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Appeal
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June 20, 2008

MEMORANDUM



**Re: *Carrie L. Glasser Milburn and 1477897 Ontario Limited o/a Eaton
Equipment v. Registrar, Motor Vehicles Dealers Act***

Enclosed herewith please find a copy of the Decision of the Licence Appeal Tribunal with respect to this matter.

DISTRIBUTION LIST:

Carrie L. Glasser Milburn, the Applicant
Aviva Harari, Counsel for the Respondent

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CARRIE LEA GLASSER MILBURN AND 1477897 ONTARIO LIMITED O/A
EATON EQUIPMENT

APPEAL FROM A PROPOSAL OF THE REGISTRAR
UNDER THE *MOTOR VEHICLE DEALERS ACT*

TO REFUSE REGISTRATIONS

TRIBUNAL: DEREK ISRAEL, Vice-Chair

APPEARANCES: CARRIE LEA GLASSER MILBURN, appeared on her own
behalf and on behalf of 14778987 Ontario Limited o/a Eaton
Equipment

AVIVA HARARI, Counsel, appeared on behalf of the
Registrar under the *Motor Vehicle Dealers Act*

DATES OF
HEARING: April 14 and 16, 2008 Toronto

REASONS FOR DECISION AND ORDER

BACKGROUND

This hearing arises from a written Notice of Proposal to Refuse, dated October 26, 2007, the registrations of Carrie Lea Glasser Milburn and 1477897 Ontario Limited operating as Eaton Equipment (hereinafter referred to as "Milburn" and "Eaton Equipment", respectively). Milburn has applied to the Registrar under the *Motor Vehicle Dealers Act* (hereinafter referred to as the "Registrar" and the "Act", respectively) for registration as a motor vehicle salesperson while Eaton Equipment has applied for registration as a motor vehicle dealer. The Notice of Proposal was amplified by a Notice of Further and Other Particulars dated March 20, 2008.

The Notice of Proposal stated as follows under "reasons":

The intention and objective of the Act is to protect the public interest. The requirements of the Act include that Registrants be financially responsible in the conduct of business and that Registrants carry on business in accordance with the law and with integrity and honesty. The Registrant's past conduct is inconsistent with the intention and objective of the Act, and therefore warrants disentanglement to registration under the Act. Therefore, the Registrar is unwilling to register 1477897 Ontario Limited o/a Eaton Equipment and Carrie Lea Glasser Milburn under the Motor Vehicle Dealers Act.

The Notice of Proposal gave as particulars the following:

1. 1477897 Ontario Limited o/a Eaton Equipment applied for registration as a motor vehicle dealer on or about November 24, 2006.
2. Carrie Lea Glasser Milburn applied for registration as a motor vehicle salesperson on or about November 24, 2006. Carrie Lea Glasser Milburn is the sole officer and director of the corporate applicant.
3. Milburn has no experience in the motor vehicle industry and is currently a pharmacy technician.
4. Milburn is a discharged bankrupt.
5. Milburn is the spouse of [name deleted]. [name deleted] was convicted of possession of stolen property, the property being motor vehicles.
6. Milburn was charged with possession of stolen vehicle. At least 2 stolen vehicles were registered in her name.
7. FE Chop Shop is advertising vehicles for sale from the same location where Milburn intends to operate the dealership. FE Chop Shop is not registered as a motor vehicle dealer. On the application for registration Milburn indicated that there would be no other business operating from the location.
8. Milburn facilitated conduct which resulted in [name deleted] being convicted of possession of stolen property and also facilitated conduct which resulted in [name deleted] being charged with selling vehicles without the benefit of registration under the Act.

The Further and Other Particulars stated as follows:

It is further alleged as follows:

1. The Applicant has acted as a motor vehicle dealer without the benefit of registration.
2. [name deleted] was convicted of curbsiding on or about December 10, 2007.

The Registrar bases his proposal under section 7 of the Act as read with section 5(1).

