

**Re: In the Matter of an Appeal by Save On Rides Auto Sales Ltd. from the February 16, 2017 Decision of the Director of Fair Trading (as delegated to the Alberta Motor Vehicle Industry Council) to Cancel the Automotive Business License issued to Save On Rides Auto Sales Ltd.**

**October 23, 2017**

*Appeal Board: Paul Alpern (Chair), Caren Mueller, Nick Tywoniuk*

*Appearing for the Appellant, Save On Rides Auto Sales Ltd.: Abdullah Househ, owner/operator of Save on Rides*

*Representing the Respondent, the Director of Fair Trading as delegated to the Alberta Motor Vehicle Industry Council: Paula Hale, Lawyer - Shores Jardine LLP*

*Appeal Heard: 11 September 2017 at Service Alberta Offices located at Commerce Place, 10155 – 12 Street, Edmonton, Alberta.*

An Appeal Board constituted pursuant to section 179 of the *Fair Trading Act*, R.S.A. 2000, c. F-2, and the *Appeal Board Regulation* thereunder (Alberta Regulation 195/199) met to hear an appeal of the February 16, 2017 decision of the Director of Fair Trading (as delegated to the Alberta Motor Vehicle Industry Council) to cancel the automotive business license issued to Save On Rides Auto Sales Ltd..

## **THE ISSUES**

Should this Appeal Board vary, confirm or quash the February 16, 2017 decision of the Alberta Motor Vehicle Industry Council (AMVIC) to cancel the Automotive Business License issued to Save On Rides Auto Sales Ltd.?

## **RELEVANT LEGISLATION**

### **Fair Trading Act**

- 104(1)** *No person may engage in a designated business unless the person holds a licence under this Act that authorizes the person to engage in that business.*
- (2)** *If required to do so by the applicable regulation, a person who engages in a designated business at more than one location must hold a separate licence issued under this Act for each location that authorizes the person to engage in that business.*
- 127** *The Director may refuse to issue or renew a licence, may cancel or suspend a licence and may impose terms and conditions on a licence for the following reasons:*
- (a)** *the applicant or licensee does not or no longer meets the requirements of this Act and the regulations with respect to the class of licence applied for or held;*
  - (b)** *the applicant or licensee or any of its officers or employees*
    - (i)** *fails to comply with an order of the Director under section 129 or 157, unless, in the case of an order under section 129 or 157, the order has been stayed;*
    - (ii)** *fails to comply with a direction of the Director under section 151(3),*
    - (iii)** *furnishes false information or misrepresents any fact or circumstance to an inspector or to the Director,*

- (iv) fails to comply with an undertaking under this Act,
- (v) has, in the Director's opinion, contravened this Act or the regulations or a predecessor of this Act,
- (v.1) fails to comply with any other legislation that may be applicable,
- (vi) fails to pay a fine imposed under this Act or a predecessor of this Act or under a conviction or fails to comply with an order made in relation to a conviction, or
- (vii) is convicted of an offence referred to in section 125 or is serving a sentence imposed under a conviction;
- (viii) fails to pay, in accordance with the notice of administrative penalty and the regulations, an administrative penalty imposed under this Act;
- (c) in the opinion of the Director, it is in the public interest to do so.

- 128(1)** Before refusing to issue or renew a licence and before a licence is suspended or cancelled or terms or conditions are imposed, the applicant or licensee must be given
- (a) written notice of the proposed refusal, suspension or cancellation or the proposed terms and conditions with reasons, and
  - (b) an opportunity to make representations to the Director.

