

Licence
Appeal
Tribunal

Tribunal
d'appel en
matière de permis



DATE: 2016-12-08
FILE: 10018/REBBA
CASE NAME: 10018 v. Registrar, *Real Estate and Business Brokers Act, 2002*

Appeal from a Notice of Proposal by the Registrar, *Real Estate and Business Brokers Act, 2002*, to Revoke Registration

Ranjay Kumar Singh o/a Roger Singh

Appellant

-and-

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

Respondent

REASONS FOR DECISION AND ORDER

ADJUDICATOR: Richard Macklin, Vice-Chair

APPEARANCES:

For the Appellant: Brian Duxbury, Counsel

For the Respondent: George Phillip Drametu, Counsel

Heard in Hamilton: October 20 and 21, 2016

REASONS FOR DECISION AND ORDER

I. Overview

1. By Notice dated January 19, 2016, the Registrar, *Real Estate and Business Brokers Act*, 2002, S.O. 2002, c. 30, Sched. C (the "Registrar") proposed to revoke the salesperson licence of Ranjay Singh. By Notice of Appeal dated February 1, 2016, Mr. Singh (the "Appellant"), appeals that decision.

II. The Facts

i) Agreed Statement of Facts

2. The parties filed an agreed statement of facts, which states as follows:

Registration History

1. Ranjay Kumar Singh o/a Roger Singh ("Mr. Singh") was first registered as a salesperson under the *Real Estate and Business Brokers Act, 2002*, S.O. 2002, c. 30, Sched. C (the "Act") on or about October 16, 2000, under an Application for Employee dated September 22, 2000 (the "September 22, 2000 Application"). Mr. Singh has more or less been continuously registered under the Act since October 2000, and is currently registered as a salesperson with Homelife Professionals Realty Inc.
2. As a result of a newspaper article that ran in the Hamilton Spectator on or about March, 2014, in respect to charges against Mr. Singh and his company, Rocket Homes & Property Management Inc. ("Rocket Homes"), the Real Estate Council of Ontario ("RECO") conducted independent investigations.
3. The RECO investigations disclosed that Rocket Homes was incorporated by Mr. Singh on October 2, 2002. Mr. Singh was the sole Officer and Director of Rocket Homes.
4. The RECO investigation further obtained a decision of the Licence Appeal Tribunal released on November 18, 2010, ordering Tarion to refuse to renew the Registration of Rocket Homes.
5. On May 4, 2012, Mr. Singh, operating as Rocket Homes, was charged with two counts under the *Electricity Act* and the Ontario Electrical Safety Code. Mr. Singh pled guilty and was ordered to pay a fine of \$1,000 plus costs per count.

6. On March 13, 2013, Rocket Homes and Mr. Singh were charged with four counts each of offences under the *Ontario New Home Warranties Act*. On January 21, 2014, Mr. Singh and Rocket Homes were convicted in absentia and on March 10, 2014, Mr. Singh and his company were each fined \$10,000 with fines totaling \$25,000 including the Victim Surcharge. However, Mr. Singh and Rocket Homes appealed the conviction and on December 1, 2015, the appeal was granted and a new trial was ordered. As of the date of this Statement, these matters are still pending.
7. All Application forms for registration and/ or renewal of registration under the *Act* specifically require registrants to truthfully disclose to the Registrar:
 - a) Whether they are engaged in any other employment, business or occupation;
 - b) Whether they have had any other registrations or licences or professional status of any kind refused, suspended, revoked or any proceedings pending; and,
 - c) Whether they have pled guilty, been found guilty or been convicted of any offence under any law.
8. A review of Mr. Singh's Applications for Renewal revealed that Mr. Singh did not disclose his incorporation and involvement with Rocket Homes in any of his Applications filed in 2002, 2004, 2006, 2008, 2010, and 2012.
9. A review of Mr. Singh's files further disclosed that Mr. Singh failed to disclose to the Registrar in his 2012 Application for Renewal of registration that his registration under the *Ontario New Home Warranties Plan Act* had been refused by the Licence Appeal Tribunal in 2010.
10. Mr. Singh failed to disclose in his 2012 and 2014 applications, in relation to Rocket Homes that he had been charged on May 4, 2012, and subsequently convicted of two charges laid by the Electrical Safety Authority. Mr. Singh was sentenced to pay a total fine of \$2,000.
11. Mr. Singh also failed to notify the Registrar in relation to Rocket Homes and himself personally that he and Rocket Homes had been charged and subsequently convicted of charges under the *Building Code Act, 1992*, on March 20, 2015. Mr. Singh was sentenced to pay a fine of \$5,000 and Rocket Homes was sentenced to pay a fine of \$5,500 for a total fine of \$10,500.
12. Mr. Singh was charged with five counts of violations of the *Act* and on February 18, 2015, Mr. Singh pled guilty and was convicted of three counts. Mr. Singh was ordered to pay a total fine of \$6,000.