The evidence submitted to the Tribunal consisted of the testimony of Gaye Michael Pokol, a constable with the Niagara Regional Police and Carey Smith, Director of Investigations with the Ontario Motor Vehicle Industry Council ("OMVIC"), both of whom testified on behalf of the Registrar. Milburn testified on her own behalf and on behalf of Eaton Equipment. In addition, the parties submitted written documentation upon which they relied at the hearing. At the conclusion of the testimonies, the parties filed written submissions.

THE EVIDENCE

1. THE TESTIMONY OF GAYE MICHAEL POKOL

Pokol testified that he is a constable with the Niagara Regional Police with whom he has been employed for some thirty-two years. He is presently with auto theft and fraud division. In the course of his duties with that division, he has become familiar with Milburn and S. Pokol referred the Tribunal to a "Summary of Facts", which he had prepared (Exhibit 5, Tab 28, pages 1 through 14). This summary, according to Pokol, dealt with the investigation instituted by the police regarding Milburn and S. He stated that, in January/February 2004, information came to the police that S. was purchasing and dismantling freshly stolen vehicles for their parts, and removing their Vehicle Identification Number ("VIN"). The stolen vehicles' VIN was then replaced with a VIN from a vehicle that was not stolen but was from a wrecked vehicle. The new VIN would disguise the fact that the vehicle was stolen and make it appear legitimate. The location where the above process took place is commonly referred to as a "Chop Shop". This location was on Eaton Avenue, in the City of Fort Erie.

On February 26, 2004, a search warrant was obtained and executed at the Eaton Avenue Chop Shop, and another search warrant was simultaneously obtained and executed at Milburn's home in Niagara Falls. At the home, a 2000 Yamaha ATV was found and seized, as well as a 1996 Artic Cat snowmobile and a 1999 Polaris snowmobile. All these vehicles were identified as stolen. In addition to these vehicles, the police also seized other vehicles and parts at the Eaton Avenue address of Eaton Equipment in Fort Erie. Ten different vehicles were identified and seized as stolen vehicles.

When the search at the Eaton Avenue address was conducted, Milburn was not initially present, but upon being telephoned, she came to the Eaton Avenue premises. This was the first occasion that Pokol met Milburn who remained on the premises for a short time before leaving. S. was arrested on that day and charged with nine counts of possession of stolen property exceeding \$5,000.00, and one count of under \$5,000.00. When he met with Milburn on that day, Pokol was told by her of her relationship with who was charged. The second search

warrant was executed at Milburn's residence in Niagara Falls on February 26, 2004.

In relation to the three vehicles found at the Niagara Fall's residence, Pokol stated as follows.

a) The Yamaha ATV

According to a search instituted by Pokol, the Ministry of Transportation ("MTO") advised that Milburn was the registered owner of this vehicle which is a 1988 Yamaha 600 off road vehicle (Exhibit 5, Tab 32, page 40).

Pokol further referred to an Application for Registration dated September 20, 2003, bearing Milburn's signature, in which she sought to have this vehicle registered by MTO in her name as owner. In the application form, there was no reference to the vehicle's VIN.

Pokol went on to state that he obtained from MTO's records a copy of an affidavit dated September 20, 2003, under the signature of Milburn which stated as follows:

I Carrie Glasser Milburn of [address deleted] purchased the above mentioned off road vehicle from [name deleted] of Toronto for \$4200.00. The vin# on the vehicle itself was not registering on the computers at the Motor Vehicle Licence Bureau as it had never been registered in Ontario. I returned to the licence Bureau with a pencil trace of the vin and a bill of sale. I am the true and rightful owner of the above said offroad vehicle and wish to register it today September 20/03.

(Exhibit 5, Tab 32, page 45)

Pokol stated further that he attempted to trace the person named by Milburn in her affidavit as seller without success and has at no stage been able to trace or speak with him. He stated that Milburn had told him that she purchased this off road vehicle (ATV) from an advert she observed in a trade magazine called "TRI-AD", but when he asked for the magazine, Milburn did not supply him with it. Despite having asked Milburn for proof of payment regarding the above vehicle, he never received any proof from her.