**179(1)** A person

- (a) who has been refused a licence or renewal of a licence,
  - (b) whose licence is made subject to terms and conditions,
  - (c) whose licence has been cancelled or suspended under section 127, or
  - (d) ...
- may appeal the decision or order by serving the Minister with a notice of appeal within 30 days after being notified in writing of the decision or order.
- (2) The Minister must, within 30 days after being served with a notice of appeal under subsection (1) and payment of the fee for the appeal as established by the regulations, refer the appeal to an appeal board appointed in accordance with the regulations or to an appeal board designated under subsection (4).
  - (3) The Minister may appoint an individual as the chair of the appeal board who serves as the chair whether or not an appeal is being considered by the appeal board.
  - (4) The Minister may designate a board or commission established by or under an Act of the Legislature to be an appeal board for the appeals specified in the designation.
  - (5) The Minister may set the time within which an appeal board is to hear an appeal and render a decision and may extend that time.
  - (6) An appeal board that hears an appeal pursuant to this section may confirm, vary or quash the decision or order that is being appealed.
  - (7) The Minister may set the rates of remuneration for and provide for the payment of reasonable living and travelling expenses to the members of an appeal board.
  - (8) An appeal under this section is a new trial of the issues that resulted in the decision or order being appealed.

**Automotive Business Regulation**

- 3 (7)** A person who holds an automotive business licence is not authorized to carry on any class or classes of activities that are not specified on the licence.
- 4 (1)** The Director may refuse to issue or to renew a licence to an applicant if

- (a) *the applicant is unable to satisfy the Director that the applicant is complying with the laws, including municipal bylaws, that apply to the automotive business to be operated under the licence;*
  - (b) *in the Director's opinion, the applicant has contravened the codes of conduct that apply to the automotive business to be operated under the licence, or*
  - (c) *a claim has been paid from the compensation fund in respect of the applicant and the applicant has not reimbursed the compensation fund for the amount of the payment.*
- (2) *The Director may require an applicant for a class of automotive business licence to furnish a security in a form and amount approved by the Director.*

## **12 General Codes of Conduct**

*Every business operator must comply with Section 6 of the Act and in addition must*

- (a) *not make any representations, statements or claims that are not true or are likely to mislead a consumer,*
- (b) *use only timely, accurate, verifiable and truthful comparisons that can be supported with established and reliable data,*
- (c) *not abuse the trust of a consumer or exploit any fear or lack of experience or knowledge of a consumer,*
- (d) *not use undue, excessive or unreasonable pressure on a consumer to complete a transaction,*
- (e) *not make any verbal representations regarding contracts, rights or obligations that are not contained in written contracts,*
- (f) *not make any representation that savings, price benefits or advantages exist if they do not exist or if there is no evidence to substantiate the representation,*
- (g) *not use threatening, intimidating, abusive or coercive language in discussions with a consumer,*
- (h) *not charge a price for goods or services that is more than 10%, to a maximum of \$100, higher than the estimate given for those goods or services unless*
  - a. *the consumer has expressly consented to the higher price before the goods or services are supplied, or*
  - b. *if the consumer requires additional goods or services, the consumer and the supplier agree to amend the estimate in a consumer agreement,*
- (i) *not make any representation to a consumer that the business has the ability to install equipment or to perform a particular repair or service unless the business has the equipment, tools and expertise necessary to complete the installation, repair or service,*
- (j) *not subcontract repair work without the knowledge and prior consent of the consumer,*
- (k) *when rebuilding or restoring a vehicle, do so in such a manner that it conforms to or exceeds the original manufacturer's established standards or specifications and allowable tolerances for the particular model and year unless the consumer has consented in writing to a specific different standard before the rebuilding or restoration is done,*
- (l) *not substitute used, rebuilt, salvaged or straightened parts for new replacement parts without the consumer's knowledge and prior consent,*
- (m) *provide the consumer in writing with information regarding the parts installed, including whether they are original equipment manufacturer's parts or from another source, and whether they are new, used or reconditioned,*