Criminal offence convictions

13. On or about September 14, 2011, Mr. Singh was charged with two counts of operating a motor vehicle while impaired (the "September 14, 2011 Charges"). Mr. Singh was subsequently found guilty of having his blood level exceeding 80 milligrams of alcohol in 100 milliliters of blood. Mr. Singh was fined \$1,500 and received a driving prohibition of 18 months.
14. On March 10, 2015, Mr. Singh was found guilty of two counts of operating a motor vehicle while impaired by alcohol or a drug and operating a motor vehicle in Canada while disqualified from doing so. Three of the counts were withdrawn at the request of the Crown. Mr. Singh was sentenced to:
 1. four months incarceration;
 2. three years driving prohibition under count one;
 3. one year driving prohibition consecutive to any other;
 4. one month and 27 days jail term consecutive; and
 5. three days pre-sentence custody credit on a one for one basis on count two.
15. On or about October 1, 2015, RECO received a letter from Mr. Singh (the "October 1, 2015 letter"). In the October 1, 2015 Letter, Mr. Singh stated that he was convicted of DUI over 80 milligrams and driving while disqualified and received a sentence of six months incarceration. Mr. Singh further states that he was released on September 14, 2015, and that he had voluntarily enrolled in a 12-week AGDS course (Alcohol, Gaming & Drugs Services) as well as Alcoholics Anonymous.
16. In the October 1, 2015 Letter, Mr. Singh admitted that on September 4, 2011, he was convicted of driving under the influence of alcohol. He claims that he did not disclose this to RECO because he thought he had been discharged.
17. Notwithstanding his admissions as noted in paragraph 16 above, Mr. Singh did not provide correct information in his 2012 Application for Renewal with respect to these charges and convictions.