Pokol went on to state that after seizure of the Yamaha ATV at Milburn's residence, it was ascertained that it was a vehicle that had been reported as stolen. It was also ascertained that a false VIN had been affixed to the Yamaha, and that the true VIN had been removed and a VIN belonging to a different Yamaha had been affixed in the place of the true VIN.

b) The Polaris Snowmobile

When this vehicle was seized by the police at Milburn's and her spouse's residence, it was found that there was no VIN on it. An "acid wash" was applied

by the police to where the VIN had originally been on this snowmobile. This revealed the original VIN belonging to this vehicle. The original VIN revealed by the acid wash related to a 1999 Polaris snowmobile that was a vehicle reported stolen in December 2003. In January 2004, Milburn made a sworn declaration to MTO as a result of which this Polaris vehicle was registered in Milburn's name.

Pokol stated that he obtained from MTO's records certain documents relating to this Polaris vehicle which Milburn registered in her name on January 15, 2004. In order to register this vehicle with MTO, Milburn made a solemn declaration stating as follows:

I, Carrie Glasser Milburn of the City of [address deleted] ;

SOLEMNLY DECLARE, that

1. I am the registered owner of a 2001 Polaris "Indy Trail" snowmobile, VIN [number deleted], which I purchased on December 13, 2003, from [name deleted], of Thornhill, Ontario, for the sum of \$1700.00.
2. I am also the registered owner of a 1993 Arctic Cat 440 "Panther" snowmobile, VIN [number deleted], which I purchased on December 13, 2003, from [name deleted] of Thornhill, Ontario, for the sum of \$1200.00.
3. To the best of my knowledge and belief, both of these snowmobiles have never been registered in the Province of Ontario.

(Exhibit 5, Tab 33, page 49)

This declaration accompanied Milburn's application to MTO for registration of the Polaris vehicle. As her application did not contain the VIN of the Polaris vehicle, which she wished to transfer into her name, she was obliged to complete the above sworn declaration.

Pokol stated that he could not, at any time, locate the alleged vendor of the vehicle or speak with him. No documents whatsoever were produced by Milburn to support her contention of having purchased this vehicle as well as the Arctic Cat 440 also referred to in the solemn declaration. The VIN revealed by the acid wash related to a 1999 Polaris, whereas the seized vehicle was in fact a 2001 Polaris.

Pokol stated as well that the further investigations revealed that the Polaris vehicle seized at Milburn's residence was in fact a stolen vehicle. The acid wash had revealed the original VIN of the vehicle and subsequent investigations revealed that this vehicle had been reported stolen in December 2003.

c) Arctic Cat 440 Snowmobile

Pokol stated that in January 2004, Milburn registered this Arctic Cat vehicle in her name. The Arctic Cat was seized at the residence of Milburn when the search

warrant was executed at that address. When seized, the Artic Cat had no VIN attached to it. Through secondary numbers and personal identifiers found on the vehicle, the police traced its original VIN and also determined the Artic Cat was a 1996 model year (Exhibit 5, Tab 34, page 54).

This vehicle, according to its true VIN as found by the police pursuant to their further investigations, was reported stolen on December 5, 2003.

Once again, Pokol made reference to the solemn declaration signed by Milburn in January 2004 when attempting to register this vehicle in her name during that month. Again, Pokol stated that he could not trace or contact the person who Milburn alleged had sold the vehicle to her in December 2003 (Exhibit 5, Tab 35, page 58). No payment documents, including that of payment for this vehicle, were produced by Milburn despite being asked by Pokol.

Pokol stated that as with the Polaris vehicle, the solemn declaration by Milburn was false as to the VIN and the year of the vehicle.

Furthermore, no documentation could be obtained from Milburn to support her contentions that she had brought the vehicle.

