconsidered (“the Request”).

II. Canwest position

3. In the Request, Canwest submits that “the total financial penalty of \$10,000.00 is disproportionate when considered alongside the nature of the findings and the circumstances of this matter.” Canwest asks that the penalty be reconsidered “in a manner that reflects the nature of the findings and allows the business to continue operating and contributing to the community.”

III. Authority position

4. The Authority opposes the Request and takes the position that no new evidence has become available or has been discovered that is substantial and material to the Decision and that did not exist at the time of the Decision or that did exist at the time, but was not discovered and could not have been discovered through the exercise of reasonable diligence.

IV. Legal principles

5. Section 26.11(2) of the *Motor Dealer Act* (“MDA”) allows a person to request that the Registrar reconsider a “determination” which is defined by section 26.11(1) as including a Compliance Order and a Notice of Administrative Penalty. The Registrar may vary or cancel a determination only if satisfied that new evidence has become available or has been discovered that:

- (a) is substantial and material to the determination, and
- (b) did not exist at the time of the review or did exist at the time but was not discovered and could not through the exercise of reasonable diligence have been discovered.

6. The process to be followed in a reconsideration application was described by Registrar Christman in *Re: Salame* (20-11-012, August 25, 2021):

[8] The *functus officio* principle is a common law principle which may be modified by legislation. Since the *Fryer* decision, the Legislature has provided for a right to reconsider the revocation of a salesperson's licence: sections 26.11 and 26.12 of the Motor Dealer Act ("MDA").

[9] A reconsideration of Mr. Salame's salesperson licence must follow the process prescribed by those sections. Importantly, the Registrar may not cancel or vary a prior decision unless there is new evidence which is substantial and material and may alter the original decision. Sub-section 26.12(2) of the MDA states:

(2) The registrar may vary or cancel a determination only if the registrar is satisfied that new evidence has become available or has been discovered that

(a) is substantial and material to the determination, and

(b) did not exist at the time of the review or did exist at the time but was not discovered and could not through the exercise of reasonable diligence have been discovered.

[10] Therefore, the process adopted has been for the Registrar to review submissions and the evidence provided to see if they meet this statutory requirement for new evidence. If it does not, then proceeding with a reconsideration hearing is moot as the Registrar would be without legal authority to cancel or vary the original decision.

7. The evidentiary requirement described in *Salame* was confirmed by Acting Registrar Hunter in *Re: Gazloff*, (H-25-02-002, May 22, 2025):

4. I agree with the Authority that legal standard for reconsideration requires the applicant to file new evidence that did not exist or was not reasonably discoverable at the time of the determination from which reconsideration is sought and which may substantially and materially alter the original determination: *Re: Imad Abdullah Rashid* 2019 BCRMD 012 at para. 13.

8. My task on this application therefore is to determine whether Canwest has submitted new or newly discovered evidence that did not exist or was not reasonably discoverable at the time of the determination and which may substantially and materially alter the original determination. If there is, then a full reconsideration hearing will proceed. If there is not, I am without legal authority to reconsider the determination.
9. While Canwest seeks reconsideration of “the penalty” generally, I will approach my analysis in respect of the Notice of Administrative Penalty and the Compliance Order collectively and referred to as “the Determination”.

V. Discussion

10. In the Request, Canwest argues as follows:

- a. The Decision found that the conduct in question was not deliberate, there was no finding of dishonesty or a lack of integrity, the deceptive conduct allegation was dismissed and there was no consumer harm;
- b. Canwest made good faith efforts to, and in fact did resolve the consumer complaint;
- c. The total financial penalty of \$10,000.00 represents a significant burden and financial strain; and

d. A reduced penalty in the range of \$2,500.00 to \$4,000.00 would be fair and proportionate.

11. As noted by the Authority in its response to the Request, the arguments raised by Canwest were previously advanced at the original hearing and considered in the Decision.

12. In its reply, Canwest takes the position that reconsideration is appropriate not only where new evidence is advanced, but also “where the existing record may lead to an outcome that is disproportionate or does not fully reflect the circumstances.” It repeats the arguments in the Request, restating that it is seeking reconsideration of the quantum of the penalty as follows:

Taken together—the absence of consumer harm, the satisfactory resolution confirmed by the consumer, the unintentional nature of the error, and current economic challenges—these considerations support a more moderate and proportionate outcome.

13. Canwest’s argument that reconsideration is not restricted to the introduction of new or newly discovered evidence runs contrary to the language of section 26.12(2) of the MDA which specifically limits the authority of the Registrar to vary or cancel a determination. If a party to a decision seeks to challenge a decision on the basis that substantive or procedural fairness errors were made by the finder of fact, it is open to them to seek a review by the courts pursuant to the *Judicial Review Procedure Act*.

14. Canwest’s argument that the penalty was disproportionate is based upon arguments previously raised at the hearing of this matter. It has failed to introduce any new evidence that has become available or that has been discovered in support of the Request. It is therefore unnecessary to consider whether it is substantial and material to the Determination, and whether it did not exist at the time of the review or did exist at the time but was not discovered and could not through the exercise of reasonable diligence have been discovered.

VI. Conclusion

15. Canwest's request for reconsideration does not meet the requirements of section 26.12 of the MDA and as such it is dismissed. I am without legal justification to order a reconsideration hearing in relation to the Decision.

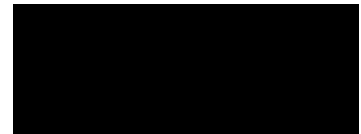
VII. Right of Review of Decision

16. There is no right of reconsideration of a decision not to reconsider a determination: s.26.12(4) MDA.

17. This decision may be reviewed by petition to the BC Supreme Court pursuant to the *Judicial Review Procedure Act* within 60 days of receiving this decision: section 7.1 of the MDA and section 57 of *the Administrative Tribunals Act*.

Signed this 9th day of April, 2026

"Original signed"

A solid black rectangular box used to redact the signature of the Registrar of Motor Dealers.

Patrick Poyner
Registrar of Motor Dealers