Additional incorrect statements on applications for registration

18. In addition to the above convictions, Mr. Singh provided other incorrect information on his applications for renewal of registration.
19. Mr. Singh stated that he had no unpaid Judgments outstanding against him, when in fact there are five unpaid Judgments outstanding against him. Those Judgments are as follows:
 1. An execution search conducted by RECO on May 22, 2013, disclosed that on May 17, 2013, a Judgment # 13-0001027, against one Roger Singh aka Rodger Singh aka Rocket Roger, Ranjay Singh was registered in Hamilton. The Judgment was for the amount of \$3,237.61 and \$140 in costs both at 3% interest. The Judgment was in the name of J & M Siding (represented by Leeanne Vreugdenhil c/o McCarthy Fowler). This Judgment was not disclosed in the 2014 Application.
 2. An execution search conducted by RECO on October 29, 2015, disclosed that on December 11, 2013, a Judgment # 13-0002287, against Rocket Homes was registered in Hamilton. The Judgment was for the amount of \$18,385.94. The Judgment was in the name of Goldman Sloan Nash & Haber LLP. This Execution was not disclosed in the 2014 Application.
 3. An execution search conducted by RECO on October 29, 2015, disclosed that on May 27, 2014, a Judgment # 14-0000806, against one Roger Singh aka Rodger Singh aka Rocket Roger, Ranjay Singh was registered in Hamilton. The Judgment was for the amount of \$22,120.73 and \$525 in costs both at 3% interest. The Judgment was in the name of Fairway Building Supply Inc.
 4. An execution search conducted by RECO on October 29, 2015, disclosed that on July 10, 2014, a Judgment # 14-0001091, against Mr. Singh and Rocket Homes was registered in Hamilton. The Judgment was for the amount of \$36,336.67 at 1.3% interest and \$20,000 in costs at 3% interest. The Judgment was in the name of 6327842 Canada Ltd. (represented by Jordan Fletcher c/o Simpson Wigle Law LLP).
 5. An execution search conducted by RECO on October 29, 2015, disclosed that on September 14, 2015, a Judgment # 15-0001197, against Mr. Singh and Rocket Homes was registered in Hamilton. The Judgment was for the amount of \$18,491.92 plus pre-judgment interest of \$687.72 and \$1,600 in costs at 1.3%. The Judgment was in the name of Tamarack Lumber Inc. (represented by Joel Kuchar c/o Drudi Alexiou Kuchar LLP).

20. Mr. Singh did not disclose the existence of these five Judgments to the Registrar.
21. By the date of the Registrar's Proposal dated January 19, 2016, Mr. Singh had not demonstrated that he had either paid or made any arrangements to pay down any of the Judgments.

ii) Additional Evidence Relied Upon by the Registrar

3. The Appellant's charges under the Act (see para. 12 of the Agreed Statement of Facts) flowed from an Information sworn April 30, 2014. Those charges pertained to six counts of failing to disclose to the Registrar, in writing, changes to his registration, as required under s. 34(1) of Regulation 567/05. The Appellant testified that after being charged by RECO, he determined that he "should look incredibly close" at the personal disclosure sections of his renewal applications. Nonetheless, the Appellant's renewal application, signed November 17, 2014, answered "no" to question 5, which asked if there were any unpaid judgments against him. As noted in the Agreed Statement of Facts, as at November 17, 2014, there were four such judgments totaling in excess of \$100,000. The Appellant also answered "yes" to question 7, which asked if he was the subject of outstanding charges or convictions. However, the renewal application asks for details in the event of a "yes" answer. The Appellant failed to disclose the above-noted *Electricity Act* charges and convictions and the above-noted charges under the *Building Code Act*. When asked about these 2014 disclosure failures, the Appellant testified that he was in the process of resolving most of the outstanding judgments and, in any event, he "had bigger things on my mind".
4. In addition, in regard to his second conviction for impaired driving, the Appellant disclosed the underlying facts for this offence, in his renewal application signed November 17, 2014, as follows:

In July 2013 i [sic] was charged with 5 charges related to impaired driving. I was being driven by a designated driver that evening and when the police stopped us he took off and left me to deal with police. I could not escape the unfair charges because the real driver fled [sic]. I had acted responsibly by getting a designated driver and disappointedly was charged as the vehicle was also mine. This has not yet gone to court and is pending.
5. The facts accepted by the Appellant on his subsequent guilty plea, however, tell a far more disconcerting story about his being the driver of the vehicle in question and his attempt to evade police and deceive them. Specifically, the following facts were accepted by the Appellant as correct, as part of his guilty plea on March 10, 2015:

- i) That the Appellant was observed operating the vehicle in question;
 - ii) The Appellant drove erratically, sped, attempted to evade police and almost struck a police cruiser;
 - iii) Police pursuit had to be temporarily suspended on account of public safety;
 - iv) The Appellant exited his vehicle, hid between two cars and discarded his keys; and
 - v) The Appellant's blood alcohol level was in excess of two times the legal limit.