- (n) offer to return all parts removed from the vehicle in the course of work or repairs to the consumer, and return them unless advised by the consumer that the consumer does not require the parts to be returned, and
  - (o) comply with any legislation that may apply to the selling, leasing, consigning, repairing, installing, recycling or dismantling of vehicles.
- 16 (1)** A salesperson of an automotive sales business operator must be registered for automotive sales before acting on behalf of the business operator.
- (2) A salesperson of an automotive leasing business operator must be registered for automotive leasing before acting on behalf of the business operator.
  - (3) A salesperson of an automotive consignment business operator must be registered for consignment sales before acting on behalf of the business operator.
  - (4) Repealed AR 1/2006 s15.
  - (5) A salesperson who acts on behalf of more than one business operator within the same class of automotive business licence must be registered separately in respect of each such business operator but is required to pay only one registration fee annually.
  - (6) A salesperson who acts on behalf of more than one business operator shall forthwith identify to the Director each business operator on whose behalf the salesperson acts.
  - (7) Where a salesperson ceases to act on behalf of a business operator the salesperson shall forthwith return to the Director the certificate issued in respect of the salesperson's acting for that business operator.
  - (8) The registration of a salesperson is automatically cancelled where the salesperson is no longer authorized to act on behalf of any business operator.

### **Vehicle Inspection Regulation**

#### *Sale of used motor vehicle*

- 15(1) Subject to subsection (2), a dealer in used motor vehicles shall, before entering into a contract to sell a motor vehicle, give to the buyer a used motor vehicle mechanical fitness assessment that contains the following:
- (a) a statement identifying the type of motor vehicle as a truck, motorcycle, bus, van, light truck, automobile or other type of motor vehicle;
  - (b) a statement showing the make, model, year, vehicle identification number, odometer reading in kilometres or miles, licence plate number and province of registration of the vehicle;
  - (c) the name and address of the dealer selling the vehicle and the name of the technician who issued the mechanical fitness assessment;
  - (d) a statement that the mechanical fitness assessment expires 120 days after the date on which it was issued;
  - (e) a statement certifying that at the time of sale the motor vehicle;
    - (i) complies with the Vehicle Equipment Regulation (AR 122/2009), or
    - (ii) does not comply with the Vehicle Equipment Regulation (AR 122/2009) and containing a description of the items of equipment that are missing or do not comply with the Vehicle Equipment Regulation (AR 122/2009);
  - (f) the signature of the technician who conducted the mechanical fitness assessment;
  - (g) the date the mechanical fitness assessment was issued.
- (1.1) Despite section 1(1)(r), for the purposes of subsection (1), "technician" means a person who,
- (a) in the case of a mechanical fitness assessment of passenger vehicles and light trucks, holds a subsisting trade certificate in the designated trade of automotive service technician under the Apprenticeship and Industry Training Act, or...

## **Traffic Safety Act**

### *Equipment standards*

**65(1)** *Except as otherwise permitted under this Act, a person shall not do any of the following:...*

*(b) permit another person to drive or operate a vehicle on a highway unless that vehicle complies with the vehicle and equipment standards set out in the regulations in respect of that vehicle;*

## **BACKGROUND**

Save On Rides Auto Sales Ltd. ("Save On Rides") held an Automotive Business License issued by AMVIC to carry on one or more of the following automotive business activities: buying, selling as a retailer, a wholesaler, or as an agent broker, leasing, consigning, recycling and dismantling, installing parts and equipment, repairing or the servicing of motor vehicles in or around the Province of Alberta.

Save on Rides was owned and operated by Abdullah Househ ("AH"), also known as Alex Hu.

On July 19, 2016, a consumer (the "Consumer") purchased a 2009 Acura TL (the "Acura") from Save On Rides (the "Acura Transaction"). Less than one month after the Consumer purchased the Acura it began to have several issues. The Consumer brought the Acura to an Acura dealership for an inspection and repair estimate. The Acura dealership found several safety concerns that made the car un-roadworthy. The safety concerns included seat belts and air bags that were not working in addition to steering and suspension deficiencies. The estimate for repairs to the Acura was \$12,768. The Consumer contacted Save on Rides to address the concerns. Save on Rides initially offered to allow the Consumer to return the Acura for a refund, but withdrew the offer and told the Consumer that he could trade the Acura in for a different vehicle. The Consumer rejected that offer and, at all relevant times, retained possession of the Acura but was unable to drive it due to the safety concerns.

