

LAT Decision Summary

Applicant: Edwin Robert Hoolans
Released: July 4, 2003
Appeal Date: August 3, 2003
Tribunal: Derek Israel, Vice Chair; Elizabeth Bennett-Martin, Member
Disposition: Terms and conditions
Keywords: Conviction under Retail Sales Act, non-disclosure of outstanding charges, financial responsibility, past conduct

Summary:

Hoolans is currently registered as a motor vehicle salesperson and was originally registered on or before December 15, 1982. Hoolans' dealership, Beach Motors Inc., was registered from September 1, 1992 until July 14, 1998.

On November 20, 2002 Hoolans and Beach Motors were convicted and fined a total of \$144,000 for willful evasion of the provincial Retail Sales Tax.

In a Notice of Further and Other Particulars, the Registrar stated Hoolans failed to disclose outstanding charges against him.

For the matter of non-disclosure, the Tribunal stated: "...while it finds that Hoolans did not answer question 9 correctly, it does not find in so doing that Hoolans was motivated by dishonesty nor had the intention of misleading the Registrar. He embarked upon a course of enquiry that indicates to the Tribunal that he had concerns as to the answer that he should record. Unfortunately, the course he embarked upon was shortsighted and proved to be an incorrect course."

As for Hoolans' charges under the Retail Sales Act, the Tribunal found: "While Hoolans' conduct in regards to this particular issue is relevant it is nevertheless not determinative in predicting his future conduct in business. The positive conduct of Hoolans over more than 20 years in the industry outweighs the negative conduct of Hoolans over a period of 41 months. The conduct of Hoolans since 1997 indicates ongoing efforts to cleanse himself of his predilection for alcohol and while the Tribunal would have been reluctant to allow Hoolans to continue operating as a motor vehicle dealer (which is not the issue in this matter) the Tribunal is prepared to allow his reinstatement as a salesperson based upon the fact that no dishonesty has been found by the Tribunal insofar as non-disclosure is concerned."

The Tribunal imposed the following terms and conditions:

- If Hoolans at any time in the future shall be charged with, found guilty of or convicted of any offence under any law, he shall forthwith advise the Registrar.
- If Hoolans at any time in the future is convicted of any charge under the Criminal Code of Canada the Registrar shall be entitled to forthwith revoke his registration as a motor vehicle salesperson.
- Hoolans shall at no time in the future, unless with the Registrar's prior written consent, become an officer, director or partner in a motor vehicle dealership.

- Hoolans shall at no stage work either directly or indirectly, in any capacity whatsoever, for his wife Evelyn Hoolans' motor vehicle dealership or any other motor vehicle dealership in which she or any other family member has any interest, financial or otherwise.
- Hoolans shall not transfer his registration as a motor vehicle salesperson without the prior written consent of the Registrar being had and obtained.
- Hoolans in all his future applications made under the Act, whether for registration, renewal or reinstatement as a motor vehicle salesperson, shall fully and honestly answer all questions in his application forms. Should he fail to do so, the Registrar shall be entitled to forthwith revoke the Applicant's registration as a motor vehicle salesperson.

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