

Tribunals Ontario
Licence Appeal Tribunal

Tribunaux décisionnels Ontario
Tribunal d'appel en matière de permis



Citation: Khursheed v. Registrar, Real Estate and Business Brokers Act, 2002, ONLAT
12587 REBBA

Date: 2022-09-07
File Number: 12587/REBBA

Appeal from a Notice of Proposal under the *Real Estate and Business Brokers Act*
2002, S.O. 2002, c. 30, Sch. C. to Refuse Registration

Between:

Tariq Khursheed

Appellant

and

Registrar, *Real Estate and Business Brokers Act, 2002*

Respondent

DECISION AND ORDER

Adjudicator: Jeffery Campbell, Vice-Chair

Appearances:

For the Appellant: Tariq Khursheed, self-represented

For the Respondent: Shane Smith, counsel

Heard by Videoconference: July 11-13, 27, 2022

REASONS FOR DECISION AND ORDER

A. OVERVIEW

- [1] Pursuant to a Notice of Proposal (“NOP”) dated January 27, 2020, the Registrar, *Real Estate and Business Brokers Act, 2002* (the “Registrar”) proposed to refuse the registration of Tariq Khursheed (the “appellant”) as a salesperson under the *Real Estate and Business Brokers Act, 2002*, S.O. 2002, c. 30, Sch. C (the “Act”).
- [2] The NOP is based on the following grounds:
- a. That the appellant made false statements or provided false information in an application (s. 10(1)(a)(iii) of the Act).
 - b. That the appellant’s past conduct affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty (s. 10(1)(a)(ii) of the Act).
- [3] The appellant appeals the NOP to the Tribunal.
- [4] The appellant did not testify. I advised the appellant of the possibility of adverse inferences being drawn against him by his refraining from testifying.

B. BACKGROUND

- [5] The appellant was the sole owner, director and officer of Legacy Realty Inc. (“Legacy”). As a result of financial difficulties, on March 3, 2017, the appellant filed a Notice of Proposal to Creditors (NOP to Creditors). The NOP to Creditors was rejected by the creditors. The rejection of the NOP to Creditors triggered a bankruptcy (the “bankruptcy”), which was filed on May 11, 2017. The appellant was subsequently discharged from the bankruptcy on February 12, 2018.
- [6] The appellant submits that his personal financial difficulties arose as a result of the failure of Legacy and investments that he had. On January 21, 2018, Legacy’s registration with RECO was terminated. The appellant’s registration with RECO was also terminated. The appellant then applied for reinstatement as a salesperson in 2018 and in 2020.
- [7] The Registrar alleges that the appellant made false statements on applications to renew his registration and Legacy from 2015 to 2020. The Registrar also alleges

that the appellant will not carry on business with honesty and integrity based on allegations which include his failure to pay realtors employed by Legacy monies that were owing to them. The Registrar alleges that the appellant misappropriated funds while operating Legacy.

- [8] The appellant denies that he made false statements on his registration applications and says that the realtors' claims were settled in 2017. He also denies that he misappropriated funds.

C. ISSUES

- [9] Has the appellant made false statements or provided false information in an application?
- [10] Does the appellant's past conduct afford reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty?
- [11] If the answer to any of these questions is in the affirmative, then the third issue is whether refusal to register is the only outcome or whether the public interest can be adequately protected through registering the applicant but attaching conditions to his registration.

D. LAW

- [12] Section 10(1) of the Act establishes a presumptive right to registration if the appellant has met the prescribed requirements. The presumption may be rebutted if the Registrar can prove one or more of the grounds outlined in s. 10(1)(a).
- [13] Under s. 10(2) of the Act, a registration is subject to such conditions that are either consented to by the applicant, applied by the Registrar under s. 13 of the Act, as ordered by the Tribunal, or as are prescribed. Section 14 of the Act provides that the Registrar may propose to apply conditions to a registration, and that the Tribunal may direct the Registrar to carry out its proposal or substitute its opinion for that of the Registrar and attach conditions to its order or to a registration.
- [14] At a hearing, the onus is on the Registrar to prove, on a balance of probabilities, the facts it relies on in support of its position that the appellant is not entitled to registration.
- [15] A hearing of a notice of proposal is a hearing *de novo*. This means that I do not owe deference to the Registrar's decision. ⁱ Further, if despite finding that the

factual allegations are proven I also find that the appellant is entitled to registration, then I must still consider whether conditions should attach to the registration.ⁱⁱ