In September, 2016, an AMVIC investigator/licensed technician inspected the Acura and informed Alberta Transportation of the condition of the vehicle. Later that month, Alberta Transportation deemed the Acura unsafe. The Acura has remained parked since that declaration was made.

Save on Rides provided AMVIC with a mechanical fitness assessment ("MFA") regarding the Acura. The MFA was incomplete, not identifying the name and address of the dealer and not signed by the Consumer. There is no evidence that the MFA was provided to the Consumer.

The Consumer sued Save on Rides for damages in the Provincial Court of Alberta (Civil Division). Save on Rides did not file a defense and a default judgment was awarded to the Consumer on October 18, 2016 in the sum of \$10,522.98. As of September 11, 2017, the judgment had not been satisfied.

In the course of their investigation, on November 17, 2016 AMVIC convened an administrative review of Save on Rides. AH was in attendance. On November 18, 2016, AMVIC issued a letter to Save on Rides proposing a resolution to the matter in the form of an undertaking (the "Undertaking"). The Undertaking included the following:

1. Instructions with respect to the need for, proper format of and manner of delivery to a consumer of an MFA;
2. The need to disclose to a consumer all available history respecting a vehicle listed for sale;
3. A commitment by Save on Rides to pay \$10,712 (the exact amount of the Civil Judgment was not known at the time) to the Consumer in respect to the sale of the Acura. The Consumer will, in turn, return the Acura to Save on Rides.
4. A commitment by Save on Rides to pay AMVIC \$1,500, representing the partial costs of AMVIC's investigation into this matter.

AMVIC held a further administrative review on December 2, 2016 to consider a business name and office address change request made by Save on Rides. At that December 2, 2016 administrative review, Save on Rides confirmed its intention to sign the Undertaking and fulfill the commitments therein.

The Undertaking was never signed and the payments to the Consumer and to AMVIC contemplated above were never paid.

Accordingly, by letter to Save on Rides dated February 16, 2017, AMVIC canceled the Automotive Business License of Save on Rides and the salesperson registration of AH and refused to consider Save on Rides' proposed name and address changes for the following reasons:

1. It is in the public interest to do so;
2. Save on Rides represented that it would satisfy the outstanding Provincial Court (Civil Division) judgment in this matter and sign/comply with the other conditions of the Undertaking but failed or refused to sign or fulfil the conditions of the Undertaking;
3. Save on Rides failed to provide a proper mechanical fitness assessment to the Consumer prior to the transaction at issue in contravention of S. 15 of the Vehicle Inspection Regulation;
4. Save on Rides sold an unsafe vehicle to the Consumer in breach of S. 65 of the Traffic Safety Act;
5. Save on Rides and its owner/operator, AH, have shown that they do not take the legislative requirements expected of a business operating in the automotive industry seriously or respect the authority of the regulator. AH lacks the business knowledge, financial resources and maturity to successfully operate a business in the automotive industry;
6. AH's salesperson registration was cancelled as he is no longer associated with an actively licensed business pursuant to S. 16(8) of the Automotive Business Regulation.

Save on Rides appeals that decision.

#### **OPENING STATEMENT OF PAULA HALE**

1. In her opening statement, Ms. Hale said that:
  - a. the cancellation of Save on Rides' automotive business license flowed from a series of specific events related to one consumer transaction but included other general conduct matters;
  - b. none of the arguments should come as surprise to AH;
  - c. she intends to show that Save on Rides:

- i. sold unsafe vehicles to the public;
- ii. used unregistered salespeople;
- iii. failed to pay a court judgment related to the sale of a motor vehicle;
- iv. failed to pay AMVIC a \$1,500 costs assessment;
- v. is facing criminal charges related to car sales;
- vi. is facing charges under the Fair Trading Act; and
- vii. failed to follow-through on undertakings given to AMVIC.

Ms. Hale called two witnesses: Stephanie Sorenson and Craig Dockery.