6. On the one hand, the Tribunal accepts that pre-trial, the Appellant was in a difficult position in having to disclose the charges while maintaining his right against self-incrimination. On the other hand, once he volunteered information to the Registrar, the Appellant was duty bound to answer truthfully. The facts agreed to on March 10, 2015, cast considerable doubt on the truthfulness of the facts disclosed by the Appellant in his renewal application of November 17, 2014.

- iii) Evidence Relied Upon by the Appellant

7. The Appellant testified and called four additional witnesses, including his current broker of record at Homelife Professionals Realty Inc. The Broker confirmed that Homelife supports the Appellant and intends to keep the Appellant's sales position open for him, if the Tribunal allows this appeal.

8. The Appellant testified that his nickname is "Rocket Roger" and that he got that nickname because he moves fast. He stated that his fast-moving nature also means that he does not pay attention to details. Thus, he ran a business that built high quality homes, but it failed, at least in part, because of his inattention to detail in record-keeping. His fast-moving nature also led to inaccurate completion of the personal disclosure sections of all seven of his applications for renewal of his salesperson's licence.

9. Importantly, however, the Appellant testified that he has an unblemished record in terms of real estate transactions. All paperwork on his real estate deals has been completed with due attention. His clients are very happy with his services. They trust him and rely on his counsel. He is an excellent salesperson in terms of volume of sales and his high record of customer satisfaction. Two of the Appellant's clients, his current broker and a colleague testified to that effect. No contrary evidence on this issue was called by the Registrar.

10. The Appellant testified that he will carry out his duties as required under the Act. His witnesses echoed that sentiment. Indeed, his broker of record testified that he "always gets calls" of complaint about agents but that the Appellant is an exception to that rule. Thus, not only have there been no formal complaints about the Appellant, in his capacity as a realtor, he has not even been the subject of an informal complaint – at least for the time period that he has been at Homelife.
11. The Appellant also testified that the timing of his past misdeeds coincide with a very difficult time in his life – a divorce and the consequent estrangement from his daughter. These difficult personal circumstances led to alcohol abuse and the many charges and convictions described above. He points to the fact that he has taken addiction treatment through Mission Services, the City of Hamilton and is a member of Alcoholics Anonymous. Thus, he states, the cause of his difficulties has been addressed and he is a law abiding citizen. His witnesses echoed that sentiment, as well.
12. In terms of financial responsibility, evidence at the hearing confirmed that four of the five judgments against the Appellant have been resolved. The Appellant testified that the fifth judgment has not been resolved because he is being "played" by the judgment creditor. The Appellant has also entered into a payment plan with the Province in regard to his outstanding fines. He has made payments beyond what is required under that plan.

III. The Law

13. Section 13 of the Act provides authority for the revocation of the Appellant's registration if the Registrar is of the opinion that the Appellant is not entitled to a renewal of registration based on the criteria set out in s. 10 of the Act. The Appellant's right of appeal to this Tribunal is contained in section 14(5) of the Act. Section 14(5) empowers the Tribunal to order the Registrar to carry out the Registrar's proposal or substitute its own opinion for that of the Registrar, and may attach conditions. These sections are set out for ease of reference:

Registration

10. (1) An applicant that meets the prescribed requirements is entitled to registration or renewal of registration by the registrar unless,

(a) the applicant is not a corporation and,

- (i) having regard to the applicant's financial position or the financial position of an interested person in respect of the applicant, the applicant cannot reasonably be expected to be financially responsible in the conduct of business,

- (ii) the past conduct of the applicant or of an interested person in respect 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,
- (iii) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for registration or for renewal of registration;

Conditions

(2) A registration is subject to such conditions as are consented to by the applicant or registrant, as are applied by the registrar under section 13, as are ordered by the Tribunal or as are prescribed. 2002, c. 30, Sched. C, s. 10 (2)

...

Refusal to register, etc.

13. (1) Subject to section 14, the registrar may refuse to register an applicant or may suspend or revoke a registration or refuse to renew a registration if, in his or her opinion, the applicant or registrant is not entitled to registration under section 10. 2004, c. 19, s. 18 (10).