E. EVIDENCE AND ANALYSIS

Issue 1: False Statements

- [16] Under s. 10(1)(a)(iii) of the Act, the Tribunal must determine whether the appellant has made a false statement or provided false information in his application for registration and is not entitled to registration as a result. The onus is on the Registrar to prove this ground on a balance of probabilities.
- [17] As stated above, both Legacy's and the appellant's registrations were terminated in January 2018. The appellant then reapplied for registration on November 12, 2018. The appellant later reapplied for registration on January 21, 2020, due to a change in the identity of the sponsoring broker in the 2018 application.
- [18] The Registrar argues that the appellant made false statements on Legacy's Application for Renewal filed March 10, 2015, Application for Business Renewal filed November 25, 2015, Application for Business Renewal filed March 13, 2017, Application for Brokerage Renewal filed August 29, 2017, Application for Reinstatement file November 12, 2018, and in the appellant's current Application for Reinstatement.
- [19] The evidence establishes that the appellant made at least one false statement on each application submitted to the Registrar.

2015 Application for Renewal

- [20] The appellant submitted an Application for Renewal on March 10, 2015. The respondent submits that the appellant made false statements on this application.
- [21] Shahin Rehmtulla ("Ms. Rehmtulla"), registration officer for the Registrar, testified that, upon receiving the 2020 application, investigations were conducted retroactive to the Application for Renewal filed March 10, 2015.

- [22] Ms. Rehmtulla testified that, in the Application for Renewal of March 10, 2015, the appellant answered “no” to the following question:

Question 5: “Are there any unpaid judgements and/or unpaid debts outstanding against you?”.

- [23] Ms. Rehmtulla testified that a Writ Details Report dated February 11, 2019, revealed a judgment dated October 21, 2014 against Re/Max Legacy Realty Inc., Legacy Realty Inc. and the appellant in the amount of \$45,710.82, plus costs of \$953.27 in favor of ADD Capital Corp. (“ADD”).
- [24] Emails between the appellant’s lawyer, Brendan Hughes and ADD’s lawyer, Dan Reason from November 3, 2014 and January 19, 2015 disclose that the appellant was aware of the judgment of October 21, 2014.
- [25] Gregory Judd (“Mr. Judd”) of Kunjar Sharma & Associates Inc., the appellant’s trustee in the NOP to Creditors of March 3, 2017 and subsequent bankruptcy of May 11, 2017, testified that both the List of Creditors on the NOP to Creditors and the bankruptcy Discharge Form noted ADD as a creditor.
- [26] Based on the above evidence, I find that the appellant knew or ought to have known of the judgment in favor of ADD. I find that the appellant answered to question 5 of the Application for Renewal dated March 10, 2015, falsely.

2015 Application for Business Renewal

- [27] The appellant submitted an Application for Business Renewal on November 30, 2015. The respondent submits that the appellant made false statements on this application.
- [28] Ms. Rehmtulla testified that, in the Application for Business Renewal for Legacy, filed November 30, 2015, the appellant, answering as a director of Legacy, answered “no” to the following question:

Question 3: “Are there any unpaid judgements and/or unpaid debts outstanding against you?”.

- [29] Based on the above evidence under 2015 Application for Renewal, I find that the appellant answered falsely to question 3 of the Application for Business Renewal of November 30, 2015.

2017 Application for Business Renewal

[30] The appellant submitted an Application for Business Renewal dated March 13, 2017. The respondent submits that the appellant made false statements on this application.

[31] Ms. Rehmtulla testified that, in the Application for Business Renewal dated March 13, 2017, the appellant answered “no” to the following questions:

Question 2: “Are you, or will you be, engaged or employed in any other business, occupation or profession”:

Question 4: “Are you now or have you been involved in a personal bankruptcy and/or been an officer, director or majority shareholder of a corporation which has been declared bankruptcy or insolvency proceedings”;

Question 5: “Are there any unpaid judgments and/or unpaid debts outstanding against you”?

[32] With respect to questions 4 and 5, Ms. Rehmtulla testified that, as well as the outstanding judgment in favor of ADD Capital Corp., the March 3, 2017 NOP to Creditors listed Canada Revenue Agency, the Ontario Ministry of Finance, Lisa Lara and Tajinder Sangha as creditors.

[33] I note that the 2017 Application for Renewal was filed merely 10 days after the filing of the NOP to Creditors which listed numerous creditors. I find therefore that answers to questions 4 and 5 in the 2017 Application for Renewal were not only false, but blatantly misleading on the part of the appellant.