## **EVIDENCE OF STEPHANIE SORENSON**

2. Ms. Sorenson is a Peace Officer and investigator employed by AMVIC.
3. Prior to joining AMVIC about 14 months ago, Ms. Sorenson was a police officer with the RCMP for 22 years.
4. Ms. Sorenson was assigned the Save on Rides file by AMVIC.
5. The file was originally started with a consumer complaint in July 2016.
6. The Consumer purchased a 2009 Acura TL from Save on Rides, specifically from AH.
7. Ms. Sorenson investigated and prepared a report dated October 3, 2016, which read in part as follows: "Consumer purchased a vehicle from supplier, AH at Save on Rides Auto Sales. Very shortly after the purchase, the vehicle experience several mechanical issues and it was suggested by ... a technician that the consumer should not be driving it. The vehicle was inspected by Craig Dockery, an AMVIC Peace Officer and technician, and results sent to Terry Cooper at Alberta Transportation who deemed the vehicle as unsafe. Consumer stated he was not provided an MFA (Mechanical Fitness Assessment) at the time of sale. Investigation revealed that no MFA was provided to the consumer."
8. A chronology was attached to Ms. Sorenson's investigation report as follows:
  - a. Consumer ... purchased a 2009 Acura TL from supplier, Save on Rides Auto Sales, on July 19, 2016 for \$10,000.
  - b. The odometer reading at the time of purchase was 103XXX kms.
  - c. Consumer was not provided with an MFA during any point of the sale.
  - d. Consumer was made aware of a broken/missing seat belt buckle, but nothing else.
  - e. Consumer states that shortly after purchase , he experienced several issues with the vehicle so he brought the vehicle to West Side Acura.
  - f. Work order shows that the vehicle was brought to West Side Acura on August 12, 2016.
  - g. The odometer reading at the time the vehicle was brought to West Side Acura was 109173 kms.
  - h. In addition to the broken seat belt, the technician noted several other concerns such as:
    - i. Replace missing sway bar and links;
    - ii. Replace missing parking cables;
    - iii. Replace missing bumper clips;
    - iv. Replace missing SRS unit;
    - v. Replace impact sensors 1-2;
    - vi. Replace passenger seat frame;
    - vii. Replace seat belts;
    - viii. Replace subframe with leading control arms;
    - ix. Replace rear link bushing brackets;
    - x. Replace right rear knuckle;
    - xi. Replace right wheel bearing;

- xii. Replace rim and tire;
  - xiii. SRS light diagnosis.
- i. Consumer addressed these concerns with the supplier and initially the supplier suggested the vehicle be returned; however, the supplier quickly changed his mind and said the consumer could trade the vehicle in for a different vehicle;
  - j. On September 20, 2016, AMVIC investigator Craig Dockery completed an inspection of the vehicle and filled out a Motor Vehicle Record of Inspection. This information along with numerous photographs taken of the vehicle were forwarded to Alberta Transportation.
  - k. On September 27, 2016, Alberta Transportation changed the status of the vehicle to unsafe.
  - l. On October 18, 2016 the consumer took the respondent to small claims court and was successfully awarded \$10,522.98. A Certificate of Judgment was filed on October 27, 2016.
9. To Ms. Sorenson's knowledge, the Court judgment has not been satisfied.
  10. During the course of the investigation, Ms. Sorenson and Mr. Dockery attended at Save on Rides on several occasions. They observed AH there together with individuals they knew or later identified to be AH's father and brother. Neither the father nor the brother were registered to sell motor vehicles. The legislation is clear that a registered salesperson needs to be present at all times when negotiating a vehicle sale.
  11. At one point during their visit, AH's brother, Mohammed, was selling a vehicle to a consumer. Craig Dockery charged the brother with an offense.
  12. Based on the above, Ms. Sorenson felt it was appropriate to begin an administrative review.
  13. AH attended such a review on November 17, 2016 at which meeting he agreed to enter into an Undertaking to, among other things, pay off the Court judgment and buy the subject vehicle back for \$1.
  14. AH was to sign the Undertaking and make the required payments.
  15. AH did not sign the undertaking, but did ask for extensions of time to pay. Such extensions were not granted and no payments were ever made.
  16. During the course of the administrative review, AH asked AMVIC if he could change the name of his business and change the business address. Those requests were rejected pending resolution of the outstanding matters involving the Consumer and the Acura Transaction.
  17. No MFA was provided to the Consumer in this case. AH told Ms. Sorenson that he forgot to provide the MFA to the Consumer.
  18. In all cases where a used vehicle is being sold to a consumer by a dealer, an MFA must be provided and the consumer must sign the MFA acknowledging receipt of the MFA.
  19. Also, the dealer name and address was missing from the MFA and the MFA was not signed by the Consumer.
  20. Ms. Sorenson spoke to the complainant Consumer last week and confirmed that his money has never been returned by Save on Rides or AH.
  21. Not all issues of noncompliance result in charges or Director's orders. AMVIC uses a progressive enforcement approach, an example of which is a warning letter issued to AH on February 4, 2016 concerning an unrelated transaction during which no MFA was provided to a consumer.
  22. As a result of observations made while attending at the dealership, Save on Rides was charged with operating without a licensed salesperson present and warrants were issued.
  23. The Edmonton Police Service has other matters pending against the dealership and/or AH unrelated to this specific complaint.



