



MOTOR VEHICLE SALES AUTHORITY OF BRITISH COLUMBIA
(Previously known as the Motor Dealer Council of B.C.)

**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:

ARTHUR CURTIS PATEY
(Salesperson Application # 122729)

APPLICANT

DECISION OF THE REGISTRAR OF MOTOR DEALERS

APPEARANCES

For the Authority: Hong Wong, Manager of Licensing
 Kim Murphy, Licensing Officer
 Ross Cote, Compliance Officer

For Arthur Curtis Patey: In person

Date and Place of Hearing: January 24, 2013, Surrey, British Columbia

INTRODUCTION

[1] A hearing was called to review the application of Arthur Curtis Patey for licensing as a salesperson. The staff of the Motor Vehicle Sales Authority (the "Authority") raise two concerns:

- (a) Mr. Patey's criminal conviction in the United States; and
- (b) Mr. Patey providing false information to the Insurance Council of B.C. when he applied for licensing with that organization.

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

DISCUSSION

(a) US Conviction

[3] Mr. Patey initially challenged the Authority and my ability to even consider the criminal conviction in the U.S.A. His view is that Canada is its own sovereign nation and what happens in another jurisdiction is simply not reviewable in Canada.

[4] Mr. Patey is not the first person to make this argument. I discussed in detail the legal authority to look at a U.S.A. criminal conviction of an applicant in the decision of *Re: Stephen Ironside* (May, 27, 2011, File 11-026, Registrar's decision) at paragraphs 15 to 21.¹ That decision along with the decision in *Re: Bruce Ironside* (May 27, 2011, File 11-025, Registrar's decision)² may also be referenced regarding the legal requirements and principles applied in a hearing involving the review of an applicant for licence with a criminal history.

[5] In short, the *Motor Dealer Act* and the *Salesperson Licensing Regulation* speak of looking at past conduct of an applicant without regard to geographic or temporal limits. Further, section 26 of the *B.C Evidence Act* and section 23 of the *Canada Evidence Act* allow the admission of court records of the United States to be introduced into proceedings in British Columbia. I may review his criminal record from the U.S.A. in considering granting him a licence. The granting of a licence is primarily governed by asking what is in the public interest based on the totality of the evidence.

[6] A review of the criminal record shows Mr. Patey was convicted of two counts of identity theft, and unlawful production of payment instruments. In this case proffering cheques without the authority of the account holder. This occurred while he was selling insurance products; a licensed profession in B.C. Mr. Patey was incarcerated for 16 months; 12 in Washington State and 4 in Colorado. Further documents show Mr. Patey completed his parole on April 27, 2010. Mr. Patey then returned to Canada.

[7] Mr. Patey was interviewed by Compliance Officer Ross Cote as part of the application process where a criminal record is involved. It was Mr. Cote's view from that interview that Mr. Patey did not show remorse for his actions and that he blamed the victims. Mr. Cote stated that in his view Mr. Patey would have to be closely supervised if issued a licence: Transcript of Proceedings, page 14.

[8] Mr. Patey stated he agreed with how he presented himself to Mr. Cote and agreed that his outward lack of remorse is probably correct: Transcript of Proceedings, pages 19-20 and page 30.

¹ http://www.mvsabc.com/images/pdf_files/ReStephenIronsideRegistrarsDecisionMay272011Final.pdf

² http://www.mvsabc.com/images/pdf_files/ReBruceIronsideRegistrarsDecisionMay272011Final.pdf

[9] Mr. Patey went on to say that his patent response for him being caught and convicted has been and continues to be:

- (a) He was not given a fair trial.
- (b) He was not allowed to fire his appointed lawyer who was hostile towards him.
- (c) He was not allowed to call the 24 to 25 witnesses he wanted to call.
- (d) It was the prosecutors last day before retirement and the courtroom had a carnival atmosphere and everyone was encouraging the prosecutor to "get this guy."
- (e) "They" had a shock device on Mr. Patey so that if he spoke he was told he would either "defecate or urinate myself."
- (f) That it felt like he "was in communist China or something, or communist Soviet Union."

Transcript of Proceedings, pages 21 to 22.

[10] Later on in his testimony, Mr. Patey said he felt somewhat relieved that he had been caught and seemed somewhat accepting of what he had done. He indicated that maybe he took too much money here and there and that he was doing wrong: Transcript of Proceedings, pages 23 to 24.

[11] Based on the evidence provided, I find Mr. Patey's conduct is related to a salesperson's licence. Claims of theft, fraud or deceit reflect on the honesty and integrity of the individual. As a salesperson, Mr. Patey could have access to the personal and financial information of consumers. I note that identity theft and unlawful production of payment instruments have their equivalents in Canadian law.

[12] Mr. Patey just finished his parole in 2010. I have not heard much evidence of what Mr. Patey has been up to since. He was training to sell insurance products and tried to get licensed in B.C. Mr. Patey indicated he was running a legal services company similar to what he ran in the U.S.A. except he does not touch the money.

[13] I find Mr. Patey has not shown enough remorse for his past conduct and his parole ended fairly recently. I find that I do not have enough history of good conduct to judge whether Mr. Patey has rehabilitated himself enough to be trusted with a salesperson licence. The past criminal conduct is of a serious nature, and the public interest would require more time to pass in order to build Mr. Patey's history of good conduct. I believe a further three years' wait time is warranted. Whether Mr. Patey would be issued a salesperson's licence in the future will depend on the circumstances that exist at that later time.

(b) Use of the Licence

[14] The second reason I would deny issuing a licence is Mr. Patey's admitted use of that licence.

[15] As noted, Mr. Patey has a legal services business he is running and he indicated at the hearing he has other things on the go. Mr. Patey is planning on going to law school in order to become a lawyer. His desire for a salesperson licence was to start rebuilding the public trust in him through a licensing body. Mr. Patey stated he was no longer intending on actually working as a salesperson: Transcript of Proceedings, pages 31 to 33.

[16] There are conditions placed on a salespersons licence. Section 4(2)(d) of the *Salesperson Licensing Regulation* B.C. Reg. 241/2004 states:

(d) if the licensee ceases to act as a salesperson, the licensee must immediately surrender his or her licence to the authority and request cancellation of the licence.

[17] Given Mr. Patey has admitted he does not intend on using the salesperson licence in order to act as a salesperson; then one cannot be issued. For this reason as well, I would have denied Mr. Patey a salesperson's licence.

(c) False evidence to the Insurance Council of B.C.

[18] The second allegation in this case was that Mr. Patey failed to advise the Insurance Council that he had a U.S.A. criminal record when he applied for a licence. Mr. Patey's evidence is that he initially did not advise the Insurance Council when he dropped of his application on a Friday, but did voluntarily advise the Council on Monday after rethinking his decision. The written decision from the Insurance Council denying Mr. Patey a licence seems to corroborate his evidence.

[19] Importantly, Mr. Patey did advise the Authority of his criminal record when he applied and did not attempt to hide this fact. I do not find I need to comment on this allegation as it did not affect his application to the Authority and appears to have been a lapse of judgement when he applied to the Insurance Council of B.C. Deciding this point would not change my decision in any regard.

CONCLUSION

[20] Mr. Patey is denied a salesperson licence.

[21] Mr. Patey may not re-apply for a salesperson's licence for three years from the date of this decision.

[22] Whether any future licence will be issued to Mr. Patey will depend on the circumstances and facts that exist at that future date.

Date: February 18, 2013



Ian Christman J.D., Registrar

Original is signed.