Conditions

- (2) Subject to section 14, the registrar may,
 - (a) approve the registration or renewal of a registration on such conditions as he or she considers appropriate; and
 - (b) at any time apply to a registration such conditions as he or she considers appropriate. 2002, c. 30, Sched. C, s. 13 (2)...

Hearing

14. (5) If a hearing is requested, the Tribunal shall hold the hearing and may by order direct the registrar to carry out the registrar's proposal or substitute its opinion for that of the registrar and the Tribunal may attach conditions to its order or to a registration. 2002, c. 30, Sched. C, s. 14 (5).

IV. Analysis

The Registrar alleges that the Appellant's registration should be revoked on three

grounds: lack of financial responsibility (s. 10(1)(a)(i)); lack of honesty, integrity and ability to follow the law (s. 10(1)(a)(ii)); and his having made false statements (s. 10(1)(a)(iii)). These three grounds posit three different tests and will be analyzed in sequence.

i) Ground One – The Financial Responsibility Test – s. 10(1)(a)(i) of the Act

14. The test for financial responsibility under s. 10(1)(a)(i) directs the Tribunal to consider whether, based on the Appellant's current financial position, he can reasonably be expected to be financially responsible in the conduct of business (see *9230 v. Registrar, REBBA*, 2015 CanLII 26079 (ON LAT) at para. 21).
15. Section 10(1)(a)(i) can be contrasted with s. 10(1)(a)(ii) which refers to past conduct as opposed to a current position (*9230 v. Registrar, REBBA, supra*). In other words, the depth the Appellant's past financial difficulties is not the significant consideration under s. 10(1)(a)(i), so long as he has mitigated those difficulties by the time of the hearing.
16. At present, the Appellant's only business is as a real estate salesperson. Based on the evidence led at this hearing, the Appellant currently owes \$56,336 plus interest on the one outstanding judgment that has not been resolved. The Appellant testified that he had done some work "in kind" for the creditor but there was no evidence of an agreement resulting in a reduction of the debt. The Appellant also has unpaid fines that are subject to a \$200 per month payment plan with the Province. The Appellant has paid more than required under that plan.
17. In the circumstances, the Tribunal finds that the Appellant's current financial position is such that he cannot reasonably be expected to be financially responsible in business. As noted, based on the evidence led at the hearing, it appears that the Appellant currently owes \$56,336 plus interest on a judgment and \$200 per month under his payment plan with the Province. Thus, while the Appellant has recently made commendable progress on the financial responsibility issue, material concerns remain. The Appellant did not lead evidence regarding his ability to service debt (i.e., his current level of earnings).
18. The Tribunal will address, later in these Reasons, the question of whether these financial responsibility concerns mandate revocation or whether a less onerous disposition is appropriate.

ii) Ground Two – The Reasonable Grounds for Belief Test – S. 10(1)(a)(ii)

19. The parties agree that in respect of s. 10(1)(a)(ii) of the Act, the Registrar need only establish that there are reasonable grounds for the belief that, based on the Appellant's past conduct, he will not carry on business in accordance with law and with integrity and honesty. The Registrar does not need to establish that the

Appellant's "past or present conduct make it more likely than not that he will not carry on business as required" (see *Alcohol and Gaming Commission of Ontario v. 751809 Ontario Inc. (Famous Flesh Gordon's)*, 2013 ONCA 175, at paras. 18-19).