Pokol completed his testimony in chief by stating that no other firm occupied the premises used and occupied by Eaton Equipment on Eaton Avenue in the City of Fort Erie.

2. THE TESTIMONY OF CAREY SMITH

Smith testified that he is employed by OMVIC where he has held the title of Director of Investigations for the last five years. Prior to his employment with OMVIC he was with the Halton Regional Police for 30 years where he was mainly involved with investigations involving automotive fraud. He went on to state that OMVIC is empowered to administer the Act, explained the purpose of the Act and the requirements that all motor vehicle dealers and salespersons are to be registered in order to lawfully operate as such.

Smith further stated that the Registrar's Proposal to Refuse the registration of Eaton Equipment as a dealer and Milburn as a salesperson under the Act was based upon the following particulars:

- That Milburn is the sole officer and director of Eaton Equipment;
- That she has no experience as a motor vehicle salesperson and that she is presently a pharmacy assistant;
- That she is a discharged bankrupt;

- That S. has been convicted of possession of stolen property, being stolen motor vehicles;
- That she was charged with possession of stolen vehicles of which, at least, two were registered in her name;
- That in the written application for registration by Eaton Equipment, therein represented by Milburn, she stated that no other business would operate from the location where the dealership was to operate;
- That FE Chop Shop advertises the sale of motor vehicles from the same location where the dealership stated it would operate;
- That FE Chop Shop is not registered under the Act as a motor vehicle dealer; and
- That Milburn "facilitated conduct" which resulted in S. being convicted of possession of stolen property, and also "facilitated conduct" which resulted in S. being charged with selling motor vehicles without being registered under the Act.

Smith went on to state that the Further and Other Particulars filed by the Registrar states that Eaton Equipment has acted as a motor vehicle dealer without the benefit of registration and in addition alleges that S. was convicted of "curbsiding" (buying or selling vehicles when not registered under the Act) on December 10, 2007.

Smith continued his testimony and stated that the application dated November 22, 2006, of Eaton Equipment for registration as a dealer, and signed by Milburn in her capacity as officer, disclosed that Eaton Equipment would be the only business operating from 1940 Eaton Avenue, Fort Erie (Exhibit 4, page 10). This is contrary to the evidence.

He also stated that Milburn completed and signed an application for registration as a salesperson under the Act, dated November 22, 2005. This application indicated her prior employment experience did not include experience in the motor industry, but did indicate she would keep her part time pharmacy position while the dealership was starting (Exhibit 4, pages 11 and 12).

Smith also reviewed the Companies Branch records which stated that Milburn is the sole officer and director of Eaton Equipment from May 22, 2003, and remains as such (Exhibit 4, pages 22 to 26).

He also stated that Milburn's business plan of January 26, 2008, addressed to OMVIC in support of her and Eaton Equipment's application, caused him concern

as it indicated a lack of experience or background in the motor industry, and did not present a unique business opportunity as the proposed business was indicative of a high risk venture (Exhibit 4, pages 20 and 21).

Insofar as the bankruptcy proceedings of Milburn is concerned, Smith noted that the claims against her consisted of an outstanding amount of \$79,854.00 due to the mortgage companies. In addition there were unsecured claims totalling \$149,956.22, mainly consisting of credit card debt (Exhibit 4, page 30).

Smith also referred to Milburn's letter to OMVIC in which she stated that her bankruptcy resulted from a motor accident in which she was involved in May 2001, and her injuries suffered in that accident and financial hardship that followed (Exhibit 4, pages 27 to 32).

As a result of OMVIC's investigation, some 50 charges were laid against S. to which he pleaded guilty on 10 charges and was fined \$200.00 on each of the 10 charges, the other charges being withdrawn. Charges laid against Milburn and Eaton Equipment were withdrawn by the Crown (Exhibit 4, pages 44 and 45).

The 10 convictions against S. were pursuant to a plea bargain in which he agreed to plead guilty to curbsiding.