24. Because of his failure to sign or comply with the Undertaking despite numerous assurances that he would, the proposed Undertaking was withdrawn by AMVIC and Save on Rides' Automotive Business License and AH's salesperson registration were cancelled.

#### **EVIDENCE OF CRAIG DOCKERY**

25. Mr. Dockery has been an investigator with AMVIC for five years.
26. He is a Peace Officer.
27. Before joining AMVIC, he was an auto technician and service manager with three different dealerships.
28. He got involved in this file at the request of Ms. Sorenson.
29. Ms. Sorenson reviewed the file with Mr. Dockery and Mr. Dockery examined the Acura.
30. He also visited the Save on Rides dealership with Ms. Sorenson on several occasions.
31. On at least one such visit, there were people in the dealership selling vehicles when AH wasn't there. There were no licensed salespersons present while these sales activities were occurring.
32. Mr. Dockery warned Mr. Househ about such activities.
33. On a subsequent visit, Mr. Dockery observed the same activities – unlicensed representatives of the dealership interacting with consumers.
34. Mr. Dockery served AH with a Director's Order on October 3, 2016 as follows: "That AH and any or all employees of Save on Rides Auto Sales Ltd. immediately cease engaging in negotiating and selling motor vehicles within the Province of Alberta until any and all employees... are properly licensed to do so as per section 104(1) of the Fair Trading Act (FTA). Any person who fails to comply with the an Order of the Director under Section 157 of the Fair Trading Act contravenes this Act and is guilty of an offence and may be prosecuted pursuant to Section 163 of the Fair Trading Act."
35. Mr. Dockery advises that it's not a particularly difficult threshold to become registered with AMVIC as a salesperson.
36. On one occasion during a visit to Save on Rides, Mr. Dockery saw Mohamed Househ (AH's brother) working at the dealership while AH was not there. On another occasion, Mr. Dockery saw AH's father working at the dealership while AH was not there.
37. On several occasions, Mr. Dockery offered to help get Mohammed Househ licensed as a salesperson and gave him several verbal warnings.
38. AH did not comply with the Director's Order.
39. Mr. Dockery visited the dealership on December 8, 2016 and found AH's father and brother Mohammed there while AH was not there.
40. Mohammed Househ was observed talking to a consumer about a vehicle for sale.
41. On February 3, 2017, Mr. Dockery charged each of AH and Mohammed Househ for failing to comply with S. 104 of the Fair Trading Act – engaging in an automotive sales business without being the holder of an automotive sales license.
42. Mr. Dockery inspected the Acura and prepared a Motor Vehicle Record of Inspection.
43. Mr. Dockery observed the following with respect to the Acura:
  - a. Paint was bad
  - b. Body was warped/wavy
  - c. Rear wheels looked out of alignment
  - d. Appears that the right third of car was replaced
  - e. Right side air bag and air curtain had been deployed
  - f. The air curtain appears to have been stuffed back in and the trim replaced
  - g. A seat belt was missing
  - h. Brakes were below minimum standards
  - i. Body damage and poor repair