20. Similarly, in *Nagy v. Real Estate Business Brokers Act, 2002 (Registrar)*, 2012 ONSC 325 (Div.Ct.), a case with facts that bear some similarity to those in this appeal, the majority of the Divisional Court stated as follows, in regard to the test under s. 10(1)(a)(ii):

[61] The LAT, having carefully considered the applicable case law and the legislative history, concluded that the focus must be on the link between the past conduct and future risk. The considerations applied by the LAT in this respect were consistent with the statute, and it committed no reviewable error in this respect. [Emphasis added]

21. The Tribunal finds that the Appellant's past conduct affords reasonable grounds for the belief that the Appellant will not conduct himself as required under s. 10(1)(a)(ii) of the *Act*. The Appellant's recent history reflects a comprehensive failure to comply with the law. In the last five years, he has been charged and convicted under four different statutes, including the Criminal Code. The Tribunal accepts the Appellant's evidence regarding his unblemished record as a realtor and the relatively recent strides he has made in other facets of his life. The comprehensive nature of the Appellant's past misconduct, however, provides ample grounds to support a reasonable belief that the Appellant will not act as required.

22. The finding that there are reasonable grounds for the belief that the Appellant will not conduct himself as required does not end the matter under s. 10(1)(a)(ii). The Tribunal must still consider whether it should order that the Registrar carry out its proposal for revocation or whether a less onerous Order should be made. This question will be addressed later in these Reasons.

iv) Ground Three – The Test for False Statements – s. 10(1)(a)(iii) of the *Act*

23. The Registrar asserts that the test under s. 10(1)(a)(iii) is as set out by the Divisional Court in *Registrar of Gaming and Alcohol v. Hosseini-Rad*, [2004] O.J. No. 1273 (Div. Ct.). Specifically, a finding that the Appellant made a false statement in a renewal application will disentitle him to a licence. In *Hosseini-Rad*, the Appellant had been wholly disbelieved in respect of his evidence. The Tribunal expressly found that the Appellant had made a false statement on his application. Nonetheless, the Tribunal ordered the Registrar of Alcohol and Gaming to grant the Appellant a licence to deliver liquor to homes, with conditions. On appeal, the Divisional Court strictly interpreted s. 6(2)(e) of the *Liquor Licence Act* (which section mirrors s. 10(1)(a)(iii) of the *Act* in this appeal),

Facts to be Disclosed	Renewal Oct. 7, 2002	Renewal Oct. 7, 2004	Renewal Oct. 16, 2006	Renewal Nov. 17, 2008	Renewal Nov. 17, 2010	Renewal Nov. 15, 2012	Renewal Nov. 17, 2014
<i>Code Act</i> – Jan. 9, 2014							

26. The Appellant testified as to various excuses for non-disclosure and promised to reform. However, those excuses and promises would have been top of mind in November of 2014, following his being prosecuted for non-disclosure under the Act. That prosecution notwithstanding, the Appellant failed to disclose the judgments against him and the proceedings under the *Electrical Standards Act* and the *Building Code Act*.
27. The Tribunal finds that the Appellant has repeatedly failed to disclose as required in his renewal applications. The Tribunal further finds that those instances of non-disclosure amount to false statements.
28. As with the findings on the Registrar's other grounds for his proposal, the Tribunal will address, below, the question of whether revocation follows upon the Tribunal's finding, or whether the Appellant's licence can be sustained, so long as conditions are attached.

Should Conditions be Imposed

29. The Appellant suggested that his licence not be revoked and that, instead, conditions be attached thereto... Neither party argued that a suspension was the appropriate disposition. The Appellant's proposed conditions are as follows:
 - (a) The Registrant shall immediately inform the office of the Registrar if he is charged with any new offence under the Criminal Code;
 - (b) The Registrant shall not apply for a transfer of his registration to another brokerage without prior authorization from the Registrar. Should the Registrar authorize the transfer of the Registrant's registration to another broker, any new broker must acknowledge these conditions in writing;
 - (c) Any sponsoring broker must be provided with a copy of these conditions and a copy of the Registrant's criminal record and must provide a written acknowledgement of receipt of a copy of the records;
 - (d) The Registrant must comply with all reporting, registration, examination and inspection requirements of the Registrar exercising power under the *Act*;

- (e) The Registrant's sponsoring brokerage shall separately provide a letter to the Registrar confirming that he has independently reviewed the Registrant's application for renewal; and

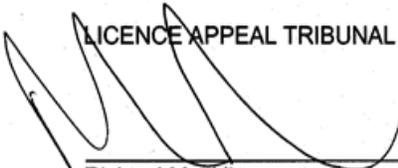
Any contravention of the above conditions may result in the registration of Ranjay Singh being proposed for revocation.