Smith went on to refer the Tribunal to RIN record of Eaton Equipment. This record illustrates the motor vehicles that were at different times registered in the name of Eaton Equipment according to MTO's records. The vehicles listed in the records under the heading "Active Unplated – Owned" indicate those vehicles as currently owned by Eaton Equipment. Eight vehicles are currently owned by Eaton Equipment according to MTO's records. In addition to the eight vehicles registered as currently owned by Eaton Equipment there are other motor vehicles listed on its' RIN. These other vehicles appear under the heading "Inactive – Previously Owned", which means such vehicles are no longer registered as owned by Eaton Equipment, and number some 40 motor vehicles (Exhibit 4, pages 110-111).

Smith referred the Tribunal to a certain 1993 GMC vehicle. This vehicle was previously owned by Eaton Equipment. According to the VIN record of this vehicle, it was insured by ING Insurance Co. of Canada and was stolen whilst so insured with that insurance company. When found, it was written off and was disposed of by the insurance company by way of auction and was purchased on auction by Eaton Equipment on August 22, 2007 (Exhibit 4, pages 103 and 104).

Similar situations occurred in regard to other vehicles that were taken into the ownership and registration of Eaton Equipment as revealed on its RIN. It also reveals when and to whom ownership was thereafter transferred by Eaton Equipment. At all times, of both purchase or sale of vehicles, Eaton Equipment

was not registered under the Act as a motor vehicle dealer (Exhibit 4, Tab 16 to Tab 26).

In summation of the above allegations, Smith stated that Milburn was the controlling mind of Eaton Equipment at all material times. Furthermore, neither Milburn nor Eaton Equipment were registered under the Act and in 2007, some 50 motor vehicles were bought or sold by Eaton Equipment, as revealed by its RIN.

The final assertions of Smith related to the three recreational vehicles found on the premises occupied by Milburn. All three vehicles were stolen and had had their VIN's removed. All three stolen recreational vehicles' ownership passed to Eaton Equipment immediately after being reported stolen and such vehicles were shortly thereafter found at Milburn's home during Milburn's watch as sole officer and director of Eaton Equipment.

In cross-examination, Smith conceded that Milburn had never been convicted of a criminal offence and that she had successfully completed the Automotive Certification Course offered by Georgian College.

In re-examination, Smith stated that after filing an application for registration and while awaiting the outcome of such application, neither Milburn nor Eaton Equipment was entitled, merely on the basis of having completed the certification course, to buy or sell motor vehicles and that the successful completion of the course does not amount to registration under the Act.

3. THE TESTIMONY OF CARRIE LEA GLASSER MILBURN

Upon the commencement of her evidence-in-chief, Milburn advised the Tribunal that she wished to hand in and have it entered into the record a written statement that she had prepared and she confirmed the truth and correctness of such statement (Exhibit 7).

Milburn then dealt with the three recreational vehicles alleged to have been stolen, namely the Polaris snowmobile, the Artic Cat 440 snowmobile and the Yamaha 600 vehicle. She referred to a sworn declaration which she admitted signing and which related to the Artic Cat and the Polaris snowmobiles (Exhibit 5, Tab 33, page 49).

While acknowledging that her signature appears on that sworn declaration, she denied that the initials on it were hers.

She also referred to the applications for registration submitted to MTO which she conceded bore her name and signature as well as an affidavit sworn to and

signed by her, on September 20, 2003, relating to the Yamaha 600 (Exhibit 5, pages 42 and 50 and page 45, respectively).

Under cross-examination, Milburn stated that Eaton Equipment is her business and that she is the sole officer and director thereof. When Eaton Equipment bought and sold vehicles, it did so with her full knowledge. She acknowledged having successfully completed, as at January 10, 2007, the Automotive Certification Course offered by Georgian College. At no stage, according to the further testimony of Milburn, did she request MTO to "block" her RIN so as to prevent S. or any other party from using such RIN.

In reference to her affidavit of September 20, 2003, Milburn conceded that the signature appearing thereon is hers and that she attended at the offices of MTO to sign that affidavit (Exhibit 5, page 40).