- j. Door trim doesn't line up
  - k. The rear anti-roll sway/stabilizer bar was missing
44. The fact that the air bags were missing and seat belts were not there renders the vehicle unsafe.
  45. Once a vehicle is deemed unsafe, it can't go back on the road until it passes as salvage inspection.
  46. Mr. Dockery referred to the MFA provided to AMVIC by AH. Mr. Dockery stated that the MFA provided by AH was not accurate. The rear suspension should have been marked as non-compliant. The brakes should have been marked as non-compliant. The seat-belts should have been marked as non-compliant.
  47. Even though an MFA is a visual assessment and not an inspection, the above should have been easily observed by the technician completing the MFA.
  48. Where any item on an MFA is marked as non-compliant, the technician is required to enter comments on the MFA. Even with the four non-compliant issues identified on the AH provided MFA, no technician comments were entered. This too renders the MFA non-compliant.

## **EVIDENCE OF AH**

49. AH stated that he purchased the Acura from Osman Auctions on June 18, 2016.
50. He did not know there was anything wrong with the Acura.
51. He did not hear from the Consumer for 3-4 weeks after the sale.
52. AH states that his brother and father were not negotiating prices or doing any paperwork at the dealership and there's nothing prohibiting them from boosting vehicles, driving vehicles around the lot, etc.
53. AH states that his brother, Mohammed, never negotiated anything or signed any papers. those activities had had to wait until AH returned to the dealership.
54. AH acknowledges that he had MFA compliance issues when he first opened the dealership. That's why he wants to change his business name. He wants to start fresh.
55. AH states that his brother, Mohammed, is in school now and that his father is sick and no longer helping out at the dealership.
56. AH states that there are no unlicensed sales people doing any deals and that staff boosting or cleaning vehicles does not mean that those staff are salespeople.
57. AH states that he couldn't pay the AMVIC Undertaking because business is slow.
58. On cross-examination from Ms. Hale, AH stated:
  - a. He has not satisfied the Civil Court judgment with respect to the Acura.
  - b. He has not paid the \$1,500 AMVIC assessment contemplated in the Undertaking.

## **THE DIRECTOR'S ARGUMENTS**

Ms. Hale argued:

59. The role of a registered salesperson includes more than signing a bill of sale. It is a process that includes soliciting customers, negotiating and concluding a transaction.
60. S. 12 of the Automotive Business Regulation provides a general code of conduct for every automotive business operator. The focus of the code of conduct is on the interaction of operators and their salespeople with the public.
61. S. 16(1) of the Automotive Business Regulation requires that a salesperson must be registered for automotive sales before acting on behalf of a business operator.

62. The evidence of Ms. Sorenson and Mr. Dockery favors a conclusion that Save on Rides personnel were regularly acting on behalf of the dealership and conducting sales activities while not registered to do so.
63. The Acura was sold to the Consumer on July 16, 2016 without delivering an MFA. This follows an AMVIC warning letter issued to AH on February 4, 2016 concerning an unrelated transaction during which no MFA was provided to a consumer. This illustrates a recurring pattern of misconduct and non-compliance.
64. The Acura sold to the Consumer was in rough shape and, soon after the sale, was deemed by Alberta Transportation as unsafe.
65. The purpose of regulating the automotive sales industry is protection of the public.
66. Save on Rides and AH sold an unsafe vehicle to the Consumer without disclosing to the Consumer the serious issues with the vehicle.
67. The Civil Judgment obtained by the Consumer dated October 27, 2016 remains unpaid.
68. The \$1,500 AMVIC assessment remains unpaid.
69. AH's suggestions that he will pay AMVIC and the pay the Court Judgment ring hollow given his previous assurances to that effect and the passage of time.
70. The February 16, 2017 Director's Decision was more than reasonable, but AH has done nothing to satisfy the Undertaking and the conditions detailed therein. AH even refused or neglected to sign the Undertaking and it was withdrawn.
71. AH's misconduct is sufficient for this Appeal Board to uphold the business license cancellation.
72. AH has engaged in a pattern of misconduct showing a disregard for the rules and authority of AMVIC.
73. A member of the public has been harmed.
74. There are outstanding Fair Trading Act charges against AH and outstanding fraud charges against AH.
75. There are warrants against AH for failure to appear.
76. AH has shown a pattern of non-compliance with the law.
77. There is no doubt that cancellation of Save on Rides' automotive business license and AH's salesperson registration were warranted and continue to be warranted.