- 30. In terms of s. 10(1)(a)(i) – financial responsibility, the Tribunal has found that the Registrar has met the onus under s. 13 on this ground. But for the findings on the other grounds for revocation set out below, the Tribunal would have ordered that the financial responsibility findings warrant the attaching of conditions to the Appellant's licence, as opposed to revocation. Those conditions would have included a requirement that the remaining judgment against the Appellant, and any subsequent judgments, be fully satisfied by the time of the Appellant's next renewal. The Tribunal would have ordered a further condition that the Appellant continue to abide by his payment plan with the Province.
- 31. In terms of s. 10(1)(a)(ii) – the law, integrity and honesty provision- the Registrar has also met his onus on this ground. The Tribunal repeats that the Appellant's past conduct on this ground amounted to a comprehensive failure to act as required. The Appellant's proposed conditions to some extent mirror those that were upheld by the Divisional Court in the *Nagy* Decision referred to above. The circumstances in *Nagy* were different as that was a case where the threshold finding under s. 10(1)(a) was not made. The *Nagy* case is also different in terms of the relatively narrow band of unlawful behaviour being addressed in that case and the absence of any financial or governability issues. The Appellant's past convictions for unlawful behaviour pertain to the criminal offence of impaired driving (x2), the criminal offence of driving while suspended, regulatory offences relating to his primary profession (a real estate salesperson (three counts)) and regulatory offences relating to two facets of his former real estate development business (electrical safety (two counts) and building safety (three counts)). This is to be contrasted with the *Nagy* case where the primary basis upon which revocation was sought related to one conviction, albeit a very serious one, under one statute. In addition, unlike Mr. Nagy, the Appellant's has a significant history of making false statements in renewal applications and his financial record is a cause for concern. Disclosure and financial responsibility were not issues in the *Nagy* case.
- 32. Thus, in the circumstances of this case, the multi-faceted grounds for the belief that the Appellant will not act as required under s. 10(1)(a)(ii) are not sufficiently addressed by the proposed conditions. Put in other words, if these conditions were ordered as part of a renewal of the Appellant's licence, there would remain reasonable grounds, based on the Appellant's past conduct, for the belief that the Appellant would not act as required.

33. In terms of s. 10(1)(a)(iii)- false statements, the extent of the false statements in the renewal applications in this case was widespread. The Appellant testified that he has learned his lesson on this issue. However, he was on notice of disclosure concerns on his 2014 renewal application. That notice notwithstanding, the Appellant made two false statements on that renewal application, in relation to four matters that ought to have been disclosed. Moreover, his current employer's evidence did not provide sufficient assurance to the Tribunal, that past disclosure misdeeds will not be repeated. The Tribunal heard evidence from the Appellant's Broker that the Broker may have "pre-signed" the 2014 renewal application. Moreover, the Broker's evidence was that his practice is to advise his salespeople to complete the personal disclosure section accurately, but he does not go over their answers with them.
34. Thus, the Tribunal finds that conditions are not an appropriate alternative to a revocation order, in regard to the false statements made in this case. It follows that the Tribunal need not decide whether the decision of the Divisional Court in *Hosseini-Rad* deprives the Tribunal of a discretion to consider an Order for conditions, in place of a revocation Order. Even if such a discretion exists, the Tribunal would not exercise that discretion in this case on the basis of the serial nature of the Appellant's non-disclosure and the distinct possibility that false statements may be made in the future.

Order

35. Pursuant to the authority vested in it under the provisions of the Act, the Tribunal directs the Registrar to carry out the Notice of Proposal to Revoke Registration, dated January 19, 2016.

LICENCE APPEAL TRIBUNAL

Richard Macklin,
Vice-Chair