Milburn stated further that the three vehicles namely the ATV and two snowmobiles were found by the police on her property of which she is the owner. Eaton Equipment is her company, she was and is its sole director and officer and she alone had signing authority. Milburn stated further that she is separated from her spouse although not divorced.

FACTS FOUND PROVEN

The following are the facts found proven in this matter:

1. Eaton Equipment there and then represented by Milburn applied by written application dated November 24, 2006, for registration under the Act as a motor vehicle dealer.
2. Milburn applied by written application dated November 24, 2006, for registration under the Act as a motor vehicle salesperson.
3. Milburn was at all material times the sole officer and director of Eaton Equipment as well as its controlling mind.
4. Milburn remains married to her spouse.
5. S. pleaded guilty to and was found guilty on 10 charges of carrying on business as a motor vehicle dealer when not registered as such under the Act.
6. Eaton Equipment has at various and material times purchased and then sold some 50 motor vehicles.

7. Three stolen vehicles, namely a Polaris snowmobile, an Arctic Cat snowmobile and a Yamaha ATV were, pursuant to a search warrant, found by the police at the residence of Milburn and which address she was then occupying and residing.
8. The aforesaid three vehicles, when found and seized by the police, were registered according to the records of the MTO in the name of Milburn.
9. After the three vehicles were reported stolen by their respective owners, Milburn made a false declaration to MTO so as to enable ownership of such vehicles to be registered in her name.
10. At various times during 2007, Eaton Equipment purchased some 10 motor vehicles and thereafter sold such vehicles to various purchasers during which time Eaton Equipment was not registered under the Act as a motor vehicle dealer.

THE LAW

The *Motor Vehicle Dealers Act* states as follows:

3. (1) No person shall,
 - (a) carry on business as a motor vehicle dealer unless the person is registered under this Act; or
 - (b) act as a salesperson of or on behalf of a motor vehicle dealer unless the person is registered as a salesperson of such dealer and such dealer is registered as a motor vehicle dealer under this Act.

5. (1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
 - (b) the past conduct of the applicant affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
 - (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

6. (1) Subject to section 7, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.

7. (1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or registrant

APPLICATION OF LAW TO FACTS

The onus of proof rests upon the Registrar to establish on a balance of probabilities that Milburn is not entitled to registration as a motor vehicle salesperson, and that Eaton Equipment is not entitled to registration as a motor vehicle dealer.

The decision in *Brenner v. Ontario (Registrar of Motor Vehicle Dealers and Salesmen)* [1998] O.J. No. 1017, issued on April 7, 1983, does not establish a rule that the Registrar's conclusions must be shown to be wrong in concluding that there was reason to doubt that the Applicant would not carry on business appropriately, but as set out in *Registrar, Motor Vehicle Dealers Act, v. Shine Car Sales*, and *Omar Hassan Rahim*, 2003 CanLII 11437 by Lane J., it imposes a duty on the Tribunal to review the evidence presented and reach an independent conclusion based upon this review. It is for the Tribunal as the trier of fact to make an independent decision as to whether or not the criteria for depriving an applicant of his licence has been proven, showing no deference to the decision of the Registrar.

There are two main issues that arise in this matter.

The first issue is whether Eaton Equipment has carried on business as a motor vehicle dealer without the benefit of registration, and is accordingly not entitled to registration as a motor vehicle dealer.