## **AH'S ARGUMENTS**

AH argued:

78. With respect to the allegations that AH's father and brother acted as salespeople while not registered, AH states that Mohammed did nothing with vehicles other than boost them and put plates on them. He was not involved with negotiations or sales.
79. AH states that any actions by his brother or father at the dealership were done following AH's orders.
80. AH states that he purchased the Acura from Osman Auctions. He says Osman "screwed him over".
81. AH says he obtained an MFA and thought the vehicle was okay for sale.
82. AH states that he will take responsibility for the Acura issues even though he will lose a lot of money on the transaction.
83. With respect to the criminal charges, AH states that he "got screwed over by a cousin".
84. AH states that Craig Dockery has dealt unprofessionally with him, that Mr. Dockery wants to put him out of business.
85. AH states that he deserves a second chance to prove to AMVIC that he can be a reputable operator.

86. AH states that he's not a bad person, that he knows right from wrong.
87. AH asks that if he is not allowed to continue to sell retail, that he be permitted to deal as a wholesale operator only.

## **ANALYSIS AND CONCLUSIONS**

88. This Appeal Board finds as follows:
- a. AH breached S. 15(1) of the Vehicle Inspection Regulation by failing to provide MFA's to consumers and/or providing incomplete MFAs to consumers;
  - b. AH breached S. 16(1) of the Automotive Business Regulation by allowing unregistered personnel to act as salespeople;
  - c. AH refused to sign or comply with an Undertaking proposed by AMVIC respecting the Acura Transaction, despite AH giving repeated assurances that he would;
  - d. The Acura sold to the Consumer by AH was unsafe;
  - e. AH failed to comply with a Civil Judgment in respect to the Acura transaction;
  - f. AH failed to comply with AMVIC's Director's Order respecting provision of MFAs;
  - g. AH's attitude and deportment is unprofessional, his credibility is suspect and, by his own admission, AH has limited financial resources to sustain his automotive sales business;
  - h. If AH's and Save on Rides' automotive business license was reinstated, we are concerned that consumers would be at risk.

Based on all of the evidence and arguments, this Appeal Board concludes that:

89. AMVIC's decision to cancel the Automotive Business License of Save on Rides is reasonable and appropriate in the circumstances;
90. By extension, the termination of the Salesperson registration of AH is upheld;
91. If/when AH pays the Civil Judgment respecting the Acura Transaction and pays any outstanding AMVIC fees or assessments, including the \$1,500 investigation costs assessment levied against him, AH is free to reapply to AMVIC for a wholesale license;
92. AMVIC will assess AH's suitability for such a license and will make a determination on any such application in accordance with the applicable legislation.

## **DECISION**

93. For the above reasons, the February 17, 2017 decision of AMVIC to cancel the Automotive Business License of Save on Rides Auto Sales Ltd. and to cancel the salesperson registration of Abdullah Househ is confirmed. No order is made as to costs.

ISSUED and DATED at the City of Edmonton in the Province of Alberta this 23rd day of October, 2017 by the Appeal Board constituted to hear the above referenced matter pursuant to section 179 of the Fair Trading Act and the Appeal Board Regulation thereunder.

Paul Alpern (Chair)  
Caren Mueller  
Nick Tywoniuk