[34] With respect to question 2 regarding involvement in other businesses, occupations or professions, Ms. Rehmtulla testified that in the Form 79 (Statement of Affairs) list of assets of the bankruptcy documentation, the appellant includes a 100% interest in 2155844 Ontario Inc. She further testified that a Corporation Profile Report dated February 11, 2019 lists the appellant as a director and officer of 2155844 Ontario Inc.

[35] In an email from the appellant to Ms. Rehmtulla dated May 27, 2019, the appellant advised “I only registered [2155844 Ontario Inc.] if I would buy a home personally

under my name I would run construction materials or costs to get construction rates from suppliers from this.”

- [36] An Amended Statement of Claim issued March 22, 2012, *Tariq Khursheed and 2155844 Ontario Inc. operating as Legacy Management v. Salim Khoja et al*, pleads that 2155844 Ontario Inc. “carries on business as a management company for various Khursheed’s business ventures. Khursheed is the sole officer and director of [2155844 Ontario Inc.] and is its controlling mind”. The Statement of Claim goes on to describe the business ventures that 2155844 Ontario Inc. conducted with the defendants. Although these are assertions and not necessarily proven as fact, they are the assertions by the applicant himself.
- [37] In addition, an Ontario Ministry of Finance Employer Health Tax Summary of Proposed Adjustments for 2155844 Ontario Inc. details that from January 1, 2010 to December 31, 2014, the corporation paid salaries totaling \$1,124,089.00, with an employer health tax owing of \$47,828.61
- [38] Further, a Canada Revenue Agency Requirement to Pay dated January 31, 2017 required 2155844 Ontario Inc. to remit \$509,207.56 in H.S.T. payments.
- [39] Based on this evidence I am satisfied that the appellant was engaged or employed in another business, occupation or profession and that he knowingly gave false answers to questions 2, 4 and 5 of the Application for Business Renewal of March 13, 2017.

2017 Application for Brokerage Renewal

- [40] The appellant submitted an Application for Brokerage Renewal on August 29, 2017 on behalf of Legacy. The respondent submits that the appellant made false statements on this application.
- [41] Ms. Rehmtulla testified that, in the Application for Brokerage Renewal dated August 29, 2017, the appellant answered “no” to the following questions:

Question 2 of Section I: “Are you now or have ever been involved in personal bankruptcy or insolvency proceedings, filed a consumer proposal, and/or been an officer, director or shareholder of a corporation, or partner of a partnership which has been bankrupt or insolvent, or is presently a party to bankruptcy or insolvency proceedings?”.

Question 2 of Section J: “Are there any unpaid judgments and/or unpaid debts outstanding against the Corporation, including but not limited to, CRA Requirement to Pay and garnishments, or is the Corporation a majority shareholder of a corporation or partner of a partnership to which the preceding statement applies?”.

- [42] With respect to the answer to Question 2 of Section I, the evidence shows that the appellant had filed for bankruptcy on May 11, 2017.
- [43] With respect to the answer to Question 3 of Section J, the evidence shows that Legacy was indebted to ADD Capital Inc., as well as to CRA and to the Ontario Ministry of Finance. Further, the evidence discloses a judgment dated June 16, 2017 against both Legacy Realty Inc. and Tariq Khursheed in favor of two of Legacy’s realtors, Madan Khatri Chhetri (Mr. Chhetri) in the amount of \$50,000.00 and Bajinder Singh Baring (Mr. Baring) in the amount of \$100,000.00.
- [44] Based on the evidence, I find that the appellant answered falsely to question 2 of Section I and question 3 of Section J of the Application for Brokerage Renewal of August 29, 2017.

2018 for Reinstatement of Registration

- [45] As noted above, on January 21, 2018, Legacy’s registration with the Real Estate Council of Ontario was terminated. The applicant submitted an Application for Reinstatement: Salesperson/Broker, dated November 12, 2018. The respondent submits that the appellant made false statements on this application.
- [46] Ms. Rehmtulla testified that, in the Application for Reinstatement of November 12, 2018, the appellant answered “no” to the following questions:

Question 5 of Section F: “Are there any unpaid judgments and/or unpaid debts outstanding against you, including but not limited to, CRA Requirement to Pay and garnishments, or are you an officer, director, majority shareholder of a corporation or partner of a partnership to which the preceding statement applies?”