Milburn did not deny at any stage that she is and was the sole officer and director of Eaton Equipment. The evidence presented by the Registrar to the effect that Milburn is and was at all material times the sole officer and director of Eaton Equipment stands uncontradicted by Milburn. The records of MTO were not challenged by her, and the Tribunal finds Milburn to be at all relevant times the sole officer and director of Eaton Equipment. MTO's records clearly indicate that Eaton Equipment purchased and then sold at least 10 motor vehicles in 2007. At that stage, she had taken and successfully passed the Automotive Certification course, which in and of itself shows that she was aware, or ought to have been aware, that only a duly registered individual or corporation may buy and sell motor vehicles as required by section 3. (1) of the Act. Milburn was no neophyte insofar as the motor vehicle industry is concerned, and by carrying on business

as a dealer without registration she shows a blatant disregard for compliance with the Act. The Tribunal believes her conduct, in knowingly carrying on business as a motor vehicle dealer without the requisite registration, indicates that she is unlikely to operate with honesty, integrity and within the law if she or Eaton Equipment were to be granted registration.

Milburn did not refute nor did she attempt to deny the allegations made by the Registrar. Neither in her oral testimony nor in her final written submissions did she deal with the Registrar's allegations of carrying on business without the benefit of registration. Nothing in her testimony or in her final submissions persuades the Tribunal that it should believe her to be worthy of registration as a sales person or that Eaton Equipment is entitled to registration as a motor vehicle dealer.

Accordingly, in regard to the first issue, the Tribunal finds that Eaton Equipment should not be permitted registration as a motor vehicle dealer under the Act.

The second issue that arises in this matter relates to the three motor vehicles (the two snowmobiles and the ATV) found at the residence of Milburn and which vehicles were all stolen and thereafter registered under false VIN numbers in Milburn's name.

The testimony of Constable Pokol was both compelling and uncontradicted by Milburn. His testimony, which the Tribunal accepts, clearly indicates that the above three vehicles were stolen and subsequently found in the possession of Milburn at her residence. Milburn did not deny that the three vehicles were found by the police at her home, pursuant to the execution of a search warrant. Nor did she deny that the three vehicles were registered by her, in her name. She was not able to produce any documentation to the police when they asked her to produce proof of legitimate purchase of the vehicles.

The alleged sellers of the vehicles to her could never be found or traced by the police, despite their efforts. No evidence by way of supporting documents could Milburn produce to the police in support of her contention in her sworn statement to MTO that she legally purchased the vehicles.

The result of the totality of the evidence produced by the Registrar and placed before the Tribunal leaves the Tribunal in no doubt that Milburn was not forthcoming in her statement. The Tribunal has severe doubts as to the veracity of Milburn. Her explanations as contained in her sworn statements to MTO are in the opinion of the Tribunal untrue and at odds with the true facts. Her brief testimony before the Tribunal did nothing to persuade the Tribunal to accept her version of events as opposed to the events described by the witnesses for the Registrar. The Tribunal, having listened to her testimony and that of Constable Pokol and Smith, has no hesitation in accepting the latter's testimonies. Milburn showed herself to be far from lacking in common sense and the ability to


verbalize her thoughts. Despite this, she has failed to place any satisfactory evidence before the Tribunal that could influence it to accept her version of events.

The Tribunal finds that Milburn's past conduct gives reasonable ground to believe that she will not act with honesty, integrity and in accordance with the law.

DECISION

Pursuant to the authority vested in it by Section 7. (4) of the *Motor Vehicle Dealers Act*, the Tribunal directs and orders the Registrar to carry out his proposal and to refuse the registrations of Carrie Lea Glasser Milburn as a motor vehicle salesperson and 1477897 Ontario Limited o/a Eaton Equipment as motor vehicle dealer under the Act.

LICENCE APPEAL TRIBUNAL



Derek Israel, Vice-Chair

Released: June 20, 2008

File Name: 4530.mvda.glasser_Eaton.doc

The hearing was recorded. Transcripts can be made available at your expense. The period to appeal a decision to the Superior Court of Justice or Divisional Court is 30 calendar days from the date of release of the decision. Please arrange to pick up your Exhibits within 30 days after that period has passed. The Tribunal requires seven days notice prior to releasing Exhibits.

This decision, which is being released to the parties in this proceeding, will also be posted on the Licence Appeal Tribunal's website www.lat.gov.on.ca in three weeks time. The decision will also be available on Quicklaw at a later date.