

LAT Decision Summary

Applicant: Andy Abbott and Alandy Auto Sales Ltd
Released: April 2, 2002
Appeal Date: May 2, 2002
Tribunal: Marjorie L. Hiley, Vice-Chair
Disposition: Terms and Conditions
Keywords: Trust Monies, Ministry of Finance, terms and conditions and Brenner

Summary:

The Applicant had been registered as a salesperson for about twenty years and corporate dealership since April 1996. Along with chronic premises and books and records issues, within two years of his registration as a dealership the Applicant was in arrears with the Ministry of Finance (the "MOF") and was in collections by 1998. The Applicant subsequently made three separate repayment arrangements with the Ministry but abrogated them both. He is currently in arrears with the MOF for over \$28,000.00.

The Tribunal did not find there was sufficient evidence to support the issue of premises and focused its decision on the MOF issues. The Applicant's explanations as to why his dealership could not honour his arrangements with MOF were, in the opinion of the Tribunal, "insufficient". His retention of trust monies and the subsequent abrogation of the repayment arrangements were found to be "an example of extreme financial irresponsibility contrary to section 5(1)(c) of the Act." However, while the Tribunal expects that the Applicant will pay back the money within the next two years it purposely omitted that requirement (for reasons only known to itself) from the conditions of registration.

On a tangential note, the Tribunal had a great deal to say about the positive role OMVIC has been played in the motor vehicle industry:

"This Tribunal has stated at the hearing how impressed it has been with the efforts of the OMVIC since its inception to educate those working within the motor vehicle industry so that those registered will show integrity, honesty and act in accordance with the law. There are now certification courses for those new to the industry. OMVIC provides guidance to those registered under the Motor Vehicle Dealers Act through its publications and policies. Its efforts are having a positive effect on the motor vehicle industry."

Alandy Auto Sales Ltd. registration revoked.

Andy Abbott registered on the following terms and conditions:

1. Within one year from the date of this decision, Andy Abbott will take the certification course offered by OMVIC;
2. For two years from the release of this Tribunal's decision, Andy Abbott will not be permitted to be an officer or director of a motor vehicle dealership;
3. For two years from the date of this decision, Andy Abbott will not be permitted to have a position of authority in a motor vehicle dealership, such as a sales manager position; and

4. For one year from the date of this decision, all bills of sale of motor vehicles involving Andy Abbott will require the signature of his sales manager who has responsibility to supervise the work of at least two salespersons.

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