Question 2 of Section F: “Are you, or will you be, registered/licensed, engaged or employed in any other business, occupation or profession?”

- [47] Contrary to the answer to Question 5 of Section F, the evidence shows that there were outstanding judgments to two of Legacy's former realtors, Mr. Baring and Mr. Chhetri, as well as the Ontario Ministry of Finance. I therefore find that the appellant answered Question 5 of Section F of the 2018 Application for Reinstatement falsely.
- [48] Contrary to the answer to Question 2 of Section F, the Registrar submits that the Form 79 of Creditor's package from the Applicant's 2017 bankruptcy, as well as Corporate Profile Reports indicates that the appellant was a director and officer of 2155844 Ontario Inc. at the time of the Application for Reinstatement.
- [49] The respondent invites the Tribunal to draw an adverse inference regarding the appellant's failure to provide *viva voce* evidence with respect to Question 2 of Section F: "Are you, or will you be, registered/licensed, engaged or employed in any other business, occupation or profession?"
- [50] It is open to the Tribunal to draw an adverse inference when it is appropriate. As explained in *Parris v. Laidley*, 2012 ONCA 755:

"Drawing adverse inferences from failure to produce evidence is discretionary. The inference should not be drawn unless it is warranted in all the circumstances. What is required is a case-specific inquiry into the circumstances including, but not only, whether there was a legitimate explanation for failing to call the witness, whether the witness was within the exclusive control of the party against whom the adverse inference is sought to be drawn, or equally available to both parties, and whether the witness has key evidence to provide or is the best person to provide the evidence in issue."

- [51] In this instance, I find it unnecessary to draw an adverse inference as the evidence outlined above, under the 2017 Application for Business Renewal, already well establishes that the appellant did indeed answer falsely to question 2 of Section F of the Application for Reinstatement.

2020 Application for Reinstatement of Registration

- [52] Due to a change in the sponsoring broker listed in the 2018 Application for Reinstatement, the appellant submitted a second Application for Reinstatement: Salesperson/Broker, dated January 21, 2020. The respondent submits that the appellant made false statements on this application.

[53] Ms. Rehmtulla testified that, in the Application for Reinstatement of January 21, 2020, the appellant answered “no” to the following question:

Question 5 of Section F: “Are there any unpaid judgments and/or unpaid debts outstanding against you, including but not limited to, CRA Requirement to Pay and garnishments, or are you an officer, director, majority shareholder of a corporation or partner of a partnership to which the preceding statement applies?”.

[54] At the time of the 2020 Application, the evidence shows that there continued to be outstanding judgments in favour of two of Legacy’s former realtors, Mr. Baring and Mr. Chhetri. I therefore find that the appellant answered falsely to question 5 of Section F of the Application for Reinstatement dated January 21, 2020.

Analysis of the s.10(1)(a)(iii) issue

[55] The Registrar relies on the above evidence to show that the appellant made false statements on applications that he submitted. Again, the appellant chose not to testify and therefore I have no evidence from him to counter the Registrar’s evidence.

[56] The evidence shows that the appellant was the subject of legal proceedings involving his bankruptcy and civil judgment in favour of Legacy’s former realtors. I find that he knew of this state of affairs at the time he submitted each application to the Registrar, yet he answered the above questions on each application falsely. I am therefore satisfied on a balance of probabilities that the appellant made false statements or provided false information to the Registrar, and that the Registrar has proven the ground in s. 10(1)(a)(iii) of the Act.

Issue 2: Past Conduct

[57] Under s. 10(1)(a)(ii) of the Act, the Tribunal must determine whether the appellant’s past conduct affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty.

[58] With respect to the question of whether that past conduct affords reasonable grounds to believe that business will not be carried on in accordance with the law and with integrity and honesty, the standard is somewhat less than a balance of

probabilities.ⁱⁱⁱ I need not be satisfied that it is more likely than not, that the appellant will not carry on their business in accordance with the law and with integrity and honesty. At the same time, “reasonable grounds for belief” has to be more than “mere suspicion” and will be found to exist “where there is an objective basis for the belief which is based on compelling and credible information”.^{iv}

[59] The evidence also establishes that the past conduct of the appellant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty.

Unpaid Commissions

[60] The respondent alleges that the appellant did not pay commissions owed to Mr. Baring and Mr. Chhetri. Both Mr. Baring and Mr. Chhetri provided evidence at the hearing.

[61] Mr. Baring testified that he had worked for Legacy from 2012 until its closure. He testified that, in late 2012/early 2013 he had generated \$480,000.00 in commissions selling pre-sales for a condominium developer. Those commissions were to be paid to Legacy, who would hold the commission cheques in a commission trust account for Mr. Baring. The commissions, less the brokerage fee and other expenses, were to be paid to Mr. Baring upon the closing of the sales. He testified that the sales did, indeed, close in September 2015.

[62] Mr. Baring testified that in late 2014/early 2015 he received a commission cheque for \$150,000.00 from the condo developer which, as per the protocol, he delivered to Legacy. He further testified that he never received the commission from that cheque.

[63] Mr. Baring testified that he attempted to communicate with the appellant regarding the payment of the commissions. On January 19, 2016 the appellant advised Mr. Baring that he had paid \$153,420.60 to CRA on behalf of Mr. Baring pursuant to a previous garnishment imposed by CRA on Mr. Baring. The evidence shows that, on January 19, 2016 the appellant emailed to Mr. Baring scanned copies of three cheques dated January 18, 2016 from Legacy payable to CRA, totaling \$153,420.60. Mr. Baring testified that he confirmed with the CRA that they had never received the three cheques. The respondent alleges that the cheques were never intended to be sent to CRA but were written and emailed by the appellant to

Baring merely as a ruse in order to deceive Baring that his commissions were used to remit CRA on behalf of Baring.

- [64] Mr. Chhetri testified that he had worked for Legacy from 2009 to 2014 as a realtor.
- [65] Mr. Chhetri testified that he also generated commissions through sales for a condominium developer. He testified that, in 2014, he delivered two commission cheques in the amount of \$300,000.00 to Legacy. He further testified that he was never paid his commissions from those cheques by Legacy.
- [66] In 2016, Mr. Baring and Mr. Chhetri filed a Statement of Claim against the appellant and Legacy Realty Inc. seeking unpaid past and future commissions payments. The parties settled the lawsuit on June 17, 2017, with a subsequent Judgment dated June 16, 2017 ordering the appellant and Legacy to pay \$100,000.00 to Baring and \$50,000.00 to Chhetri. A corresponding Order dated June 16, 2017 ordered that any outstanding commissions owed to Mr. Baring and Mr. Chhetri to be paid to them directly or to whom they direct.
- [67] Both Mr. Baring and Mr. Chhetri testified that they did not know about the appellant's bankruptcy of May 11, 2017 at the time of the settlement on June 17, 2017.
- [68] The respondent alleges that the appellant intended to deceive both Mr. Baring and Mr. Chhetri by not advising them of his undischarged bankruptcy prior to the settlement. However, I note that the evidence shows that on February 28 2017, the appellant advised his trustee in bankruptcy of the ongoing litigation. However, there is no evidence that the appellant advised either Mr. Baring or Mr. Chhetri directly of his bankruptcy prior to the settlement of June 17, 2017.
- [69] Whether or not the appellant's intention was to deceive Mr. Baring and Mr. Chhetri or not, the question remains, what did happen to the commission monies owing to both Mr. Baring and Mr. Chhetri?
- [70] As previously stated, the appellant chose not to testify. The appellant also did not provide the requested Legacy bank statements that would be relevant to this question of the disposition of Baring's and Chhetri's commission cheques.
- [71] The respondent invites the Tribunal to draw an adverse inference with respect to the appellant's failure to provide either *viva voce* or documentary evidence as to the disposition of the commission cheques.

[72] I find that an adverse inference against the appellant is appropriate in this instance. The appellant did have exclusive knowledge of the disposition of the commission cheques and did have the ability to request relevant banking documentation (which request was ordered by the Tribunal by way of Motion Decision and Order of January 19, 2021). The appellant also had the opportunity to testify with respect to the disposition of the commission cheques but did not do so. I therefore draw an adverse inference as against the appellant and find that, on the balance of probabilities, the appellant did misappropriate the commission funds owed to both Baring and Chhetri.

Requirement to Notify within 5 days any material change

[73] The respondent alleges that the appellant's failure to notify the registrar of unpaid debts and judgments, as required by s. 24 of the *Act*, constitutes past conduct that affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty. The issue of the failure to notify regarding the past debts and judgments have been previously noted. I find that the failure to comply with the requirement to report these changes in the timelines required by *Act* does afford reasonable grounds for belief that the appellant will not carry on business in accordance with the law and with integrity and honesty.

Lack of Cooperation

[74] The respondent alleges that emails between the appellant and the RECO registration officer display a pattern of deflective and unresponsive answers on the part of the appellant. While I do not find that the appellant was particularly unresponsive, I do find the emails at times deflective as well as deceptive. One such example is the appellant's explanation as to the purpose of 2155844 Ontario Inc., noted above. This lack of candour constitutes a serious lack of cooperation towards RECO, the governing body for the regulated real estate sales industry in Ontario, and affords reasonable grounds for belief that the appellant will not carry on business in accordance with the law and with integrity and honesty.

Character Evidence

[75] Two former realtors from Legacy, Joe Ascencio ("Mr. Ascencio") and Sophie Abbasi ("Ms. Abbasi"), testified on behalf of the appellant. Mr. Ascencio testified on behalf the appellant. It was Mr. Ascencio's testimony that he had worked for

Legacy for three years and found the appellant to be real and demonstrated integrity. In cross-examination, he testified that he did not know of the allegations of misappropriation of funds or those of making false statements. Ms. Abbasi testified that the appellant was kind to his agents and that he cultivated a very family environment at Legacy. Upon cross-examination, Ms. Abbasi testified that the appellant did not explain this legal proceeding to her.

Analysis of the s.10(1)(a)(ii) issue

[76] After assessing whether there is an objective basis for the Registrar's belief, based on credible and compelling evidence that the appellant's business will not be carried on in accordance with the law and with integrity and honesty I conclude there is.

[77] As stated above, I find the evidence that the appellant misappropriated funds from Mr. Baring and Mr. Chhetri both compelling and credible. Not only did the appellant misappropriate the commissions of both Mr. Chhetri and Mr. Baring but then further attempted to deceive Mr. Baring into believing that his commissions were used to satisfy a CRA garnishment. As well, the appellant's failure to notify the registrar of unpaid debts and judgments is clear on its face. With respect to a lack of cooperation, I find that, while the appellant did respond to email communications with the respondent, the evidence is clear and compelling that some of the appellant's responses were deceiving. Crucially, the appellant's past conduct relates directly to the types of activities intrinsic to a person participating in the regulated real estate industry. Conducting oneself with honesty, integrity and in accordance with the law is vital to financial dealings with other people, and with the regulator.

[78] Therefore, I find that the appellant's past conduct affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty.

F. APPROPRIATE REMEDY

[79] Having found that the appellant made false statements on multiple registration applications, and that the appellant's past conduct affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty, I must now consider the appropriate remedy. The Tribunal has the statutory discretion to consider the appellant's circumstances and determine whether the public interest requires outright refusal of registration or whether the

public interest can be adequately protected through granting registration with conditions.

[80] I do not find that this is an appropriate case for conditions. The appellant has displayed a continuous pattern of making false statements on numerous RECO applications. Further, there have been no efforts on the part of the appellant to satisfy the unpaid judgment dated June 16, 2017 for \$100,000 in favour of Mr. Baring and \$50,000.00 in favour of Mr. Chhetri.

[81] The findings against the appellant are serious. The appellant's failure to testify makes it difficult to determine as to whether conditions might be effective in terms of the public interest. Given that, I find that there is insufficient evidence before the Tribunal that would suggest conditions would be appropriate. I decline to impose conditions on the ground that I am not satisfied that conditions would sufficiently protect the public.

G. CONCLUSION

[82] I find that the Registrar has satisfied the onus to establish that the appellant made false statements or provided false information in an application.

[83] I find that the Registrar has satisfied the onus to establish that the appellant's past conduct affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty.

[84] I find that there are no terms or conditions that would sufficiently protect the public.

H. ORDER

[85] The Tribunal directs the Registrar to carry out its proposal to refuse registration the appellant as a real estate salesperson.

LICENCE APPEAL TRIBUNAL



Jeffery Campbell, Vice-Chair

Released: September 7th, 2022

ⁱ *Zahariev v. Ontario (Registrar of Motor Vehicle Dealers and Salespersons)*, 2005 CanLII 44815 at paras. 7-12 (Div. Ct.).

ⁱⁱ *Arulappu v. Registrar, Real Estate and Business Brokers Act*, 2011 ONSC 797 (Div Ct)

ⁱⁱⁱ *Ontario (Alcohol and Gaming Commission) v. 751809 Ontario Inc. (Famous Flesh Gordon's)*, 2013 ONCA 157

^{iv} *Mugesera v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para. 114